During an unprecedented series of crises related to the COVID-19 pandemic and raging wildfires in September 2020, the named Defendants in this action conceived of and sought to
execute a scheme to obstruct Plaintiff Fresno Community Hospital and Medical Center, d/b/a Community Health System (hereinafter “CMC”) from being able to provide lifesaving trauma care to members of the public who were in extreme need of those services. Defendants engaged in their scheme to both inflict damage on CMC and in an effort to use the potential of denying certain specialty lifesaving hospital services in an attempt to secure leverage over CMC. Plainly, Defendants’ conduct was nothing short of despicable. They blatantly sought to put public health and human lives in jeopardy in a callous effort to needlessly tarnish CMC and to secure financial benefits for themselves. CMC brings this action to hold Defendants accountable for their conduct. Defendants, not CMC or the public, should be responsible for paying the full amount of costs their scheme inflicted. At the same time, given the malicious, oppressive and fraudulent character of Defendants’ actions, punitive damages should be imposed.

I. THE PARTIES

1. Plaintiff CMC is a private, not-for-profit healthcare network based in Fresno California. It operates four hospitals, a cancer institute and several long-term care, outpatient and other healthcare facilities. CMC uses these facilities to promote its core mission of improving the health status of the community and promoting medical education. CMC operates the Table Mountain Rancheria Trauma Center which is the only Level 1 trauma center between Los Angeles and Sacramento, serving over 15,000 square miles.

2. Defendant Community Regional Medical Staff Medical Group (“CRMSMG”) purports to be an entity that arranges for and provides on-call medical staffing.

3. Defendant Scott Wells was at all relevant times a resident of Fresno County. Mr. Wells does not have any apparent position with CRMSMG, but he engaged in communication with CMC on behalf of CRMSMG. In particular, Mr. Wells was responsible for communicating with CMC regarding the on-call services CRMSMG provided for CMC’s trauma center.

4. DOES 1 to 10 are individuals and entities whose identities are currently unknown to CMC but who either participated with the named Defendants in the matters alleged or engaged in their own actions aimed at inflicting harm on CMC.
II. JURISDICTION AND VENUE

5. Jurisdiction and venue are both proper in this Court as a substantial part of the acts alleged took place in Fresno County. Additionally, each of the parties either resides in Fresno County or maintains their principal place of business in this county.

III. FACTUAL BACKGROUND

A. CMC’S TRAUMA SERVICES.

6. The Table Mountain Rancheria Trauma Center operated by CMC serves a significant area and is the only Level 1 trauma center between Los Angeles and Sacramento. Level 1 trauma centers provide the highest, most comprehensive level of trauma clinical expertise and resources recognized by the American College of Surgeons. The Table Mountain Rancheria Trauma Center at CMC offers the most advanced care to patients needing immediate attention and care due to severe injuries, trauma and illness.

7. Residents living in a 15,000 square mile area of Central California depend on CMC’s trauma center to be available to them in cases of sudden traumatic health emergencies.

8. Beyond the critical care provided by emergency rooms, trauma units maintain a team of physicians and other care providers who are ready to respond to life threatening conditions around the clock and seven days a week. In particular, at CMC this team includes neurosurgeons who are ready to respond to such life threatening conditions as traumatic brain injuries, serious car accidents, blunt trauma and victims of violent crimes.

9. Since 2004, CMC’s trauma center has provided trauma care to more than 87,000 patients.

B. CMC CONTRACTS WITH CRMSMG FOR ON-CALL COVERAGE.

10. In order to ensure that CMC had specialty physicians needed to respond to trauma cases, CMC entered an “On-Call Physician Services Agreement” contract with Defendant CRMSMG dated January 1, 2005. The On-Call Physician Services Agreement was fully restated on October 1, 2006, and entitled “Amended and Restated Fresno Community Hospital and Medical Center and Community Medical Staff Medical Group On-Call Physician Services Agreement” (the “Restated On-Call Agreement”). The Restated On-Call Agreement required
CRMSMG to assist CMC in administering and managing specialty physicians who would agree to be “on-call” in order to respond to trauma cases. CRMSMG was obligated to engage physicians on a part time basis to provide call coverage as “On-Call Physicians” for the trauma center.

