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15 Attorneys for Plaintiffs EMANATE HEALTH;
 EMANATE HEALTH IPA; EMANATE HEALTH
 16 MEDICAL GROUP; EMANATE HEALTH FOOTHILL
 17 PRESBYTERIAN HOSPITAL; EMANATE HEALTH
 MEDICAL CENTER d/b/a EMANATE HEALTH
 18 QUEEN OF THE VALLEY HOSPITAL and d/b/a
 EMANATE HEALTH INTER-COMMUNITY
 19 HOSPITAL

20 UNITED STATES DISTRICT COURT
 21 CENTRAL DISTRICT OF CALIFORNIA
 22

23 EMANATE HEALTH, a California
 non-profit public benefit corporation;
 24 EMANATE HEALTH IPA, a
 California professional corporation;
 25 EMANATE HEALTH MEDICAL
 26 GROUP, a California professional
 corporation; EMANATE HEALTH
 27 FOOTHILL PRESBYTERIAN
 28 HOSPITAL, a California non-profit
 public benefit corporation; EMANATE

Case No. 2:23-cv-09872

COMPLAINT

Judge: TBD

1 HEALTH MEDICAL CENTER d/b/a
2 EMANATE HEALTH QUEEN OF
3 THE VALLEY HOSPITAL and d/b/a
4 EMANATE HEALTH INTER-
5 COMMUNITY HOSPITAL, a
6 California non-profit public benefit
7 corporation;

8 Plaintiffs,

9 v.

10 OPTUM HEALTH, a California
11 corporation; OPTUM HEALTH PLAN
12 OF CALIFORNIA, a Delaware
13 corporation; OPTUMCARE
14 HOLDINGS, LLC, a California limited
15 liability company; OPTUMCARE
16 MANAGEMENT, LLC, a California
17 limited liability company;
18 HEALTHCARE PARTNERS
19 AFFILIATES MEDICAL GROUP, a
20 general partnership,

21 Defendants.

22 INTRODUCTION

23 1. This lawsuit arises out of serious unlawful and fraudulent practices by
24 Defendants directed at harming Plaintiffs, as well as doctors formerly employed by
25 or contracted with Defendants, and the patients of those doctors. As described
26 more fully below, Defendants have engaged in a concerted effort to prevent
27 patients from contacting their doctors who chose to leave Defendants to join
28 competing medical groups, by lying to the patients who called asking where their
doctors had gone, and instructing Defendants' remaining personnel not to reveal to
patients where the departed doctors could be found. Likewise, Defendants have
wrongfully sought to intimidate their doctors who want to leave Defendants from
exercising the doctors' statutory rights under California law to go to competing
medical groups, using facially unlawful restrictions in the physicians' contracts,

1 and threatening the physicians and competitors with legal action if the doctors
2 move to Defendants’ competitors.

3 2. Plaintiffs seek relief against Defendants to prevent any further harm to
4 Plaintiffs, the doctors, or the patients. Otherwise, patients who want to remain
5 with their physicians will continue to be impeded from doing so, and doctors who
6 want to exercise their statutory right to go to competitors will be prevented from
7 doing so, which federal and California law preclude. The relief sought includes
8 injunctive relief, declaratory relief, damages, applicable penalties, fees, and costs.

9 **PLAINTIFFS**

10 3. Plaintiff Emanate Health, a provider of healthcare services, is a non-
11 profit public benefit corporation organized under the laws of the state of California,
12 with its principal place of business located at 140 West College Street, Covina, CA
13 91723.

14 4. Plaintiff Emanate Health IPA (“EHIPA”) is a professional corporation
15 organized under the laws of the State of California with its principal place of
16 business at 1041 West Badillo Street, Suite 104, Covina, California 91722. It is a
17 physician-owned independent physician association that contracts with physicians
18 and provides healthcare services. EHIPA physicians often choose to use Emanate
19 Health for their patients. EHIPA is not owned by Emanate Health.

20 5. Plaintiff Emanate Health Medical Group (“EHMG”) is a corporation
21 organized under the laws of the State of California, with its principal place of
22 business located at 1041 West Badillo Street, Suite 102, Covina, California 91722.
23 EHMG is a physician-owned independent professional corporation that employs
24 and contracts with physicians and provides healthcare services. EHMG physicians
25 often choose to use Emanate Health for their patients. EHMG is not owned by
26 Emanate Health.

27 6. Plaintiff Emanate Health Medical Center (“EHMC”) is a California
28 non-profit public benefit corporation with its principal place of business located at

1 210 W. San Bernardino Road, Covina, California 91723. EHMC operates two
2 hospitals, one doing business as Emanate Health Queen of the Valley Hospital
3 (“Queen of the Valley”) at 1115 S. Sunset Ave., West Covina, California 91790,
4 and the other doing business as Emanate Health Inter-Community Hospital (“Inter-
5 Community”) at 210 W. San Bernardino Road, Covina, California 91723.

6 7. Plaintiff Emanate Health Foothill Presbyterian Hospital (“Foothill
7 Presbyterian”) is a California non-profit public benefit corporation with its
8 principal place of business located at 250 South Grand Avenue, Glendora,
9 California 91741.

10 **DEFENDANTS**

11 8. On information and belief, Defendant Optum Health is a corporation
12 organized under the laws of the State of California, with its principal place of
13 business located at 435 Arden Avenue #560, Glendale, CA 91203.

14 9. On information and belief, Defendant Optum Health Plan of
15 California (“OHPC”) is a corporation organized under the laws of the State of
16 Delaware, and a California-licensed Knox-Keene health plan.

17 10. On information and belief, Defendant OptumCare Holdings, LLC
18 (“OptumCare Holdings”) is a limited liability company organized under the laws
19 of the State of California, with its principal place of business located at 11000
20 Optum Circle, Eden Prairie, MN 55344.

21 11. On information and belief, Defendant OptumCare Management, LLC
22 (“OptumCare Management”) is a limited liability company organized under the
23 laws of the state of California, with its principal business address located at 2175
24 Park Place, El Segundo, CA 90245.

25 12. On information and belief, Defendant Healthcare Partners Affiliates
26 Medical Group (“HCPAMG”) is a general partnership with a principal place of
27 business in El Segundo, California.

28 13. On information and belief, Defendants are all affiliates, either directly

1 or indirectly, of one another, and/or of another commonly owned entity or entities.

2 14. On information and belief, Defendants do business under the single
3 umbrella trade name of “Optum,” along with other affiliates that are branded
4 “Optum,” which combined are reported to be the single largest employer of
5 physicians in the United States, with more than 70,000 directly employed or
6 aligned physicians. The combined Optum entities have at least 2,200 primary and
7 specialty care offices in 16 states. Moreover, Optum’s website reports having over
8 100 primary care physicians (“PCPs”) in the municipalities of Covina, West
9 Covina, Glendora, Azusa, and San Dimas, California.

10 15. The manner in which Defendants run their business and same trade
11 name of “Optum” obscures which of Defendant(s) played what role in the
12 misconduct detailed in this lawsuit. Therefore, Defendants’ manner of operating
13 together has forced Plaintiffs to sue all these Defendants individually and
14 collectively at this time. Plaintiffs reserve the right to amend the Complaint to add
15 or remove Defendants as additional information becomes available through
16 discovery about which of the Optum branded entities performed which violations
17 of law, as well as to name as additional defendants any specific individuals who
18 are shown to have been responsible for these violations.

19 **JURISDICTION AND VENUE**

20 16. This Court has original subject matter jurisdiction over this action
21 under 28 U.S.C. § 1331 insofar as there are claims alleged herein that arise under
22 Constitution, laws, or treaties of the United States. To the extent this Complaint
23 asserts causes of action under state law, this Court may lawfully exercise
24 supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

25 17. This Court has personal jurisdiction over Defendants Optum Health,
26 OptumCare Holdings, OptumCare Management, and HPAMG because each is
27 domiciled in the State of California and their wrongful acts alleged herein were
28 committed within California, or if not committed within California, purposefully

1 directed at Plaintiffs in California.

