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March 17, 2019

Honorable Kevin McNulty
United States District Judge
District of New Jersey
UNITED STATES DISTRICT COURT

Re: Kaul v Christie, et al.,
Docket No. 16-CV-02364 – K1
Application to: (i) Reverse Order (D.E. 300); (ii) Grant Discovery; (iii) Grant Amendment of SAC; (iv) Transfer case to the S.D.N.Y.; (v) Refer Defendant Stein to NJ Ethics Committee

Dear Judge McNulty.

Please accept this letter in support of my ("Kaul") application to this Court for the following relief:

1. **Reverse Order (D.E. 300)**: Reverse the Order transmitted to Kaul on February 25, 2019, but stamp dated February 22, 2019 (D.E. 300), and deny the defendants' Omnibus + Supplemental 12(b)(6) motions to dismiss. The bases for reversal are the errors of fact and law, as detailed in a document entitled 'The McNulty Analysis', that was filed with the Court on March 18, 2019.

2. **Grant Discovery**: Immediately grant Kaul discovery on all defendants and third-party witnesses, and order the defendants to submit to the Court within two weeks, a proposed discovery schedule.

3. **Grant Amendment of SAC**: Alternatively, and without Kaul admitting to any pleading deficiencies in the Second Amended Complaint, grant Kaul permission to amend all claims (federal-law + state-law) of the Second Amended Complaint within sixty days of the commencement of discovery. See Gottreich v. San Franscisco Inv. Corp., 552 F.2d 866 (9th Cir. 1977), in which the Court recognized that demanding specific data about each security traded over a two-year period was inappropriate at the pleading stage, before discovery had commenced. See also Eaby v. Richmond, 561 F.Supp. 131 (E.D. Pa. 1983). In this case the Court permitted a sixty-day (60) period of discovery, when it found that the complaint inadequately alleged only that defendant used the mails to defraud the plaintiff. It did not dismiss the complaint, but granted the plaintiffs the opportunity to commence discovery and amend their complaint within sixty (60) days. The Court has suggested that Kaul submit a "**properly supported motion to amend the**

complaint within 30 days after the date of this Order and Opinion." (D.E. 301 Page ID 8219). Kaul respectfully declines this offer, for the reasons stated in 'The McNulty Analysis'. Page 61 ¶136, "**It is the Court's belief and intention that Kaul will re-submit an amended state-law complaint, and that the case will then be shunted into a corrupt New Jersey state court, a place that justice, as least as far as Kaul is concerned, has long vacated ... are an attempt to keep the case away from the Third Circuit of Appeals, by 'enticing' Kaul with the promise of yet another amendment, but one, limited to the statem law claims."** Kaul respectfully asserts that this offer is motivated not by a desire to do justice, but by an ill-intended effort to 'cover-up' the defendants' crimes. That will not happen.

4. **Transfer case to the S.D.N.Y.:** Transfer the case back to the United States District Court for the Southern District of New York, on the basis that this Court is conflicted for the reasons set forth in 'The McNulty Analysis'.

5. **Refer Defendant Stein to NJ Ethics Committee**: Refer Defendant Lewis Stein to the Ethics Committee of the New Jersey Supreme Court for having lied to the United States District Court (D.E. 288 Page ID 6751).

For the reasons set forth in 'The McNulty Analysis' Kaul believes the above measures will legitimately serve the interests of justice and equity, and will cause the truth of this matter to be made available to the public, whom K2 defendant, NJBME, profess to want to "**protect**". Kaul believes the American public have a right to know about the profound corruption of the American healthcare system by corrupt physicians + politicians + lawyers + insurance salesmen. This case of immense public interest, as is the so called "**College Bribery Scam**", a case in which wealthy privileged professionals (CEOs + lawyers + judges + politicians), bribed admission officers in order to have their children admitted into these schools.

Finally, and please excuse Kaul for elaborating on this point, but the defendants in the early days of the case, argued that because they belonged to the socio-economic strata identified in the "**College Bribery Scam**", they were somehow immune from the moral pitfalls of abuse of power + privilege + money, and thus Kaul's claims were "**fantastical**" and "**vast**" among other things. Kaul is sure that if he had been the party alleging the facts of the "**College Bribery Scam**", he would have come under the same "**fantastical ... vast**" criticisms, that he faced when he filed K1 + K2. Please find below some of Kaul's statements/arguments in response to the defendants' "**power ... privilege ... money**" defenses:

(a) "**The mob corruption that New Yorker and US Attorney, Herbert Stern, sought to eradicate in the 1960s and 70s was almost complete, except some of its familial remnants metastasized into the organs of medicine, law, politics and white-collar business. The cancer cells became more cunning, and more lethal, which is why this case, described on June 13, 2012 by the Plaintiff's attorney, Robert Conroy, with the phrase, "Seldom do there come cases in which the very fundamental nature of the**

board is at issue. This is one of them.", should become the smart bomb that terminates the malignant cells." (D.E. 179 Page 2261).

(b) "**To illustrate this point of public and private function, a police officer who engaged in private security work while on public property and time, would have no immunity to any claims of tort, fraud, bribery, kickbacks, extortion and obstruction of justice. He would forfeit his assets and go to jail. The same legal standard ought to be applied, regardless of the color of the collar, the size of the bank vault or the perpetrator's title.**" (D.E. 180 Page 3215).

