

Allergy & Asthma Clinic, Donald Aaronson, M.D., Stanley Fineman, M.D., Gary Gross, M.D., Lyndon Mansfield, M.D., James Sublett, M.D., and David Weldon, M.D. (collectively the “Settling Defendants”) have violated federal and state antitrust laws and state laws prohibiting tortious interference with existing contracts and prospective business relations, and conspiracy by (i) claiming that board-certified allergists, including their associations, ACAAI, JCAAI, and the American Academy of Allergy, Asthma, & Immunology (“AAAAI”) set the standard of care for allergy testing and allergen immunotherapy, (ii) by claiming that primary care physicians, including those in contract with UAS, violate that false standard of care or engage in fraudulent or improper billing, (iii) by requiring members of ACAAI and JCAAI to boycott AAAPC members and UAS, (iv) by attempting to convince insurance companies, managed care organizations, health plans, and other third-party payors of medical care not to do business with or reduce or eliminate reimbursement for the services of primary care physicians or physicians in contract with UAS, and (v) by attempting to convince other entities in the industry, including suppliers of antigens, non-profit organizations, and federal and state governmental entities not to do business with or terminate or reduce their agreements with AAAPC and its members, primary care physicians, and UAS;

WHEREAS, the Settling Defendants deny Plaintiffs’ allegations and maintain that their statements about what constitutes safe, effective and medically necessary medical approaches to allergy testing and allergen immunotherapy are true and deny that they have conspired, made any false statements about UAS, AAAPC, or the quality and safety of the services they offer; deny that the conduct Plaintiffs alleged occurred or would be a violation of federal or state antitrust laws or would constitute tortious interference with existing contracts and prospective business

relations or conspiracy had it occurred; and thus have, and would continue to, assert defenses to the Plaintiffs' Claims;

WHEREAS, Plaintiffs and the Settling Defendants (collectively the "Parties" or separately a "Party"), have nevertheless agreed to resolve this case by entering into a Confidential Settlement Agreement, in order to avoid the expenses, burdens, and uncertainties of litigation; and

WHEREAS, the Parties agree that this Stipulation of Dismissal, the Order dismissing this action with prejudice, the Settlement Agreement, and any and all negotiations, documents, and discussions associated with the Settlement Agreement shall not be construed as an admission or evidence of any violation of any right, law, statute, regulation, duty, or contract or of any liability or wrongdoing by any Party.

1. The Settling Defendants agree to refrain from telling representatives of third-party payors, including insurance companies, health plans, managed care organizations, plan administrators, or other public, quasi-public, or private third-party payors of medical care ("third-party payors"): (i) they should not reimburse, or should reduce the amount they will reimburse, for allergy testing or allergen immunotherapy performed by physicians other than board-certified allergists, including primary care physicians or UAS; (ii) CPT codes for allergy testing or allergen immunotherapy are or are not applicable to or available for services performed by physicians other than board-certified allergists, including primary care physicians or UAS; and (iii) AAAAI, ACAAI, or JCAAI sets the "standard of care" for allergy testing or allergen immunotherapy or that there is one exclusive "standard of care" that automatically excludes the practice of allergy testing or allergen immunotherapy by all primary care physicians.

2. Defendants will not make or disseminate statements that UAS and primary care physicians working with UAS engage in either “pass through billing” or fraudulent billing in providing allergy testing or allergen immunotherapy services.

3. The Parties may engage in contacts or discussions with any third parties concerning the amount or manner of reimbursement for their own services or services of their members, including advocating for higher levels of reimbursement.

4. The Parties may discuss or promote the benefits and efficacy of treatment of Allergic/Immunologic Diseases, including, but not limited to, allergic and non-allergic rhinitis, hay fever, chronic rhinosinusitis (sinus problems), asthma, chronic cough, COPD, eczema, contact dermatitis, atopic dermatitis, gastroesophageal reflux, eosinophilic esophagitis, food allergy, stinging insect allergy, drug allergy, immune deficiency diseases, autoimmune diseases, and other disorders within the scope of training and practice of American College of Graduate Medical Education Accredited Fellowship Trained and ABAI board-certified allergists and immunologists, by Defendants.

5. The Parties may discuss or promote the advantages of diagnosing and treating Allergic/Immunologic Diseases by specially trained physicians, including, but not limited to ABAI board-certified allergists.

6. The Parties may discuss or promote their opinions of and/or research regarding home immunotherapy, the provision of immunotherapy, or allergy testing services outside a medical facility, and/or the practice of allergy by a physician who is not board-certified in allergy, provided that Defendants’ discussion or promotion of these opinions does not concern the manner in which UAS, physicians in contract with UAS, or AAAPC members provide such services, and Defendants’ communication of these opinions is not targeted at (i) anyone in

contract or incipient contract with UAS or AAAPC, or (ii) any insurance company, managed care organization, or other third-party payor.

7. The Parties may act, jointly or separately, to promote (i) any medical expertise of their members in treating and diagnosing Allergic/Immunologic Diseases, including, but not limited to, allergic and non-allergic rhinitis, hay fever, chronic rhinosinusitis (sinus problems), asthma, chronic cough, COPD, eczema, contact dermatitis, atopic dermatitis, gastroesophageal reflux, eosinophilic esophagitis, food allergy, stinging insect allergy, drug allergy, immune deficiency diseases, autoimmune diseases, and other disorders within the scope of training and practice of those physicians and (ii) any efficacy of having persons with Allergic/Immunologic Diseases diagnosed, treated or managed by any licensed physician without violating the terms of the Settlement Agreement.

8. The Parties agree that except as otherwise expressly provided, each may engage in communications with any third parties, their members, associates, or each other concerning the following:

- a. Practice Parameters relating to diagnosis and treatment of Allergic/Immunologic Diseases;
- b. standards of care or best practices relating to diagnosis and treatment of Allergic/Immunologic Diseases;
- c. the advantages of diagnosing and treating Allergic/Immunologic Diseases by specially trained physicians, including, but not limited to, ABAI board-certified allergists;
- d. fellowships and training of physicians who offer allergy services;

- e. the services and procedures offered by physicians within certain specialties; or
- f. deceptive allergy practices by third parties to the Settlement Agreement.

9. The Parties are not prohibited from fulfilling any duty to respond to inquiries by or provide their independent medical advice to their own current or incipient patient(s) or that patient's insurance companies, managed care organizations, or other third-party payors concerning treatment that patient has or may receive from the member or any other physician.

WHEREAS, the Parties agree that all disputes arising under their Settlement Agreement will be subject to private dispute resolution.

THEREFORE, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiffs will dismiss their claims against the Settling Defendants with prejudice, and fully and completely release the Settling Defendants for all claims for damages and injunctive relief in the underlying action and each Party will bear its own costs.

STIPULATED AND AGREED TO ON: June 12, 2015.

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[PROPOSED] ORDER

Plaintiffs' claims against Defendants ACAAI, JCAAI, Lyndon E. Mansfield M.D., P.A., PSF, PLLC, Atlanta Allergy & Asthma Clinic, Dallas Allergy and Asthma Center, P.A., Dr. Lyndon Mansfield, Dr. James Sublett, Dr. David Weldon, Dr. Gary Gross, Dr. Stanley Fineman, and Dr. Donald Aaronson are dismissed with prejudice.

So **ORDERED** and **SIGNED** this _____ day of _____, 2015.

ORLANDO L. GARCIA
UNITED STATES DISTRICT JUDGE