2 18. This Court has personal jurisdiction over Defendant OHPC because
3 OHPC's wrongful acts alleged herein were committed within California, or if not
4 committed within California, were purposefully directed at Plaintiffs in California.

5 19. Venue is properly laid in this Court pursuant to 28 U.S.C. § 1391
6 because a substantial part of the events or omissions giving rise to the claims
7 asserted in this action occurred in Los Angeles County, California. Additionally,
8 on information and belief, the principal places of business of Defendants
9 OptumCare Management, Optum Health, and HPAMG are Los Angeles County,
10 California.

11 **FACTUAL ALLEGATIONS**

12 20. Plaintiff Emanate Health is well-respected non-profit healthcare
13 provider that primarily serves patients in and around the East San Gabriel Valley
14 region of the San Gabriel Valley serving a community of more than 1 million
15 people. Emanate Health provides leading care through its three hospitals, Inter-
16 Community, Queen of the Valley, Foothill Presbyterian. Emanate Health also
17 provides home health care services and manages sixteen ambulatory sites
18 throughout the region that provide primary and specialty care to the community.
19 Emanate Health's brand of technologically advanced, comprehensive health care
20 service is made possible through the combined effort of its talented employees,
21 affiliated physicians, volunteers, and donors.

22 21. Emanate Health's core mission is to provide affordable healthcare
23 services to patients in the community that it serves. It does this in several ways,
24 including without limitation, working with its affiliates to maintain a network of
25 hospitals and clinics, and associating with PCPs and specialists to provide services
26 at those hospitals and clinics. Its three hospitals are well-respected community
27 resources:

28 a. Queen of the Valley is a 325-bed fully accredited non-profit,

1 health care facility in West Covina, CA. This campus is known regionally for its
2 family-centered maternity services and critical newborn care. It also is home to a
3 da Vinci surgical robot and has one of the busiest emergency rooms in Los
4 Angeles County.

5 b. Inter-Community is a 193-bed facility providing a wide range
6 of medical, surgical and specialty care services, including inpatient and outpatient
7 services, and specializing in cardiac care, with open heart surgery,
8 electrophysiology (mapping of the heart), cardiopulmonary, rehabilitation, a
9 Cardiac Cath Lab that provides the latest treatments and advancements for
10 patients suffering from heart disease, and a designated STEMI Receiving center
11 for heart attack patients.

12 c. Foothill Presbyterian has 105 accredited beds, and serves the
13 communities of Glendora, Azusa, San Dimas, and La Verne. It offers a unique
14 blend of general acute care and specialty services, including 24-hour emergency
15 care, an Outpatient Diabetes Education Program recognized by the American
16 Diabetes Association as a Center of Excellence for diabetes education,
17 mammography and radiology services, as well as many support and community
18 outreach programs.

19 22. Plaintiff EHIPA is a physician-owned independent physician
20 association whose physicians provide medical services at Emanate Health-
21 affiliated hospitals and primary-care and specialty clinics primarily in Covina,
22 West Covina, San Dimas, and Glendora, California.

23 23. Plaintiff EHMG is an independent, physician-owned professional
24 corporation that directly employs physicians who treat patients at Emanate Health-
25 affiliated hospitals and clinics in Covina, West Covina, San Dimas, and Glendora,
26 California.

27
28

1 **Defendants Misrepresent to Patients the Location of Doctors Who Have Left**
2 **Defendants to Join EHMG and Discipline Employees Who Disclose to Patients**
3 **the Whereabouts of Those Doctors**

4 24. In or around 2017, OptumCare Management acquired the medical
5 practice formerly known as Magan Medical Clinic (“Magan”), located at 420 W
6 Rowland St, Covina, California, 91723. Following the acquisition, the former
7 Magan practice became branded “Optum – Covina” to join Defendants’ Optum-
8 branded business.

9 25. In and after December 2022, several Optum-Covina physicians (who
10 were formerly part of Magan)—mostly PCPs who generally did not see patients at
11 any Emanate Health-affiliated hospital under the HSAs—voluntarily left to join
12 EHMG. These doctors independently contacted and applied to join EHMG,
13 pursuant to publicly advertised positions (collectively, “Former Optum
14 Providers”).

15 26. After the first of the Former Optum Providers left Defendants to join
16 EHMG, Defendants transferred their patients to other physicians then with
17 Defendants, without informing the patients of their treating physicians’ departure
18 or asking the patients who they wanted to be their physicians. Thereafter, some of
19 the Optum-Covina physicians to whom Defendants initially transferred the patients
20 also applied for positions at and were hired by EHMG, resulting in yet another
21 transfer of the patients to other physicians of Defendants, once again with no
22 notice to or input from the patients in question.

23 27. On information and belief, Defendants deliberately omitted to notify
24 patients that the Former Optum Providers were leaving Defendants, and
25 purposefully scheduled follow-up appointments to occur after the Former Optum
26 Providers left, so that the Former Optum Providers could not inform their patients
27 that they were leaving Defendants to join EHMG.

28 28. On information and belief, Defendants’ administrators, acting at the

1 direction of higher-level corporate officials at Defendants, directed the remaining
2 physicians, medical assistants, and other administrative staff affiliated with
3 Defendants at Optum-Covina to refrain from disclosing to patients of the Former
4 Optum Providers that these patients' physicians had left Optum and relocated to
5 EHMG. Defendants threatened to discipline any physician or other employee who
6 disclosed to patients that one or more of the Former Optum Providers had relocated
7 to EHMG.

8 29. Based on information and belief, Defendants disciplined one or more
9 employees for truthfully responding to inquiries from one or more patients of a
10 Former Optum Provider as to (a) why the patient was no longer being treated or
11 seen by the Former Optum Provider at their appointment, and (b) where the
12 Former Optum Provider had moved. In at least one instance, on information and
13 belief, the disciplinary action by Defendants included the termination of an
14 employee for truthfully responding to a patient inquiry regarding the status and
15 whereabouts of one of the Former Optum Providers.

16 30. Some of Defendants' physicians were given copies of their contract
17 with Defendants containing unlawful restrictions on competition and told that
18 Defendants would consider the physicians to have breached if they informed
19 patients that any of the Former Optum Providers had joined EHMG.

20 31. In at least one instance, in response to a patient inquiry about the
21 whereabouts of Dr. Wanda Brady—an OBGYN who had left Defendants to join
22 EHMG—one of Defendants' staff, acting at the direction of Defendants'
23 managing agents, intentionally and falsely misrepresented to that patient that Dr.
24 Brady had retired.

25 32. In response to inquiries about Dr. Vahid Javaherian, another
26 physician who had left Defendants for EHMG, Defendants falsely responded to the
27 patient inquiry that Dr. Javaherian was on vacation, not that he had left.

28 33. Upon information and belief, many of the patients from whom

1 Defendants withheld information about the Former Optum Providers had been
2 treated by one or more Former Optum Providers for many years. Upon
3 information and belief, at least some of these patients were seniors who now have
4 dementia, and thus, would be profoundly agitated and confused by not being able
5 to find their physician of choice, and not being able to get information from
6 Defendants about their preferred physician's status of whereabouts. These
7 foregoing practices by Defendants of withholding information about, or downright
8 misrepresenting the status of the Former Optum Providers, constitute a profound
9 interference with the patients' right to choose their doctors, and the existing
10 physician-patient relationships that the patients had with the Former Optum
11 Providers.

12 34. It is one thing if a patient is given the information needed to
13 knowingly choose who will be his or her physician when the doctor changes
14 employers. It is quite another for Defendants to lie to patients and deliberately
15 conceal the circumstances and whereabouts of the patients' established physicians.

16 **Optum Falsely and Intentionally Misrepresented that the Former Optum**
17 **Providers and Employees Were Unhappy in their New Employment in an**
18 **Unlawful Effort to Deter Other Defendant Employees from Applying to Work**
19 **for Plaintiffs**

20 35. Plaintiffs further allege, based on information and belief, that the
21 Director of Group Operations at Optum – Covina, Crystelle Patino, acting at the
22 direction of managing agents, officers, and/or other corporate officials of the
23 Defendants, falsely and intentionally misrepresented to Defendants' physicians and
24 employees at the Optum-Covina location, that one or more former employees who
25 accepted employment at Plaintiffs said the former employees were unhappy
26 working for Plaintiffs, and begged to return to their former position(s) at
27 Defendants. Based on information and belief, in making these false
28 misrepresentations, it was Defendants' intent to deter its remaining employees

1 from exercising the employees’ right to apply for jobs at Plaintiffs, or to the extent
2 they already were actively applying, to disrupt or cause the employees to cancel
3 the pending application process.

