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Insurance Company, GEICO Indemnity Company,
GEICO General Insurance Company and
GEICO Casualty Company*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GOVERNMENT EMPLOYEES INSURANCE
COMPANY, GEICO INDEMNITY COMPANY,
GEICO GENERAL INSURANCE COMPANY and
GEICO CASUALTY COMPANY,

Docket No.: _____()

Plaintiffs,

-against-

NYRX PHARMACY INC.,
YURIY AVULOV,
AND JOHN DOE NOS. "1" THROUGH "5,"

Defendants.

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COMPLAINT

Plaintiffs Government Employees Insurance Company, GEICO Indemnity Company, GEICO General Insurance Company and GEICO Casualty Company (collectively, "GEICO" or "Plaintiffs"), as and for their Complaint against Defendants, NYRX Pharmacy, Inc., Yuriy Avulov, and John Doe Nos. "1" through "5" (collectively, the "Defendants"), hereby allege as follows:

NATURE OF THE ACTION

1. This action seeks to terminate an on-going fraudulent scheme perpetrated against GEICO by the Defendants who have exploited the New York “No-Fault” insurance system by submitting more than \$4.6 million in fraudulent billing to GEICO for medically unnecessary pharmaceuticals dispensed to individuals involved in automobile accidents and eligible for insurance coverage under policies of insurance issued by GEICO (the “Insureds”).

2. The fraudulent scheme was spearheaded by Yuriy Avulov (“Avulov”) who used, and continues to use, NYRX Pharmacy, Inc. (“NYRX Pharmacy”) to submit thousands of fraudulent No-Fault insurance charges seeking payment for a set of specifically targeted, medically unnecessary “pain relieving” topical pain prescription drug products, primarily in the form of Diclofenac Sodium Gel, Lidocaine 5% Ointment and Lidocaine 5% Patches (collectively, the “Fraudulent Topical Pain Products”), as well as various oral medications, primarily in the form of oral pain relievers and muscle relaxants (together with the Fraudulent Topical Pain Products, the “Fraudulent Pharmaceuticals”).

3. To effectuate the scheme, NYRX Pharmacy and its owner Avulov (collectively, the “Pharmacy Defendants”) entered into illegal, collusive agreements with prescribing healthcare providers (collectively, the “Prescribing Providers”) and unlicensed laypersons (the “Clinic Controllers”) who work at or are associated with various multidisciplinary medical clinics that almost exclusively treat No-Fault patients (the “No-Fault Clinics”). Pursuant to these illegal, collusive agreements, the Pharmacy Defendants steered the Prescribing Providers and Clinic Controllers to prescribe and direct large volumes of prescriptions for the targeted Fraudulent Topical Pain Products to NYRX Pharmacy, in place of other effective, but much less costly prescription and non-prescription drug products.

4. The Pharmacy Defendants intentionally dispensed the targeted pharmaceutical products without regard to genuine patient care in order to financially enrich themselves through egregiously inflated charges submitted to GEICO. For example, billing from NYRX Pharmacy typically ranged from \$1,179.00 to \$2,358.00 for a single tube of Diclofenac Gel 3%, with charges at times exceeding \$3,500.00 for a single tube; from \$380.50 to \$1,522.00 for a single tube of Lidocaine 5% Ointment, with charges at times exceeding \$1,900.00; and from \$308.10 to \$925.20 for a prescription of Lidocaine 5% Patch.

5. The Pharmacy Defendants' scheme not only inflated the charges submitted to GEICO and other insurers, but also posed serious risks to the patients' health as the Fraudulent Pharmaceuticals were prescribed and dispensed in predetermined fashion, without regard to genuine patient care, and without regard to proper documentation or with documentation that was inconsistent with the medications actually prescribed and dispensed.