11. Under the Restated On-Call Agreement, as it was amended from time to time, CRMSMG was obligated to maintain contracts between CRMSMG and On-Call Physicians to ensure that physicians were on-call and available to respond to trauma cases. Many of the physicians CRMSMG contracted with were affiliated with Central California Faculty Medical Group, Inc. (“CCFMG”), a professional medical corporation.

12. CRMSMG and CMC recognized that maintaining on-call services was necessary in order to ensure that the parties could remain in compliance with all applicable laws, rules, regulations and accreditation standards governing the provision of on-call services. Indeed, the Restated On-Call Agreement contained 2 express and separate provisions requiring the parties to comply with these legal obligations.

13. Both parties also recognized the importance of maintaining access to needed on-call physician services to foreclose interruption or disruption to such services. The termination provisions of the Restated On-Call Agreement required CRMSMG to give 90 days’ written notice to CMC prior to terminating the contract. That three month notice period provided CMC with necessary and sufficient operational time that might be required to locate alternative specialty physicians if for some reason CRMSMG or its CRMSMG’s contracted On-Call Physicians were no longer providing services.

14. While CRMSMG was obligated to ensure on-call coverage for a number of different specialties, neurosurgeons were particularly important to CMC and its operation of its trauma center. Under the thirtieth amendment to the Restated On-Call Agreement, CRMSMG expressly agreed to ensure comprehensive on-call neurosurgery services to CMC. Specifically, CRMSMG agreed that it “shall provide [neurosurgery] call coverage twenty-four (24) hours per day. CRMSMG shall provide such call coverage service for trauma (in accordance with California Administrative Code Title 22 requirements).”
15. Each of the Defendants was aware of CRMSMG’s contract with CMC and each knew how important the terms of that contact were to CMC and to the community relying on CMC for lifesaving trauma services. Beyond that, each of the Defendants knew that failing to provide on-call neurosurgery services under the terms of that contract would seriously disrupt CMC’s operations and would threaten the health and safety of patients who needed trauma services particularly during a global health pandemic and catastrophic wildfires.

C. CRMSMG ABRUPTLY STOPS PROVIDING ON-CALL NEUROSURGEONS.

16. During the spring and summer of 2020, CMC was engaged in negotiations with CCFMG for clinic-based services that did not relate to neurosurgery call coverage. These negotiations continued through September 1, 2020, and neither CCFMG nor any of its agents made any statements or representations indicating it would be necessary to cease the provision of neurosurgery call coverage services.

17. It is well known in the community, including by the Defendants, that CMC routinely holds Board of Trustees meetings on the first Tuesday of each month from 7:00 a.m. to 9:00 a.m. On Tuesday, September 1, 2020, CMC held such a meeting at 7:00 a.m. Based on recently received assurances, CMC reported to its Board of Trustees that CMC and CCFMG were continuing to negotiate in good faith on agreements for clinic-based services, unrelated to those CCFMG physician services that may be performed through and with another entity, CRMSMG.