4 **Optum Has a Dominant Market Share Among Medicare Advantage HMO**
5 **and Commercial HMO Members in the Geographies in Which Plaintiffs’**
6 **Patients Reside**

7 36. The Department of Managed Health Care (“DMHC”) website reflects
8 that, as of 2018, OHPC had 121,382 members in its Medicare Advantage HMO
9 plans in Los Angeles County and 311,771 members in its Commercial HMO plans
10 in Los Angeles County. On information and belief, OHPC’s share of total
11 Medicare Advantage HMO members and Commercial HMO members in Los
12 Angeles County remains similarly large.

13 37. OHPC is a managed care organization, and as such, can direct and
14 steer its members to or away from a particular facility for treatment.

15 38. On information and belief, OHPC’s market share in Medicare
16 Advantage HMO and Commercial HMO enrollees is close to, or exceeds, fifty
17 percent (50%) in the geographies in which Plaintiffs’ patients reside. For example,
18 in 2021, Optum-affiliated members represented over sixty-two percent
19 (specifically 62.6%) of discharges from Emanate Health-affiliated hospitals for
20 Medicare Advantage HMO patients, and over forty-five percent (specifically
21 45.7%) of discharges from Emanate Health-affiliated hospitals for Commercial
22 HMO patients. On information and belief, these figures continue to be
23 representative of OHPC’s market share in the geographies in which Plaintiffs’
24 patients reside.

25 **Optum Engages in Anticompetitive Acts in an Attempt to Monopolize the**
26 **Market for PCPs in the Geographies in Which Plaintiffs’ Patients Reside**

27 39. In or around 2021, Defendants commenced a pattern of unfair
28 competitive conduct to exert monopolistic power over the market for PCPs in the

1 geographies in which Plaintiffs’ patients reside. Specifically, Defendants
2 threatened cancellation of the HSAs with Foothill Presbyterian and Queen of the
3 Valley, unless Plaintiffs agreed to new, coercive, anti-competitive terms, calculated
4 to ensure its exit from the medical group business, so that Defendants could secure
5 market dominance over PCPs in the geographies in which Plaintiffs’ patients
6 reside.

7 40. On or around June 30, 2021, during a dinner meeting between
8 Emanate Health and Defendants’ executives, including Victor Wong, M.D., Jung
9 Lee, and Derek Chao, M.D. in Arcadia, Defendants’ executives communicated to
10 Emanate Health’s CEO and others present that (1) Defendants considered the
11 physician business to be Defendants’ “domain,” (2) Defendants viewed Emanate
12 Health’s business to be restricted to the hospitals and Emanate Health should “stay
13 in its lane”; (3) Defendants would not encroach on the hospital business if Emanate
14 Health did not encroach on Defendants’ physician business; (4) Emanate Health’s
15 establishment of businesses involving physicians placed unwanted competitive
16 pressure on Defendants; and (5) when EHMG or EHIPA vie for physicians in
17 competition with Defendants, it impedes Defendants’ ability to hire and keep
18 physicians by driving up what Defendants pay to employ and contract with
19 physicians.

20 41. When Emanate Health did not agree to Defendants’ demand to stay
21 out of the physician business, in three letters dated December 1, 2021, Matthew
22 Butler, Director of National Contracting for Defendants communicated to Emanate
23 Health that if “renegotiation” of the HSAs was unsuccessful—i.e., if Emanate
24 Health did not agree to its coercive and anti-competitive terms—then OHPC would
25 terminate the HSAs with (1) Queen of the Valley; (2) Emanate Health Inter-
26 Community Hospital; and (3) Foothill Presbyterian. The December 1, 2021 letters
27 indicated that they would serve as 180 days’ notice of termination of the HSAs
28 without cause, effective May 31, 2022.

1 42. Then, during a follow-up meeting on or around December 17, 2021 in
2 the board room of Inter-Community in Covina, California, Defendants’
3 representatives Jung Lee, Preedar Oreggio, M.D., and Victor Wong, M.D. again
4 pressured Emanate Health to exit the physician business and dismantle EHMG and
5 EHIPA. Specifically, Defendants’ executives reiterated that Emanate Health
6 should not be in the business of building medical groups to provide physician
7 services to Medicare Advantage HMO and Commercial HMO members, which
8 Defendants considered their exclusive domain.

9 43. On or around February 1, 2022, Defendants provided proposed terms
10 for an amended contract between OHPC, on the one hand, and Foothill
11 Presbyterian and Queen of the Valley, on the other hand, as well as terms for a
12 contract with Inter-Community. This proposal contained a series of unfair, anti-
13 competitive provisions. Defendants sought to force these provisions on Emanate
14 Health by threatening cancellation of (and ultimately actually cancelling) the
15 HSAs, which in turn would deprive Plaintiffs of Medicare Advantage HMO
16 patients and Commercial HMO patients enrolled with OHPC. By way of example,
17 the proposal included the following non-exhaustive terms:

18 a. The proposal provided that “Emanate’s PCPs will be fully
19 exclusive under Optum’s IPA for both Medicare Advantage and Commercial
20 HMO business.”

21 b. The proposal further provided that “OHPC shall own right of
22 first refusal and right of last refusal in the event that Emanate puts any of its PCP
23 assets up for sale.”

24 c. It also included an illegal and unenforceable non-solicitation
25 clause, providing that “Emanate shall not solicit any of OHPC IPA’s participating
26 providers. Should any physician affiliated with OHPC wish to sell their practice,
27 OHPC shall maintain first privilege to purchase.”

28 44. The pricing proposed also included a 30-percent reduction in rates for

1 emergency and outpatient services relative to the existing HSAs, despite the well-
2 publicized fact that inflation was at historic highs, making drastic rate reductions
3 untenable. But Defendants indicated both before and afterward that the rates were
4 negotiable, so long as the above-stated restrictions were accepted by Plaintiffs.

5 45. In the cover email attaching the proposal, Matthew Butler, Director of
6 National Contracting for Defendants, summarized the terms as follows:

7 Attached is the terms and rates proposal document for your review. Some of the highlights of the proposal include:

- 8 • The term span proposal for the hospital contracts is for 4 years (June 1, 2022 through May 31, 2026)
- 9 • The term span proposal for the physician group contract is for 10 years (June 1, 2022 to May 31, 2032)
- 10 • OHPC is proposing Commercial HMO inpatient rates in lieu of the current workflow of utilizing the enrollees
11 primary health plan's contracted inpatient rates.
- 12 • OHPC is strongly requesting that Emanate employed PCPs be exclusive to OHPC for the MA and Commercial
13 HMO products.
- 14 • OHPC is strongly requesting that Emanate will not solicit any currently contracted OHPC IPA physician to join
15 their Employed Physician Foundation or Medical Group.
- 16 • OHPC is requesting to have first and last refusal rights if Emanate puts any of its PCP assets up for sale.
- 17 • OHPC is requesting that inner Emanate campus patient transfer costs not be billed separately.

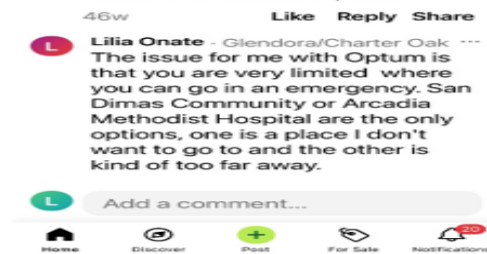
18 46. On or around April 7, 2022, Defendants sent another proposal for
19 renewal of the HSAs, which included the same anticompetitive exclusivity, non-
20 solicitation, and right-of-first refusal clauses as the first proposal. As to proposed
21 rates, however, the new proposal amounted to only a 12-percent rate reduction, as
22 opposed to the prior proposed 30-percent rate reduction. This reflects again that
23 rates were negotiable, so long as Plaintiffs accepted the non-negotiable
24 anticompetitive restrictions.