6. By this action, GEICO seeks to recover more than \$434,000.00 that the Pharmacy Defendants stole from it, along with a declaration that GEICO is not legally obligated to pay reimbursement to NYRX Pharmacy of over \$3,441,000.00 in pending fraudulent No-Fault claims that the Pharmacy Defendants submitted or caused to be submitted through NYRX Pharmacy because:

- (i) NYRX Pharmacy billed for pharmaceutical products that were prescribed and dispensed pursuant to predetermined fraudulent protocols designed to exploit the patients for financial gain, without regard for genuine patient care;
- (ii) the Pharmacy Defendants participated in illegal, collusive relationships in which the Pharmacy Defendants steered the Prescribing Providers and Clinic Controllers to direct illegal prescriptions for the Fraudulent Pharmaceuticals to NYRX Pharmacy in exchange for unlawful kickbacks and other financial incentives;

- (iii) the Pharmacy Defendants intentionally targeted a specific set of pharmaceutical products (i.e., the Fraudulent Topical Pain Products) that NYRX Pharmacy dispensed in large volumes to Insureds with exorbitant charges, in place of other effective, less costly pharmaceuticals in order to inflate the charges to GEICO; and
- (iv) the Pharmacy Defendants made and continue to make false and fraudulent misrepresentations to GEICO by submitting or causing to be submitted charges for the Fraudulent Pharmaceuticals dispensed by NYRX Pharmacy pursuant to illegal, invalid and duplicitous prescriptions.

7. The Defendants fall into the following categories:

- (i) NYRX Pharmacy is a New York corporation engaged in a fraudulent scheme in which it dispensed the Fraudulent Pharmaceuticals in order to submit to GEICO and other New York automobile insurers claims for reimbursement of No-Fault Benefits to which it is not entitled;
- (ii) Avulov is the record owner of NYRX Pharmacy; and
- (iii) John Doe Nos. “1” through “5” are persons and entities, presently not identifiable, who along, with the Pharmacy Defendants, participated in the operation and control of NYRX Pharmacy, including facilitating the illegal, collusive agreements with the Prescribing Providers and Clinic Controllers.

8. The Pharmacy Defendants’ scheme began in 2018. As discussed more fully below, the Pharmacy Defendants at all times have known that: (i) the billed-for pharmaceutical products were prescribed and dispensed pursuant to predetermined fraudulent protocols designed to exploit the patients for financial gain, without regard for genuine patient care; (ii) the Pharmacy Defendants participated in illegal, collusive agreements in which they steered the Prescribing Providers and Clinic Controllers to direct illegal prescriptions for the Fraudulent Pharmaceuticals to NYRX Pharmacy in exchange for unlawful kickbacks and other financial incentives; (iii) the Pharmacy Defendants intentionally targeted a specific set of pharmaceutical products (i.e., the Fraudulent Topical Pain Products) that NYRX Pharmacy dispensed in large volumes to Insureds with exorbitant charges, in place of other effective, less costly

pharmaceuticals; and (iv) the Pharmacy Defendants made and continue to make false and fraudulent misrepresentations to GEICO by submitting or causing to be submitted charges for the Fraudulent Pharmaceuticals dispensed by NYRX Pharmacy pursuant to illegal, invalid, and duplicitous prescriptions.

9. Based on the foregoing, NYRX Pharmacy does not now have – and has never had – any right to be compensated for the Fraudulent Pharmaceuticals allegedly dispensed to GEICO Insureds. The chart attached hereto as Exhibit “1” sets forth the fraudulent claims that have been identified to date which the Pharmacy Defendants submitted, or caused to be submitted, to GEICO using the United States mails. As a result of the Pharmacy Defendants’ scheme, GEICO has incurred damages of approximately \$434,000.00.

THE PARTIES

I. Plaintiffs

10. Plaintiffs Government Employees Insurance Company, GEICO Indemnity Company, GEICO General Insurance Company and GEICO Casualty Company are Maryland corporations with their principal places of business in Chevy Chase, Maryland. GEICO is authorized to conduct business and to issue automobile insurance policies in New York.

II. Defendants

11. Defendant NYRX Pharmacy is a New York corporation, incorporated on or about June 19, 2018, with its principal place of business at 179-07 Union Turnpike, Fresh Meadows, New York.

12. NYRX Pharmacy was registered as a pharmacy with the New York State Department of Education on August 17, 2018, but is no longer registered as an active pharmacy.

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