

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

JOHN HOOVER, SHARON ZEBLEY, ERICK GIBBS,      CASE NO.: 1:21-cv-23448  
DARIN GRIFFIN, EDWARD INGLESBY, MATT  
MOTTA, FRANK MELCHIORE, DONALD  
COSGROVE, BOB FAROHIDEH, TIANA KELLEY,  
IMAN JONES, TERRA SCOTT DANNISON, ALVIN  
MCCRAY, MICHAEL LEACH, DOUGLAS HOWIE,  
SANDRA STYLES HORVATH, VALERY RIVERA,  
CATALINA DINOVO, KEVAN WATKINS,  
WINFORD HOUSE, PETER ZITOLI, DAVE BARTH,  
DANNY BELTRAN, SUE-LING ROSARIO, EVA  
CLARK, BARBARA DICKS, MARY FLOYD, DAVID  
SEXTON, JEANNINE NOLL, TIFFANY DUKE,  
JUSTIN DUKE, BRENDAN PRICE, JAMES MOORE,  
and SARA CORCORAN,

Plaintiffs,

v.

BLUE CROSS AND BLUE SHIELD ASS'N, BLUE  
CROSS AND BLUE SHIELD OF FLORIDA, INC.,  
BLUE CROSS AND BLUE SHIELD OF ALABAMA,  
LOUISIANA HEALTH SERVICE & INDEMNITY CO.  
d/b/a BLUE CROSS AND BLUE SHIELD OF  
LOUISIANA, BLUE CROSS AND BLUE SHIELD OF  
MASSACHUSETTS, INC., GROUP  
HOSPITALIZATION AND MEDICAL SERVICES,  
INC. d/b/a CAREFIRST BLUECROSS BLUESHIELD,  
HMO MISSOURI, INC. d/b/a ANTHEM BLUE  
CROSS BLUE SHIELD OF MISSOURI, HORIZON  
HEALTHCARE SERVICES, INC. d/b/a HORIZON  
BLUE CROSS BLUE SHIELD OF NEW JERSEY, BLUE  
CROSS AND BLUE SHIELD OF NORTH  
CAROLINA, HEALTH CARE SERVICE CORP.  
d/b/a BLUE CROSS AND BLUE SHIELD OF  
ILLINOIS, and HIGHMARK, INC. d/b/a  
BLUESHIELD OF NORTHEASTERN NEW YORK,

Defendants.

COMPLAINT FOR SHERMAN ACT VIOLATIONS AND DEMAND FOR JURY TRIAL

Plaintiffs, John Hoover, Sharon Zebley, Erick Gibbs, Darin Griffin, Edward Inglesby, Matt  
Motta, Frank Melchiore, Donald Cosgrove, Bob Farohideh, Tiana Kelley, Iman Jones, Terra Scott

Dannison, Alvin McCray, Michael Leach, Douglas Howie, Sandra Styles Horvath, Valery Rivera, Catalina Dinovo, Kevan Watkins, Winford House, Peter Zitoli, Dave Barth, Danny Beltran, Sue-Ling Rosario, Eva Clark, Barbara Dicks, Mary Floyd, David Sexton, Jeannine Noll, Tiffany Duke, Justin Duke, Brendan Price, James Moore, and Sara Corcoran (collectively, the “Plaintiffs”), by and through counsel, sue Defendants, Blue Cross and Blue Shield Ass’n, Blue Cross and Blue Shield of Florida, Inc., Blue Cross and Blue Shield of Alabama, HMO Missouri, Inc. d/b/a Anthem Blue Cross Blue Shield of Missouri, Louisiana Health Service & Indemnity Co. d/b/a Blue Cross and Blue Shield of Louisiana, Blue Cross and Blue Shield of Massachusetts, Inc., Group Hospitalization and Medical Services, Inc. d/b/a CareFirst BlueCross BlueShield, Horizon Healthcare Services, Inc. d/b/a Horizon Blue Cross Blue Shield of New Jersey, Blue Cross and Blue Shield of North Carolina, Health Care Service Corp. d/b/a Blue Cross and Blue Shield of Illinois, and Highmark, Inc. d/b/a BlueShield of Northeastern New York (collectively, the “Defendants”).

## BACKGROUND

1. As the Supreme Court has explained “[c]ertain agreements, such as horizontal price fixing and market allocation, are thought so inherently anticompetitive that each is illegal *per se* without inquiry into the harm it has actually caused.” *Copperweld Corp. v. Indep. Tube Corp.*, 467 U.S. 752, 768 (1984). “Output restrictions have [also] been called one of the ‘most important *per se* categories,’ along with naked horizontal price-fixing and market allocation.” *In re Blue Cross Blue Shield Antitrust Litig.*, 308 F. Supp. 3d 1241, 1272 (N.D. Ala. 2018) (quotation omitted).

2. These prohibitions on *per se* illegal conduct are at the core of antitrust law’s protection of our free enterprise system. However, “[i]n this case, a number of these ‘most important’ *per se* categories of restrictions have been aggregated [by the Defendants].” *In re Blue Cross Blue Shield Antitrust Litig.*, 308 F. Supp. 3d at 1273.

3. This is an action for damages and injunctive relief for antitrust violations brought by individuals who timely opted out of the settlement reached in the pending class action against the

Defendants in *In re Blue Cross and Blue Shield Antitrust Litigation*, No. 2:13-cv-20000 (N.D. Ala. 2013).