25 47. On May 5, 2022, Emanate Health executives met with Defendants'
26 Senior Vice President of Operations, Sam Bajaj; Defendants' Senior Vice
27 President of Hospital Contracting, Abdul Kassir; and Matt Butler to discuss
28 Defendants' second proposal. During this meeting, Mr. Bajaj once again raised the
issue of Emanate Health's affiliated physician groups, EHMG and EHIPA, and
said that Plaintiffs' exit from the physician space was an issue of paramount
importance for Defendants. Defendants also refused to consider any
counterproposal unless Plaintiffs agreed that EHMG and EHIPA effectively cease
competing with Defendants for physicians.

1 48. When Plaintiffs refused to agree to Defendants' anti-competitive
 2 unlawful terms, Defendants followed through on the threat to take punitive action,
 3 and terminated the HSAs with EHMC for Queen of the Valley and Foothill
 4 Presbyterian, effective May 31, 2022.

5 **Following Termination of the HSAs, Optum Began Steering OHPC Medicare**
 6 **Advantage HMO and Commercial HMO Members Away and Unlawfully**
 7 **Disrupted their Continuity of Care Rights**

8 49. After terminating the HSAs when Defendants' anticompetitive
 9 demands were not met, Defendants began steering OHPC's Medicare Advantage
 10 HMO and Commercial HMO members away from Plaintiffs, to geographically
 11 remote, non-Emanate Health-affiliated facilities, such as San Dimas Community
 12 Hospital and Arcadia Methodist Hospital. For example, a patient reported on
 13 NextDoor.com to being routed by Defendants to distant locations, even for
 14 emergency services, which Defendants never should steer for financial reasons:



19 50. Both California and Medicare impose continuity of care requirements
 20 on Commercial HMO and Medicare Advantage HMOs under the California Health
 21 and Safety Code and federal regulations. Defendants have not complied with their
 22 continuity of care obligations. For example, Defendants called pregnant
 23 Commercial HMO patients of Emanate Health-affiliated OBGYN, Dr. Samuel
 24 Kassar, and pressured those patients to switch providers and seek pre-natal care
 25 and delivery at San Dimas Community Hospital. These patients were OHPC's
 26 Commercial HMO members, and thus Defendants violated California Health
 27 & Safety Code § 1373.96(c)(3)(A), which provides that, upon termination of a
 28 provider contract, "[a] pregnancy is the three trimesters of pregnancy and the

1 immediate postpartum period. Completion of covered services shall be provided
2 for the duration of the pregnancy” at the terminated provider.

3 51. As a result of Defendants’ post-termination conduct, monthly
4 admissions of OHPC’s Medicare Advantage HMO members and Commercial
5 HMO members have materially declined. For example, scheduled surgeries and
6 scheduled outpatient procedures by OHPC’s Medicare Advantage HMO and
7 Commercial HMO members have fallen by as much as 70-80% relative to the
8 period during which the HSAs were in place. In this way, Defendants used their
9 dominant position in the geographies in which Plaintiffs’ patients reside to
10 financially punish the Plaintiffs for not agreeing to the above-described unlawful
11 anti-competitive terms Defendants insisted on as a condition of remaining
12 contracted.

13 **Prior Contracts Between Some of the Parties**

14 52. Some but not all Plaintiffs used to have contracts with some but not
15 all Defendants. The contracts between some of these parties contain blatantly
16 illegal restrictions on trade under California law, as described below. These illegal
17 provisions appear to be template language used by Defendants. Therefore,
18 Defendants presumably use similarly illegal restrictions on trade in their contracts
19 with their physicians.

20 53. From 2016 until November 2022, Foothill Presbyterian and Queen of
21 the Valley, were contracted to be in-network providers of hospital services for
22 enrolled members of Commercial HMO and Medicare Advantage HMO insurance
23 plans that delegate their members to OHPC. The terms that governed these in-
24 network services were set forth in (1) a Hospital Services Agreement between
25 OHPC’s predecessor (then called Davita Healthcare Partners Plan, Inc. (“DHPP”)
26 before OHPC bought it from DaVita) and Foothill Presbyterian; and (2) a Hospital
27 Services Agreement between OHPC’s predecessor and Queen of the Valley
28 (collectively, “the HSAs”).

1 54. In or around June 2019, OHPC acquired DHPP. As part of that
2 transaction, OHPC assumed DHPP's interests in the HSAs, and thereafter
3 rebranded it with the Optum name. On information and belief, DaVita no longer is
4 affiliated with OHPC.

5 55. Each of the HSAs contain substantially identical provisions, which
6 purported to impose on Foothill Presbyterian, Queen of the Valley, and their
7 affiliates, very broad-sweeping customer, provider, and employee non-
8 solicitation/no-hire covenants. For example, the patient/member non-solicitation
9 clause purports to restrict Foothill Presbyterian and Queen of the Valley from
10 soliciting OHPC members *for all time*, while a separate sweeping medical provider
11 and employee non-solicitation clause that restricts Foothill Presbyterian, Queen of
12 the Valley, or their affiliates from soliciting OHPC-affiliated medical providers.

13 56. Section 10.4 of the Foothill Presbyterian HSA provides as follows:

14 10.4 Solicitation and Network Interference. Hospital or Hospital Affiliates (defined below)
15 understand and agree that the business relationships between DHPP and its Members shall be
16 deemed the property of DHPP. Similarly, all lists of Members accepted by Hospital or Hospital
17 Affiliate under the provisions of this Agreement and of the Plans to which they belong shall be
18 deemed the property of DHPP, DHPP Affiliates and/or Payors. At no time during or after the
19 term of this Agreement or any renewal thereof, Hospital and Hospital Affiliate agree that neither
20 Hospital nor Hospital Affiliate or any officer, employee or agent of Hospital or Hospital
21 Affiliate, shall, for purposes of financial gain, directly or indirectly engage in the practice of
22 solicitation of Members without DHPP's prior written consent which may be withheld in its sole
23 discretion.

24 Additionally, Hospital and Hospital Affiliate understand and agree that the business relationships
25 between DHPP and its Participating Providers shall be deemed the property of DHPP. Hospital
26 and Hospital Affiliate agree that, at no time during or for two years after the term of this
27 Agreement or any renewal thereof, neither Hospital nor Hospital Affiliate or any officer,
28 employee or agent of Hospital and Hospital Affiliate, shall, for purposes of financial gain,
directly or indirectly engage in the practice of solicitation of Participating Providers without
DHPP's prior written consent which may be withheld in its sole discretion.

For purposes of this Agreement, "solicitation" shall mean any action by Hospital or Hospital
Affiliate or any officer, employee or agent of Hospital or Hospital Affiliate that could be
reasonably interpreted as intended to: (1) interfere with DHPP's contract and/or property rights;
or (2) engage in any activity or make statements that would be likely to cause or encourage any
Member, Participating Provider or Plan to discontinue their relationship with DHPP; or (3)
solicit any Member to change his/her health maintenance organization, preferred provider
organization, or any other similar medical payment plan or insurance company; or (4) engage in
any activity or make statements that would be likely to cause or encourage any prospective
Member, Participating Provider or Plan to not to establish a relationship with DHPP; or (5)

1 solicit any Member to enroll in any other medical group for the primary purpose of securing
 2 financial gain for Hospital or Hospital Affiliate; or (6) impede or otherwise interfere with
 3 negotiations which DHPP is conducting; or (7) use or disclose to any third party membership
 4 lists acquired during the term of this Agreement for the purpose of directly or indirectly
 5 soliciting individuals who were or are Members or otherwise compete with DHPP; (8) use or
 6 disclose to any third party Participating Provider lists acquired during the term of this Agreement
 7 for the purpose of directly or indirectly soliciting individuals who were or are Participating
 8 Providers or otherwise compete with DHPP; or (9) disclose proprietary DHPP information. A
 9 breach or threatened breach of this Section 10.4 during the term of this Agreement shall be
 10 grounds for termination of this Agreement.