18. Fully aware that denying on-call neurosurgery services would disrupt CMC’s operations and threaten the lives of patients who presented at CMC’s trauma center, at 9:38 a.m. on September 1, 2020, Joyce Fields-Keene, the CEO of CCFMG, contacted CMC’s Chief Operating Officer, Craig Wagoner, and advised him that neurosurgeons with arrangements to provide neurosurgery call coverage to CMC through CRMSMG would cease such services at 5:00 p.m. on September 2, 2020. This was less than 32 hours’ notice. This abrupt announcement that neurosurgeons would stop taking call was made during a period with significant uptick in COVID-19 cases and less than 24 hours before the start of the devastating and aggressive Creek Fire, a wildfire that began on September 4, 2020.
19. At no time did CRMSMG’s contractually-designated individual for such notice, its Chief Executive Officer, its Secretary, or its Chief Financial Officer (all positions and designations which are held by a single individual, Dr. Mario Gonzalez, Jr.) ever provide any notice that it was terminating the Restated On-Call Agreement or the aspect of that contract that required CRMSMG to provide on-call services for neurosurgery. There is some suggestion that Ms. Fields-Keene provided notice 30 days in advance of the work stoppage to CRMSMG through her fiancé, Defendant Scott Wells. Not only did that notice not comply with the 90 day requirement in the contract between CRMSMG and CMC, but it was never communicated to CMC. In fact, when CMC’s Chief Operating Officer and Senior Vice President of Network Development and Insurance Services spoke with Defendant Scott Wells about the matter, Defendant Wells’ response was “I used to tell you those things when we were friends.” Defendant Wells, thus, intentionally withheld any notice to CMC that neurosurgeons under contract with CRMSMG would cease taking call because he no longer felt that he, or the entities he controlled, were on “friendly” terms with CMC.

20. No written notice that CRMSMG would stop providing on-call neurosurgeons was ever provided to CMC.

21. CMC understands and believes that Defendants Wells and DOES 1 through 10 acted to encourage neurosurgeons who contracted with CRMSMG to provide neurosurgery call coverage to CMC to ignore their obligations to provide on-call services and to refuse to provide care to patients at CMC’s trauma center. Those efforts included false assertions that CMC had received 30 days’ notice of the neurosurgeons’ decision to cease providing call coverage to CMC’s trauma center.

22. It was obvious that Defendants had been planning to disrupt neurosurgery call services to CMC’s trauma center for some time in advance of September 1, 2020. Defendants Wells and DOES 1 to 10 also developed a plan to ensure that CMC would receive almost no notice of the work stoppage in order to make it as difficult as possible for CMC to respond and keep needed services available to its trauma center. In addition, a public relations firm was retained prior to September 1, 2020 in order to be prepared to take maximum advantage of the
surprise that was ultimately inflicted upon CMC. On September 1, 2020 the same day that CMC
was informed for the first time of the neurosurgeons’ planned September 2, 2020 walkout,
CCFMG issued a press release entitled “Loss of Funding Threatens Access to World-Class
Patient Care in Central Valley.” In this press release, Ms. Fields-Keene is quoted, stating “[a]
long-term funding agreement with CMC is needed to provide patients with access to specialty
care such as neurosurgery and to provide our physicians with greater protections and certainty so
they can focus on patients’ health and wellbeing…[t]his stability…is critical to retaining highly
qualified healthcare professionals in an area that is plagued by doctor shortages and barriers to
access.”

23. Defendants Mr. Wells and DOES 1 to 10 coordinated their actions in order to
orchestrate a sudden and deliberate termination of the availability of on-call neurosurgeons at
CMC. The failure to provide written notice, and the failure to provide any notice at all until just
hours before the services were cut off, along with the launch of a public relations campaign,
which involved issuing a press release, was calculated to gain an advantage in unrelated contract
negotiations with CMC by inflicting maximum injury on CMC, placing its trauma status in
jeopardy, and compromising clinical resources for patients in need of trauma services.