4. In that action, the Court concluded “that Defendants’ aggregation of a market allocation scheme together with certain other output restrictions is due to be analyzed under the *per se* standard of review.” *In re Blue Cross Blue Shield Antitrust Litig.*, 308 F. Supp. 3d at 1279. While the Plaintiffs agree with that ruling, they do not approve of the settlement reached with the Defendants in the class action because it fails to adequately compensate their damages.

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337(a) because the Plaintiffs assert claims under 15 U.S.C. §§ 15 and 26, for injuries sustained by reason of the Defendants’ violations of Federal law, 15 U.S.C. §§ 1, 2, and 3.

6. This Court has personal jurisdiction over each Defendant pursuant to 15 U.S.C. § 22 and/or pursuant to Florida’s long-arm statute, Fla. Stat. § 48.193, because the Defendants transact business and/or are found within this District and/or because the Defendants participated in a conspiracy in which at least one conspirator committed overt acts in Florida in furtherance of the conspiracy.

7. Venue is proper pursuant to 15 U.S.C. §§ 15, 22, and 26 because the Defendants transact business in this District and pursuant to 28 U.S.C. § 1391 because a significant part of the events, acts, and omissions giving rise to this action occurred in the District.

### **PARTIES**

8. Defendant, Blue Cross and Blue Shield Ass’n (the “BCBSA”) is an Illinois corporation. The BCBSA is owner of the Blue Cross and Blue Shield trademarks and trade names (the “Blue Brand”). The BCBSA is owned, funded, and controlled by the thirty-five (35) independent health insurance companies operating under the Blue Brand in the U.S. (collectively, the “Blue Plans”).

9. Defendant, Blue Cross and Blue Shield of Florida, Inc. (“BCBS-FL”) is a Florida

corporation. BCBS-FL is one of the Blue Plans and the health insurance company operating under the Blue Brand in Florida.

10. Defendant, Blue Cross and Blue Shield of Alabama ("BCBS-AL") is an Alabama company. BCBS-AL is one of the Blue Plans and the health insurance company operating under the Blue Brand in Alabama.

11. Defendant, HMO Missouri, Inc. d/b/a Anthem Blue Cross Blue Shield of Missouri ("BCBS-MO") is a Missouri corporation. BCBS-MO is one of the Blue Plans and the health insurance company operating under the Blue Brand in Missouri.

12. Defendant, Louisiana Health Service & Indemnity Co. d/b/a Blue Cross and Blue Shield of Louisiana ("BCBS-LA") is a Louisiana company. BCBS-LA is one of the Blue Plans and the health insurance company operating under the Blue Brand in Louisiana.

13. Defendant, Blue Cross and Blue Shield of Massachusetts, Inc. ("BCBS-MA") is a Massachusetts corporation. BCBS-MA is one of the Blue Plans and the health insurance company operating under the Blue Brand in Massachusetts.

14. Defendant, Group Hospitalization and Medical Services, Inc. d/b/a CareFirst BlueCross BlueShield ("BCBS-DC") is a Maryland corporation. BCBS-DC is one of the Blue Plans and the health insurance company operating under the Blue Brand in D.C. and its suburbs.

15. Defendant, Horizon Healthcare Services, Inc. d/b/a Horizon Blue Cross Blue Shield of New Jersey ("BCBS-NJ") is a New Jersey corporation. BCBS-NJ is one of the Blue Plans and is the health insurance company operating under the Blue Brand in New Jersey.

16. Defendant, Health Care Service Corp. d/b/a Blue Cross and Blue Shield of Illinois ("BCBS-IL") is an Illinois company. BCBS-IL is one of the Blue Plans and the health insurance company operating under the Blue Brand in Illinois.

17. Defendant, Blue Cross and Blue Shield of North Carolina ("BCBS-NC") is a North Carolina company. BCBS-NC is one of the Blue Plans and the health insurance company operating

under the Blue Brand in North Carolina.

18. Defendant, Highmark, Inc. d/b/a BlueShield of Northeastern New York (“BS-NE NY”) is a Pennsylvania corporation. BS-NE NY is one of the Blue Plans and the health insurance company operating under the Blue Brand in Northeastern New York.

19. Plaintiff, John Hoover is a resident of Florida who purchased and has been enrolled in a BCBS-FL health insurance policy since at least 2015, possibly longer.

20. Plaintiff, Sharon Zebley is a resident of Florida who purchased and has been enrolled in a BCBS-FL health insurance policy since at least 2008, possibly longer.

21. Plaintiff, Erick Gibbs is a resident of Florida who purchased and has been enrolled in a BCBS-FL health insurance policy through his employers since 2018.

22. Plaintiff, Darin Griffin is a resident of Florida who purchased and was enrolled in a BCBS-FL health insurance policy from 2016 to 2019.

23. Plaintiff, Edward Inglesby is a resident of Florida who purchased and has been enrolled in a BCBS-FL health insurance policy since 2009.

24. Plaintiff, Matt Motta is a resident of Florida who purchased and was enrolled in a BCBS-FL health insurance policy through his employers from 2009 to 2012 and 2015 to 2018.

25. Plaintiff, Frank Melchiore is a resident of Florida who purchased and has been enrolled in a BCBS-FL health insurance policy since 2008 for himself and his wife.

26. Plaintiff, Donald Cosgrove is a resident of Florida who purchased and has been enrolled in a BCBS-FL health insurance policy through his employer since 2010 for himself and his wife.

27. Plaintiff, Bob Farohideh is a resident of Florida who purchased and has been enrolled in a BCBS-FL health insurance policy for himself and his family since 2016 and who also purchased and was enrolled in a BCBS-FL policy through his employer from 2010 to 2019.

28. Plaintiff, Tiana Kelley is a resident of Florida who purchased and was enrolled in a

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