11 Notwithstanding any other Section of this Agreement, in the event of a breach or threatened
 12 breach of this Section 10.4 by Hospital or Hospital Affiliate, DHPP shall have the right of
 13 specific performance and injunctive relief in addition to any and all other remedies and rights at
 14 law or in equity, including, but not limited to, punitive damages, and such rights and remedies
 15 shall be cumulative.

16 By execution of this Agreement, DHPP and Hospital and Hospital Affiliate agree that the
 17 restraints imposed by this Section 10.4 are reasonable as to time and scope. If at the time of
 18 enforcement of any provision of this Section 10.4, a court of competent jurisdiction or the
 19 decision of an arbitrator or arbitrators appointed in accordance with this Agreement holds that
 20 the restrictions stated in this Section 10.4 are unreasonable or unenforceable for any reason, then
 21 DHPP and Hospital and Hospital Affiliate agree that the maximum time period or scope found to
 22 be reasonable under such circumstances will be substituted for the stated period or scope.

23 Within the context of this Section 10.4, Hospital Affiliates shall mean (i) an entity that directly or
 24 indirectly owns or is owned by Hospital; or (ii) an entity that is directly or indirectly controlling
 25 or controlled by Hospital; or (iii) any entity which is, directly or indirectly, under common
 26 ownership or control with Hospital, or is an entity in which the entity controlling Hospital has an
 27 ownership interest; or (iv) a professional corporation that has entered into a management services

28 agreement with Hospital or a Hospital Affiliate that satisfies (i) or (ii) above, and/or a medical
 group services agreement with Hospital.

57. Section 10.4 of the Queen of the Valley HSA contains substantially
 identical language to the Foothill HSA non-solicitation provision, and provides as
 follows:

10.4 Solicitation and Network Interference. Hospital or Hospital Affiliates (defined below)
 understand and agree that the business relationships between DHPP and its Members shall be
 deemed the property of DHPP. Similarly, all lists of Members accepted by Hospital or Hospital
 Affiliate under the provisions of this Agreement and of the Plans to which they belong shall be
 deemed the property of DHPP, DHPP Affiliates and/or Payors. At no time during or after the
 term of this Agreement or any renewal thereof, Hospital and Hospital Affiliate agree that neither
 Hospital nor Hospital Affiliate or any officer, employee or agent of Hospital or Hospital
 Affiliate, shall, for purposes of financial gain, directly or indirectly engage in the practice of
 solicitation of Members without DHPP's prior written consent which may be withheld in its sole
 discretion.

1 Additionally, Hospital and Hospital Affiliate understand and agree that the business relationships
2 between DHPP and its Participating Providers shall be deemed the property of DHPP. Hospital
3 and Hospital Affiliate agree that, at no time during or for two years after the term of this
4 Agreement or any renewal thereof, neither Hospital nor Hospital Affiliate or any officer,
5 employee or agent of Hospital and Hospital Affiliate, shall, for purposes of financial gain,
6 directly or indirectly engage in the practice of solicitation of Participating Providers without
7 DHPP's prior written consent which may be withheld in its sole discretion.

8 For purposes of this Agreement, "solicitation" shall mean any action by Hospital or Hospital
9 Affiliate or any officer, employee or agent of Hospital or Hospital Affiliate that could be
10 reasonably interpreted as intended to: (1) interfere with DHPP's contract and/or property rights;
11 or (2) engage in any activity or make statements that would be likely to cause or encourage any
12 Member, Participating Provider or Plan to discontinue their relationship with DHPP; or (3)
13 solicit any Member to change his/her health maintenance organization, preferred provider
14 organization, or any other similar medical payment plan or insurance company; or (4) engage in
15 any activity or make statements that would be likely to cause or encourage any prospective
16 Member, Participating Provider or Plan to not to establish a relationship with DHPP; or (5)
17 solicit any Member to enroll in any other medical group for the primary purpose of securing
18 financial gain for Hospital or Hospital Affiliate; or (6) impede or otherwise interfere with
19 negotiations which DHPP is conducting; or (7) use or disclose to any third party membership
20 lists acquired during the term of this Agreement for the purpose of directly or indirectly
21 soliciting individuals who were or are Members or otherwise compete with DHPP; (8) use or
22 disclose to any third party Participating Provider lists acquired during the term of this Agreement
23 for the purpose of directly or indirectly soliciting individuals who were or are Participating
24 Providers or otherwise compete with DHPP; or (9) disclose proprietary DHPP information. A
25 breach or threatened breach of this Section 10.4 during the term of this Agreement shall be
26 grounds for termination of this Agreement.

27 Notwithstanding any other Section of this Agreement, in the event of a breach or threatened
28 breach of this Section 10.4 by Hospital or Hospital Affiliate, DHPP shall have the right of
specific performance and injunctive relief in addition to any and all other remedies and rights at
law or in equity, including, but not limited to, punitive damages, and such rights and remedies
shall be cumulative.

By execution of this Agreement, DHPP and Hospital and Hospital Affiliate agree that the
restraints imposed by this Section 10.4 are reasonable as to time and scope. If at the time of
enforcement of any provision of this Section 10.4, a court of competent jurisdiction or the
decision of an arbitrator or arbitrators appointed in accordance with this Agreement holds that
the restrictions stated in this Section 10.4 are unreasonable or unenforceable for any reason, then
DHPP and Hospital and Hospital Affiliate agree that the maximum time period or scope found to
be reasonable under such circumstances will be substituted for the stated period or scope.

Within the context of this Section 10.4, Hospital Affiliates shall mean (i) an entity that directly or
indirectly owns or is owned by Hospital; or (ii) an entity that is directly or indirectly controlling
or controlled by Hospital; or (iii) any entity which is, directly or indirectly, under common
ownership or control with Hospital, or is an entity in which the entity controlling Hospital has an
ownership interest; or (iv) a professional corporation that has entered into a management services
agreement with Hospital or a Hospital Affiliate that satisfies (i) or (ii) above, and/or a medical
group services agreement with Hospital.

1 58. In or around January 2016, Healthcare Partners Affiliates Medical
 2 Group (“HPAMG”), now also an Optum affiliate, and Foothill Family Practice (a
 3 medical group that was later acquired by EHMG), entered into a Physician
 4 Agreement, under which Foothill Family Practice was to provide medical services
 5 to HPAMG plan members (the “Physician Agreement”). On or around October 1,
 6 2016, Foothill Family Practice was acquired by EHMG f/k/a Citrus Valley
 7 Physician Partners.

8 59. Section 7.3 of the Physician Agreement contains a patient and
 9 provider non-solicitation agreement substantially identical to the HSAs, which
 10 provides as follows:

11 7.3 Non-Solicitation and Network Interference. HCPAMG acknowledges and values that
 12 Provider maintains clinical relationships with Members in order to fulfill its obligations
 13 under the terms of this Agreement. Provider understands and agrees that they will be
 14 exposed to valuable confidential information of business relationships between
 15 HCPAMG and Members. Therefore, at no time during the Term and for a period of one
 (1) year following termination for any reason of this Agreement, Provider agrees that
 neither Provider nor any officer, employee, Associate Provider, or agent of Provider,
 shall, for purposes of financial gain, directly or indirectly engage in the practice of
 solicitation of Members or any employer of said Members without HCPAMG's prior
 written consent.

At no time during the Term and for a period of two (2) years following termination for any
 reason of this Agreement, Provider agrees that neither Provider nor any officer,
 employee, Associate Provider, or agent of Provider, shall for the purposes of financial
 gain, directly or indirectly engage in the practice of solicitation of Participating Providers
 without HCPAMG's prior written consent.

Provider further agrees that he/she will not, at any time, directly or indirectly, disparage
 HCPAMG or any Affiliate of HCPAMG and/or any of its agents, employees or
 Participating Providers. Disparaging remarks, comments or statements are those that
 impugn the honesty, integrity, morality or business acumen or abilities in connection with
 any aspect of the operation of HCPAMG's or its Affiliate's business.