24. CRMSMG ceased proving neurosurgery on-call services effective at 5:00 p.m. on
September 2, 2020.

25. The minimal verbal notice provided to CMC required CMC to engage in
extraordinary efforts to locate substitute physicians. CMC engaged in a nationwide search to
locate neurosurgeons that were immediately available to provide the on-call services needed to
continue operating the trauma center and meet the community need. That effort was, of course,
complicated by Defendants’ scheme of terminating services without complying with the 90 day
notice requirements. It was further complicated by the fact that physician services of all
specialties were in high demand due to the continuing global pandemic. Defendants were well
aware of these factors and intentionally calculated their actions in an effort to exploit the public
health emergency to inflict the greatest amount of harm possible on CMC.
26. Defendants’ goal was nothing short of shutting down CMC’s trauma center and stripping it of its Level 1 Trauma Center status. Defendants’ conduct after September 1, 2020 makes that undeniable. Defendants, either directly or indirectly through their agents, repeatedly contacted the governmental agency overseeing trauma units in California to encourage them to terminate CMC’s authority to operate its trauma center. Similarly, Defendants, either directly or indirectly through their agents, advanced a number of false assertions to the media that CMC would no longer be able to provide trauma care as a result of the Defendants’ actions in abruptly cutting off on-call neurosurgery. The EMS Director for the County of Fresno stated that if CMC did not establish neurosurgical service coverage by 5:00 p.m. on September 11, 2020, the State of California would be notified about the suspension of CMC’s status as a Level 1 Trauma Center.

27. CMC managed to frustrate Defendants’ goal of shutting down the trauma center and denying members of our community access to that lifesaving care. Specifically, CMC was able to locate and retain neurosurgeons and have them credentialed on an emergency basis. Patients in need of a neurosurgeon before those substitute physicians were available appropriately were stabilized and transferred to other trauma units on an expedited basis.

28. Most neurosurgeons affiliated with CRMSMG were not willing to continue the walk out that Defendants had orchestrated. Many of them expressed frustration at not being able to provide their services to patients who needed them. By September 15, 2020, the neurosurgeons who participated in the Restated On-Call Agreement between CRMSMG and CMC again began providing on-call services to CMC’s trauma center.

29. However, CMC suffered considerable damage and expense as a result of the 13 day walkout orchestrated by Defendants. Those damages included the costs of having to secure substitute neurosurgeons, engage a public relations firm to address the issues and reputational damage, pay for costs associated with stabilizing and transferring patients, pay attorneys to address the multiple issues arising from CRMSMG’s breach and other expenses. These costs were well in excess of the jurisdictional minimum of this Court.
FIRST CAUSE OF ACTION
Breach of Contract
(Against Defendant CRMSMG)

30. Plaintiff re-alleges and incorporates the allegations contained in Paragraphs 1 through 30.

31. The Restated On-Call Agreement along with each of its amendments constitutes a valid and enforceable contract between CRMSMG and CMC. Each party has duties and obligation that it owes the other.

32. CMC, for its part, at all material times has satisfied its duties and obligations to CRMSMG under the Restated On-Call Agreement.

33. CRMSMG engaged in a material breach of the contract in several respects.

34. The Restated On-Call Agreement and its thirtieth amendment required CRMSMG to “provide [neurosurgery] call coverage twenty-four (24) hours per day. CRMSMG shall provide such call coverage service for trauma (in accordance with California Administrative Code Title 22 requirements).” Beginning at 5:00 p.m. on September 2, 2020 CRMSMG breached this obligation by failing to provide neurosurgery call services. CRMSMG’s breach of this obligation continued until September 15, 2020 when CRMSMG’s neurosurgery call service was restored.

35. The Restated On-Call Agreement required that CRMSMG provide CMC with 90 days’ written notice of termination. CRMSMG failed to provide any notice, written or otherwise, to CMC that it would cease providing neurosurgery call coverage. Indeed, the only “notice” CMC received that neurosurgery call service would be terminated was from Ms. Fields-Keene who was not affiliated with CRMSMG and was not speaking for or on behalf of CRMSMG. Defendant Scott Wells, who appears to have acted as a spokesperson for CRMSMG even though he had no formal position with that entity, later informed CMC that no notice was provided to it because they were not “friends” any longer.

36. CRMSMG’s breach of the Restated On-Call Agreement resulted in direct and immediate damage to CMC. As alleged above, the total amount of that damage was well in excess of the jurisdictional minimum.
SECOND CAUSE OF ACTION

Breach of Covenant of Good Faith and Fair Dealing

(Against Defendant CRMSMG)

37. Plaintiff re-alleges and incorporates the allegations contained in Paragraphs 1 through 33.

38. California law imposes a duty of good faith and fair dealing in every contract.

39. CRMSMG intentionally deprived CMC of the benefit of the Restated On-Call Agreement. Specifically, CRMSMG denied CMC the on-call services which CRMSMG knew were essential to CMC providing trauma services to member of the community.