For purposes of this Agreement, "solicitation" shall mean any action by Provider or any
 officer, employee or agent of Provider that could be reasonably interpreted as intended
 to persuade a Member or Participating Provider to: (1) discontinue his/her relationship
 with HCPAMG; or (2) disenroll from a Plan contacting with HCPAMG; or (3) encourage a
 Member to receive health care services from Provider on a fee-for-service basis.
 Nothing in this Agreement is intended to restrict the following communications and such
 communications shall not constitute solicitation under this Agreement: (1) Any
 communication between Provider and a Member reasonably determined by Provider to
 be necessary or appropriate for the diagnosis and care of the Member; (2) Any
 communication between Provider and a Member regarding changes to Provider's
 practice; provided that any changes to Provider's practice do not violate any other
 requirements in this Agreement; and (3) Any communication protected by California
 Business and Professions Code Section 2056.1.

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A breach of this Section 7.3 during the Term shall be grounds for termination of this Agreement. Notwithstanding any other section of this Agreement, in the event of a breach of this Section 7.3 by Provider, HCPAMG shall have the right of specific performance and injunctive relief in addition to any and all other remedies and rights at law or in equity, including, but not limited to, punitive damages, and such rights and remedies shall be cumulative.

By execution of this Agreement, HCPAMG and Provider agree that the restraints imposed by this Section 7.3 are reasonable as to time and scope. If at the time of enforcement of any provision of this Section 7.3, a court of competent jurisdiction or the decision of an arbitrator or arbitrators appointed in accordance with this Agreement holds that the restrictions stated in this Section 7.3 are unreasonable or unenforceable for any reason, then HCPAMG and Provider agree that the maximum time period or scope found to be reasonable under such circumstances will be substituted for the stated period or scope.

60. Section 14.3 of the Foothill Presbyterian HSA and Queen of the Valley HSA, and Section 11.3 of the Physician Agreement, specify that they are governed by California law.

61. Section 10.4 of the Foothill Presbyterian HSA and Queen of the Valley HSA, and Section 7.3 of the Physician Agreement are blatant unlawful restraints on trade and are void and unenforceable under California Business & Professions Code section 16600, among other laws.

Defendants Have Unlawfully Sought to Contractually Restrain Employees from Seeking Employment with Plaintiffs

62. Upon information and belief, Defendants’ contracts with their PCPs include unlawfully broad post-employment non-competition and non-solicitation covenants, which restrain them from working for competing provider networks or health systems, and from seeking to offer to render services to Defendants’ members. These post-employment restrictive covenants are void and unenforceable under California Business & Professions Code § 16600.

THE RELEVANT MARKET

63. The relevant product market for purposes of Defendants’ conduct is the market in which PCPs provide PCP services to private insurers’ members and their dependents (the “PCP Market”).

64. Medicare Advantage HMO and Commercial HMO members are

1 especially important revenue sources to healthcare providers because of the
2 comparative rate advantage as compared with government payors. The ability to
3 serve these members allows healthcare providers to expand access the healthcare in
4 the communities they serve.

5 65. The relevant geographic market for purposes of Defendants' conduct,
6 as described herein, is the various geographies in which the patients served by
7 Plaintiffs reside. This includes, at minimum, the East San Gabriel Valley region,
8 including the municipalities of Covina, West Covian, Glendora, Azusa, and San
9 Dimas, California, as well as other areas and municipalities from which Plaintiffs'
10 patients travel.

11 66. With respect to the PCP Market, Defendants face limited competition
12 in the relevant geographic market.

13 67. Within the relevant geographic market, OHPC members represent
14 45-62% of Medicare HMO and Commercial discharges for Emanate Health-
15 affiliated hospitals. This is an accurate proxy for Defendants' share of the PCP
16 Market because, in order to receive non-emergency services from Emanate Health-
17 affiliated hospitals, OHPC members must be referred to Emanate Health-affiliated
18 facilities by OHPC-affiliated PCPs, or otherwise authorized by OHPC.

19 68. Defendants' conduct, as described herein, substantially affects
20 interstate commerce. Defendants are part of a national enterprise and are the largest
21 employer of physicians in the United States, with annual revenues of \$182.8
22 billion. It is part of the UnitedHealth Group, which ranks No. 5 in the Fortune 500.

23 69. The anti-competitive acts of Defendants and their attempt to secure a
24 monopoly over the PCP Market in the relevant geographic market has adversely
25 impacted Plaintiffs and their affiliated hospitals, causing a decline in revenue from
26 out-of-state sources (including out-of-state payors and the federal government), as
27 well as impacting their purchases of supplies, medicines, and equipment from out-
28 of-state sources. If Defendants succeed in monopolizing the PCP Market in the

1 relevant geographic market, then these interstate effects will be exacerbated.

2 **ANTI-COMPETITIVE EFFECTS**

3 70. Defendants acted with the purpose and effect of unreasonably
4 injuring competition in the PCP Market in the geographies served by Plaintiffs
5 (jointly, the “Relevant Market”).

6 71. But for the conduct described herein: (1) Defendant’ market power in
7 the Relevant Market would be reduced; (2) there would be a freer, more
8 competitive marketplace for PCPs, increasing patient choice and available care
9 options to patients in the various geographies in which the patients served by
10 Plaintiffs reside; (3) Defendants would be unable to condition patient referrals
11 from its insurance plans upon physician/provider exclusivity arrangements;
12 (4) there would be increased competition between physician groups for patients,
13 exerting downward pressure on the rates charged to patients; and (5) the aggregate
14 cost of medical care would be lower because the Relevant Market would not be
15 subject to Defendants’ anticompetitive practices.

16 72. If Defendants were to secure complete control of the PCP Market in
17 the various geographies in which the patients served by Plaintiffs reside,
18 Defendants would be able to unilaterally determine the price of PCP care,
19 inevitably increasing the cost of basic healthcare services and thereby reducing
20 access to private care and placing greater strain on the public healthcare system.

21 73. As set forth herein, Defendants acted with intent to destroy a
22 competitive marketplace for physicians and physician group practices and
23 monopolize the PCP Market within the various geographies in which the patients
24 served by Plaintiffs reside, through unlawful and anti-competitive means,
25 including: explicit threats to cancel HSAs with the Emanate Hospitals if Plaintiffs
26 did not accede to abusive, coercive, and anti-competitive terms, such as
27 (a) Plaintiffs agreement to exit the PCP Market in these geographies; and (b)
28 provisions proscribing solicitation of Defendants’ members, physicians and

1 employees during and beyond the term of the contract; (c) EHMG and EHIPA's
2 agreement to provide services exclusively to OHPC; and (d) Plaintiffs' agreement
3 to provide a right of first refusal to Defendants if any PCP practice affiliated with
4 EHMG or EHIPA was up for sale.

5 74. When Plaintiffs refused these coercive, anti-competitive terms,
6 Optum took measures to reduce Emanate Health's access to OHPC's Medicare
7 Advantage HMO and Commercial HMO members by cancelling the HSAs.

8 75. Defendants took additional anti-competitive measures after the HSAs
9 were cancelled. When the Former Optum Providers terminated their respective
10 relationships with the Optum-Covina clinic and joined EHMG, Defendants
11 directed physicians and employees to withhold from patients of the Former Optum
12 Providers information concerning their departure and new location, and took
13 punitive measures (including termination of employment) against any employee
14 who truthfully responded to patient inquiries regarding the status and location of
15 the Former Optum Providers, to impede patients from finding their physicians and
16 choosing whether to follow them. In addition, Defendants intentionally and falsely
17 misrepresented the status of certain Former Optum Providers, lying that they were
18 on vacation or retired, rather than telling the truth so the patients could find them.

19 76. These anti-competitive acts have injured Plaintiffs and deprived them
20 of the benefits of open competition. Plaintiffs have experienced a decline in
21 income resulting from the reduction in OHPC referrals for elective procedures.
22 These injuries were a direct and foreseeable result of Defendants' anti-competitive
23 conduct and represent the type of injury the antitrust laws were designed to
24 prevent.

25 **FIRST CAUSE OF ACTION**

26 **(Sherman Act § 2 – Attempted Monopolization)**

27 **(All Plaintiffs Against All Defendants)**

28 77. Plaintiffs restate and incorporate the allegations in paragraphs 1-76

1 above as if they were set forth in full herein.

2 78. Establishing attempted monopolization under the Sherman Act
3 requires proof (1) that a defendant has engaged in predatory or anticompetitive
4 conduct with (2) a specific intent to monopolize and (3) a dangerous probability of
5 achieving monopoly power. It is not necessary to show that success rewarded the
6 attempt to monopolize; rather, when that intent and the consequent dangerous
7 probability exist, the Sherman Act applies against the dangerous probability as
8 well as against the completed result.

9 79. Specific intent to monopolize means a specific intent to destroy
10 competition or build or maintain monopoly power. Objective intent manifested by
11 use of prohibited means is sufficient to satisfy the intent component of attempt to
12 monopolize.

13 80. The dangerous probability inquiry requires consideration of the
14 relevant market and the defendant's ability to lessen or destroy competition in that
15 market.

16 81. Defendants have engaged in a purposeful scheme that includes
17 various forms of predatory, coercive, exclusionary, and anti-competitive conduct
18 that, when added together, creates a dangerous probability that Defendants will
19 achieve their anticompetitive goals and obtain monopoly power in a market in
20 which they did not already possess such power.

21 82. Defendants are the largest employer of physicians in the United
22 States with more than 70,000 physicians in the U.S. Moreover, in the various
23 geographies in which the patients served by Plaintiffs reside, Defendants possess a
24 dominant market share among Medicare Advantage HMO and Commercial HMO
25 members.

26 83. Defendants used their dominant Medicare Advantage HMO and
27 Commercial HMO market share in the geographies in which Plaintiffs' patients
28 reside to threaten cancellation of the HSAs in the event that Plaintiffs (a) did not

1 exit the physician group business in the Medicare Advantage HMO and
2 Commercial HMO market; (b) did not agree to exclusively serve OHPC's
3 Medicare Advantage HMO and Commercial HMO members; and (c) did not give
4 Defendants a right of first refusal to purchase any EHMG or EHIPA PCP practice
5 that was put up for sale.

6 84. Defendants have acted with specific intent to eliminate Plaintiffs
7 from the PCP Market in the various geographies in which the patients served by
8 Plaintiffs reside. As set forth herein, Defendants acted with intent to destroy a
9 competitive marketplace for physicians and physician group practices and
10 monopolize the PCP Market within the various geographies in which the patients
11 served by Plaintiffs reside, through unlawful and anti-competitive means,
12 including: explicit threats to cancel HSAs with the Emanate Health-affiliated
13 Hospitals if Plaintiffs did not accede to abusive, coercive, and anti-competitive
14 terms, such as (a) Plaintiffs agreement to exit the PCP Market in these
15 geographies; (b) provisions proscribing solicitation of Defendants' members,
16 physicians and employees during and beyond the term of the contract; (c) EHMG
17 and EHIPA's agreement to provide services exclusively to OHPC; and (d)
18 Plaintiffs' agreement to provide a right of first refusal to Defendants if any PCP
19 practice affiliated with EGMG or EHIPA was up for sale.

20 85. Defendants' specific intent to eliminate competition in the PCP
21 Market in the various geographies in which the patients served by Plaintiffs reside
22 was memorialized both in the form of Defendants' written communications and
23 proposals concerning renegotiation of the HSAs, as well as in verbal
24 communications from Defendants' representatives on June 30, 2021, December 17,
25 2021, and May 5, 2022 during which Defendants explicitly stated that they viewed
26 the PCP Market in the various geographies in which the patients served by
27 Plaintiffs reside as Defendants' exclusive domain, and that Emanate Health had to
28 "stay in its lane" and focus only on managing hospitals and clinics, not physicians.

1 86. Following the coercive and anti-competitive non-renewal of the
2 HSAs, Defendants engaged in a course additional punitive, exclusionary, and anti-
3 competitive acts intended to strangle Plaintiffs' business. As set forth in detail
4 above, when the Former Optum Providers terminated their respective relationships
5 with the Optum-Covina clinic and joined EHMG, Defendants directed physicians
6 and employees to withhold from patients of the Former Optum Providers
7 information concerning their departure and new location, and took punitive
8 measures (including termination of employment) against any employee who
9 truthfully responded to patient inquiries regarding the status and location of the
10 Former Optum Providers, to impede patients from finding their physicians and
11 choosing whether to follow them (in violation of California and federal Continuity
12 of Care regulations). In addition, Defendants intentionally and falsely
13 misrepresented the status of certain Former Optum Providers, lying that they were
14 on vacation or retired, rather than telling the truth so the patients could find them.

15 87. Taken together, Defendants' anticompetitive course of conduct
16 creates a dangerous probability that Defendants will succeed in achieving
17 monopoly power in the PCP Market. Prior to the coercive and anticompetitive
18 cancellation of the HSAs, Defendants' Medicare Advantage HMO and
19 Commercial HMO members constituted close to and, in some cases, more than
20 fifty percent (50%) all discharges from Emanate Health-affiliated hospitals. Since
21 the cancellation of the HSAs, Defendants have made a concerted effort to avoid
22 referring patients to Emanate Health-affiliated facilities and to refer and transfer
23 them to other facilities—even when doing so violated California and/or federal
24 statutory continuity-of-care requirements—and always as part of the punishment
25 for Plaintiffs not having agreed to stay out of the physician business. These
26 practices have led to a significant decline in admissions at Emanate Health's
27 affiliated hospitals.

28 88. Plaintiffs have experienced loss of income and harm to their

1 reputation due to Defendants’ anticompetitive conduct and suffered harm to their
2 businesses. These injuries were a direct and foreseeable consequence of
3 Defendants’ anticompetitive course of conduct, as described herein. Further, these
4 actions have deprived Plaintiffs of the benefits of open competition and represent
5 precisely the type of conduct the antitrust laws were designed to protect against.
6 Additional and irreparable injury is threatened if Defendants’ ongoing conduct in
7 furtherance of this anticompetitive scheme is not enjoined, threatening to further
8 harm competition in the PCP Market in the geographies served by Plaintiffs. As
9 such, Plaintiffs are entitled to recover threefold the damages sustained, and the cost
10 of suit, including reasonable attorneys’ fees pursuant to 15 U.S.C. § 15.

11 **SECOND CAUSE OF ACTION**

12 **(Unfair Business Practices in Violation of**

13 **Cal. Bus. & Prof. Code § 17200 et seq.)**

14 **(All Plaintiffs Against All Defendants)**

15 89. Plaintiffs restate and incorporate by reference each of paragraphs 1-
16 76 above as if they were fully set forth herein.

17 90. California Business and Professions Code § 17200 prohibits “unfair
18 competition,” defined as any “unlawful, unfair or fraudulent business act or
19 practice”

20 91. As set forth herein, Defendants engaged in a pattern of anti-
21 competitive conduct whereby they attempted to use their dominant market share in
22 the market of Medicare Advantage HMO and Commercial HMO members, to
23 force Plaintiffs to exit the PCP Market in the geographies served by Plaintiffs.
24 Then, when Plaintiffs did not bend to Defendants’ unlawful demands for to restrict
25 competition for and among physicians, they steered business away from the
26 hospitals and clinics affiliated with Plaintiffs, often to geographically distant
27 locations, such as San Dimas Community Hospital and Arcadia Methodist
28 Hospital. This was a punitive measure linked to Plaintiffs’ refusal to submit to

1 Defendants' coercive and anti-competitive terms for the HSAs.

2 92. Further, as set forth herein, Defendants made false misrepresentations
3 of fact to patients about the status and whereabouts of Former Optum Providers
4 who had terminated their association or employment with Optum. Among these
5 false misrepresentations were statements to patients asking where their doctors had
6 gone that one or more of them had retired or were on vacation, when in fact they
7 had departed Optum and moved their medical practices to EHMG.

8 93. In addition, after the Former Optum Providers began joining EHMG
9 in December 2022, Defendants instructed their physicians and staff to conceal
10 from patients where their doctors had gone and threatened to take—and in fact did
11 take—disciplinary action against one or more persons who truthfully responded to
12 patient inquiries regarding the status and whereabouts of one or more Former
13 Optum Providers.