40. CRMSMG not only deprived CMC of this benefit but did so in a manner that was calculated to inflict the maximum amount of disruption and harm on CMC. CRMSMG provided no written notice that it would terminate the provision of neurosurgery call services. What little verbal notice was provided came only hours before CRMSMG ceased providing these services. Yet, CRMSMG knew for at least a month, if not longer, prior to that date that the neurosurgery services would be terminated. CRMSMG, thus, intentionally calculated the termination of those services so that the surprise and disruption to CMC would be as acute as possible.

41. As a result of CRMSMG’s breach, CMC was damaged in an amount to be proved at trial.

THIRD CAUSE OF ACTION

Intentional Interference with Contract

(Against Defendants Scott Wells and DOES 1 to 10)

42. Plaintiff re-alleges and incorporates the allegations contained in Paragraphs 1 through 41.

43. Defendants Scott Wells and DOES 1 to 10 were fully aware of the existence of the Restated On-Call Agreement in place between CRMSMG and CMC. Indeed, these Defendants
were specifically aware that the contract required CRMSMG to provide on-call coverage for
neurosurgery at CMC’s trauma center.

44. Defendants Scott Wells and DOES 1 to 10 engaged in a scheme to prevent
CRMSMG from honoring the terms of its contract with CMC. Specifically, these Defendants
sought to convince, and did convince, neurosurgeons to refuse to take call for CMC’s trauma
center. That scheme prevented CRMSMG from fully performing its obligations under the
contract.

45. Defendants’ conduct was intended to cause CRMSMG to be placed in a position
where it would fail to honor its contractual obligations to CMC. What is more, as part of their
scheme, these Defendants caused CRMSMG to fail to provide any written notice to CMC that
neurosurgery would no longer be provided as required under the Restated On-Call Agreement.
These Defendants also ensured that whatever notice CMC was provided would be limited to a
matter of hours in order to inflict the maximum amount of disruption and damage on CMC.

46. CRMSMG breached its contract with CMC as a direct result of the actions of Mr.
Wells and DOES 1 to 10.

47. In causing CRMSMG to breach its contract with CMC, Mr. Wells and DOES 1 to
10 directly and intentionally inflicted damage on CMC by disrupting the operations of its trauma
center in the manner alleged above. Beyond that, these Defendants directly and intentionally
placed members of the community at risk by attempting to shut down CMC’s trauma center.

48. CRMSMG’s breach of contract was the aim and purpose of a civil conspiracy
perpetrated by Defendants Mr. Wells and DOES 1 to 10. Those Defendants formed a conspiracy
to inflict significant harm and damage on CMC by seeking to deprive CMC of the neurosurgery
services it had secured by means of the Restated On-Call Agreement. Defendants Mr. Wells and
DOES 1 to 10 carried out their conspiracy by both interfering with the contract between
CRMSMG and CMC and by precluding CRMSMG from providing notice to CMC that it would
terminate the provision of neurosurgical services. At the same time, Defendants Mr. Wells and
DOES 1 to 10 furthered the damage their conspiracy sought to inflict on CMC by making, or
inducing others to make, statements to the media and to government regulators suggesting that
CMC would not be able to provide trauma services as a result of the breach that they caused CRMSMG to commit. The aim of this conspiracy was to inflict damage on CMC and in carrying it out Defendants Mr. Wells and DOES 1 to 10 inflicted significant damage on CMC as alleged above.

49. The actions of Mr. Wells and DOES 1 to 10 not only inflicted damages on CMC in an amount to be proved at trial but also were malicious, fraudulent and oppressive such that these Defendants should be subject to exemplary damages in an amount to be determined by the jury.