14 94. Furthermore, upon information and belief, Optum's contracts with its
15 physicians and other medical professionals include broad post-employment non-
16 competition and non-solicitation covenants, which restrain its former employees
17 from working for competing provider networks or health systems, and from
18 soliciting Optum patients and employees. These anticompetitive post-employment
19 restrictive covenants are void and unenforceable under Business & Professions
20 Code § 16600 and have harmed Defendants by deterring physicians and other
21 medical staff from seeking employment with EHMG, and artificially limiting the
22 number of OHCP members who seek care with Emanate-affiliated physicians.

23 95. Defendants' actions described herein constitute unfair business
24 practices within the meaning of California Business & Professions Code § 17200.
25 As a result of Defendants' unfair business practices, Plaintiffs have suffered harm
26 and Defendants have been unjustly enriched. Plaintiffs are entitled to restitution of
27 all monies stemming from medical services provided to patients that were diverted
28 from Plaintiffs' affiliated hospitals and providers, and the disgorgement of all ill-

1 gotten revenues and profits stemming from Defendants' unfair business practices.

2 **THIRD CAUSE OF ACTION**

3 **(Unlawful Business Practices in Violation of**

4 **Cal. Bus. & Prof. Code § 17200 et seq.)**

5 **(All Plaintiffs Against All Defendants)**

6 96. Plaintiffs restate and incorporate by reference each of paragraphs 1-
7 76 above as if they were fully set forth herein.

8 97. As described in detail above, Defendants have engaged in an
9 unlawful course of conduct towards Plaintiffs in violation of federal and California
10 law, including, without limitation, Sherman Act § 2; California regulations
11 governing the Continuity of Care, including California Health & Safety Code
12 § 1373.96(c)(3)(A); 42 CFR § 422.112; Medicare Managed Care Manual Chapter
13 4, section 110.1.2.1 and California Business & Professions Code 16600.

14 98. Defendants' conduct, outlined above, constitutes unlawful business
15 practices in violation of Business & Professions Code § 17200.

16 99. As a result of Defendants' unlawful business practices, Plaintiffs
17 have suffered harm and Defendants have been unjustly enriched. Plaintiffs are
18 entitled to restitution of all monies stemming from medical services provided to
19 patients that were diverted from Plaintiffs' affiliated hospitals and the
20 disgorgement of any ill-gotten gains obtained by Defendants.

21 **FOURTH CAUSE OF ACTION**

22 **(Intentional Interference with Prospective Economic Advantage)**

23 **(EHMG Against All Defendants)**

24 100. Plaintiffs restate and incorporate by reference each of paragraphs 1-
25 76 above as if they were fully set forth herein.

26 101. As set forth above, the Former Optum Providers are now employees
27 of EHMG. Prior to moving to EHMG, the Former Optum Providers had a
28 longstanding economic and physician-patient relationship with patients they

1 treated in the regular course of their medical practice at Optum-Covina (f/k/a
2 Magan). Given the longstanding nature of many of their patient relationships, the
3 Former Optum Providers had an expectation that many patients would elect to
4 follow them to EHMGM to preserve the continuity of care.

5 102. Defendants were aware of the longstanding physician-patient
6 relationships the Former Optum Providers had built with their patients in the
7 regular course of their medical practices and had knowledge of the substantial
8 probability that if the Former Optum Providers' patients learned that the Former
9 Optum Providers were moving their practice to EHMGM, their patients would follow
10 them. For this reason, Defendants, through their agents at Optum-Covina,
11 intentionally directed Optum-Covina physicians, medical assistants and staff to
12 engage in a series of anticompetitive, wrongful acts calculated to disrupt the
13 physician-patient relationship between the Former Optum Providers and their
14 patients. These acts included: (a) directing physicians, medical assistants, and other
15 staff not to disclose to patients the resignation or relocation of the Former Optum
16 Providers to EHMGM; (b) disciplining and/or terminating those employees who
17 violated this directive; and (c) intentionally making false misrepresentations about
18 the reasons for the Former Optum Providers' absence, including, without
19 limitation, that one physician retired and that another was on "vacation," when in
20 fact they had relocated their practices to EHMGM.

21 103. Defendants' actions disrupted the relationship between the Former
22 Optum Providers and their patients and directly caused economic harm to EHMGM
23 by depriving EHMGM of the business of its employees' patients.

24 104. Defendants' conduct was authorized or ratified by Defendants'
25 managing agents and was malicious, oppressive, fraudulent, and/or engaged in
26 with reckless disregard for the rights of Plaintiffs. Accordingly, Plaintiffs are
27 entitled to punitive damages.

28

FIFTH CAUSE OF ACTION

(Declaratory Relief, 28 U.S.C. § 2201; Cal. Code Civ. P. § 1060)

(All Plaintiffs Against All Defendants)

105. Plaintiffs restate and incorporate by reference each of paragraphs 1-76 above as if they were fully set forth herein.

106. Pursuant to 28 U.S.C. § 2201(a), in an actual case or controversy, “any court of the United States . . . may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.”

107. Additionally, section 1060 of the California Code of Civil Procedure permits “[a]ny person interested . . . under a contract . . . in cases of actual controversy relating to the legal rights and duties of the respective parties, [to] bring an original action or cross-complaint . . . for a declaration of is or her rights and duties”

108. The non-solicitation covenants alleged above that Defendants put in their contracts with Defendants’ PCPs and with Foothill Presbyterian, Queen of the Valley, and EHMG (collectively, the “Non-Solicitation Covenants”) are unlawful, void, and unenforceable restraints on trade under Business & Professions Code § 16600.

109. There is an actual case or controversy involving justiciable questions relating to the rights and obligations of the parties—i.e., whether the Non-Solicitation Covenants are legal and enforceable.

110. Plaintiffs seek a judicial determination of their rights and obligations with respect to the Non-Solicitation Covenants, which are necessary and appropriate subjects of declaratory relief.

111. Without the requested relief, Plaintiffs will remain in a position of uncertainty as to permitted interactions with Defendants’ physicians who seek positions of employment with Plaintiffs, and patients of current or former

1 Defendants' physicians that seek treatment with Plaintiffs.

2 112. A judicial declaration is necessary and appropriate so that Plaintiffs
3 may ascertain their rights, duties, and future obligations under the Non-Solicitation
4 Covenants.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of
7 them, as appropriate to each cause of action alleged, as follows:

- 8 1. For damages according to proof at trial;
 - 9 2. For restitution of all moneys unlawfully, unfairly, or unjustly obtained by
10 Defendants, and each of them, as a result of their unlawful or unfair
11 business practices in violation of California Business & Professions Code
12 §16600 and other statutes alleged herein;
 - 13 3. For an injunction enjoining Defendants from engaging in the unfair,
14 unlawful, and otherwise wrongful anticompetitive conduct alleged
15 herein;
 - 16 4. For a declaration that the Non-Solicitation Covenants are unlawful, void,
17 and unenforceable;
 - 18 5. For treble damages and attorneys' fees pursuant to the Clayton Act, 15
19 U.S.C. § 15;
 - 20 6. For costs of suit;
 - 21 7. For pre- and post-judgment interest at the applicable legal rate of interest;
 - 22 8. For injunctive relief and such other equitable relief permitted by law and
23 in equity; and
 - 24 9. For such other, further relief as the Court may deem just and proper.
- 25
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1 Dated: November 20, 2023

KING & SPALDING LLP

2
3
4 /s/ Glenn Solomon

GLENN SOLOMON

5
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11 PRESBYTERIAN HOSPITAL;
12 EMANATE HEALTH MEDICAL
13 CENTER d/b/a EMANATE
14 HEALTH QUEEN OF THE
15 VALLEY HOSPITAL and d/b/a
16 EMANATE HEALTH INTER-
17 COMMUNITY HOSPITAL
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DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all claims and issues so triable.

Dated: November 20, 2023

KING & SPALDING LLP

/s/ Glenn Solomon
GLENN SOLOMON

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