FOURTH CAUSE OF ACTION

Inducing Breach of Contract
(Against Defendants Scott Wells and DOES 1 to 10)

50. Plaintiff re-alleges and incorporates the allegations contained in Paragraphs 1 through 49.

51. Defendants Scott Wells and DOES 1 to 10 were fully aware of the existence of the Restated On-Call Agreement in place between CRMSMG and CMC. Indeed, these Defendants were specifically aware that contract required CRMSMG to provide on-call coverage for neurosurgery at CMC’s trauma center.

52. Defendants Scott Wells and DOES 1 to 10 induced CRMSMG to breach the terms of the contract with CMC. Specifically, these Defendants sought to convince, and did convince, neurosurgeons to refuse to take call for CMC’s trauma center. That scheme prevented CRMSMG from fully performing its obligations under the contract.

53. Defendants’ conduct induced CRMSMG into breaching its contract with CMC because it denied CRMSMG the ability to honor its contractual obligation. At the same time, Mr. Wells and DOES 1 to 10 further induced CRMSMG to breach its contractual obligations by failing to provide the 90 day notice required to terminate the contract with CMC.

54. CRMSMG breached its contract with CMC as a direct result of the actions of Mr. Wells and DOES 1 to 10.
55. By inducing CRMSMG to breach its contract with CMC, Mr. Wells and DOES 1 to 10 directly and intentionally inflicted damage on CMC by disrupting the operations of its trauma center in the manner alleged above. Beyond that, Mr. Wells and DOES 1 to 10 directly and intentionally placed members of the community at risk by attempting to shut down CMC’s trauma center.

56. CRMSMG’s breach of contract was the aim and purpose of a civil conspiracy perpetrated by Defendants Mr. Wells and DOES 1 to 10. Those Defendants formed a conspiracy to inflict significant harm and damage on CMC by seeking to deprive CMC of the neurosurgery services it had secured by means of the Restated On-Call Agreement. Defendants Mr. Wells and DOES 1 to 10 carried out their conspiracy by both inducing CRMSMG to breach its contract with CMC and failing to provide notice to CMC that it would terminate the provision of neurosurgical services. At the same time, Defendants Mr. Wells and DOES 1 to 10 furthered the damage their conspiracy sought to inflict on CMC by making statements to the media and to government regulators suggesting that CMC would not be able to provide trauma services as a result of the breach that they had induced CRMSMG to commit. The aim of this conspiracy was to inflict damage on CMC and in carrying it out Defendants Mr. Wells and DOES 1 to 10 inflicted significant damage on CMC as alleged above.

57. The actions of Mr. Wells and DOES 1 to 10 not only inflicted damages on CMC in an amount to be proved at trial but also were malicious, fraudulent and oppressive such that these Defendants should be subject to exemplary damages in an amount to be determined by the jury.

WHEREFORE, Plaintiff prays for judgment be entered in its favor and against Defendants as follows:

ON THE FIRST CAUSE OF ACTION

1. For compensatory damages in excess of the jurisdictional minimum of this Court.

2. For statutory interest prejudgment interest.

3. For such other relief as the Court may deem just and proper.

ON THE SECOND CAUSE OF ACTION

1. For compensatory damages in excess of the jurisdictional minimum of this Court.
2. For statutory interest prejudgment interest.
3. For such other relief as the Court may deem just and proper.

ON THE THIRD CAUSE OF ACTION

1. For compensatory damages in excess of the jurisdictional minimum of this Court.
2. For punitive and exemplary damages.
3. For prejudgment interest.
4. For such other relief as the Court may deem just and proper.

ON THE FOURTH CAUSE OF ACTION

1. For compensatory damages in excess of the jurisdictional minimum of this Court.
2. For punitive and exemplary damages.
3. For prejudgment interest.
4. For such other relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all triable causes of action.

Dated: September 23, 2021

Jones Day

By: James L. Poth

Attorney for Plaintiff
FRESNO COMMUNITY HOSPITAL AND MEDICAL CENTER, A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION D/B/A COMMUNITY HEALTH SYSTEM