For the reasons set forth above and for those detailed with 'The McNulty Analysis', Kaul respectfully requests that the Court grant the above stated relief.

I thank you for your consideration.

Yours sincerely

Richard Arjun Kaul, MD
cc: All Counsel via e-mail
Judge Steven C. Mannion
Clerk of the Court

The McNulty Analysis

A critical review of the opinion of Judge Kevin McNulty, dated February 22, 2019, in the matter of Kaul v Christie: 16-CV-02364 – K1

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March 15, 2019

Honorable Kevin McNulty
UNITED STATES DISTRICT COURT
District of New Jersey
50 walnut Street
Newark, NJ 07102

Re: Kaul v Christie, et al.,
Docket No. 16-CV-02364
Kaul analysis of opinions of Judge McNulty (D.E. 300 + 301 + 303 + 304)

Dear Judge McNulty,

Please find submitted, for no reason other than to demonstrate the incorrectness and errors of the above opinions. In the preparation of this document, which demonstrates that your opinion is wrong, I ("Kaul") have cross referenced your opinions with the entire case docket, in order to identify errors of fact. Kaul has analyzed the law cited in support of your opinions, and has demonstrated it to be unsupportive. The organization of the analysis shadows that of your opinion (D.E. 300), except for the initial section, which is a table that provides in a convenient format, the information regarding the location within the Second Amended Complaint, of fact relevant to the claims. This table, entitled, 'Claim Specificity Table' is referenced throughout the analysis in the context of your criticisms regarding purported factual deficiencies of claim pleading.

The information within the document has been organized to juxtapose elements/statements/claims asserted in your opinions, with the elements/statements/claims asserted within the Second Amended Complaint and the entirety of the case file. The purpose of this is to demonstrate what I believe has been the defendants/Court's three (3) year strategy to obstruct Kaul's prosecution of the case. These tactics included, but were not limited to:

1. Deny Kaul any discovery.
2. Enter orders that continually misrepresented the pled parties + legal claims + exhibit page number of the previous revisions of the SAC, in order to delay the process.
3. Omit any reference to Rule 9, in the knowledge that although the SAC and the pleadings contained plausibly pled fact sufficient to meet the required pleading standards, it would be used as the 'fallback' basis for a dismissal with prejudice. The defendants/Court employed tactics 1 + 2 with the expectation that Kaul would "**pack his bags and leave**", and avoided any reference to Rule 9, with the understanding that if

Kaul did not "**pack his bags and leave**", Rule 9 would become the basis for the dismissal with prejudice.

4. Conceal from Kaul the conflicts of interest that existed by virtue of the fact that: (i) Judge McNulty had represented two of the defendants when he was the director at Gibbons, PC law firm; (ii) Gibbons, PC law firm, with which Judge McNulty is a commercial beneficiary, represented defendants Washburn + NJMG; (iii) Judge McNulty is the brother-in-law of US Senator Charles E. Schumer (D-NY), a senior American politician who has within the last three years received substantial monetary donation from the insurance industry, of which certain defendants are members; (v) the firm at which Judge Mannion was a partner, sued Kaul in 2005. The matter was settled.
5. Asserting that the Court would deny Kaul the right, if so required, to amend the Second Amended Complaint. This is based on the fact that Kaul by sending a letter to a journalist at USA Today (D.E. 243), a Gannet Media owned entity, in which he asserted a potential for perverting the course of justice, in that Gannett Media owns defendant NJMG, had foreclosed his right to have the Court grant permission to amend the SAC.

I thank you for your consideration

Yours sincerely

Richard Arjun Kaul, MD

Claim Specificity Table

The thrust of Judge McNulty's opinion is that Kaul's allegations lack specificity, in that they allegedly fail to state the "**who, what, when, where and how of the events at issue**". This is the sole basis for the dismissal of the entire complaint, one that pertains to a supposed non-compliance with Rule 9 of the Federal Rules of Civil Procedure. The SAC consists of four hundred (400) paragraphs, thirteen links to videos that pertain to the claims and several exhibits (D.E. 241 Page ID 5720 to 5841). The SAC, contrary to Judge McNulty's opinion, contains the "**who, what, when, where and how of the events at issue**". The table below details these facts, and their location and claim relevance within the SAC:

Claim and or section of SAC in which who + what, when + where + how are located	**who**	**what**	**when**	**where**	**how**
Page vii	¶1 to 9				
Page viii	¶10 to 22				
Page ix	¶23 to 25				
Page ix				¶27	
Page 1	¶28 ¶30	¶28 ¶30	¶28 ¶32		
Page 2	¶37	¶37 ¶38	¶37 ¶38		¶33
Page 3	¶41 ¶42 ¶46	¶41 ¶42 ¶46	¶41 ¶46		
Page 4	¶51 ¶52	¶51 ¶52	¶51		
Page 5	¶54	¶54	¶57		
Page 6	¶60	¶60	¶60		
Page 7	¶64 ¶65	¶64 ¶65			¶65
Page 8					
Page 9	¶82	¶82	¶82		¶82
Page 10	¶85 ¶86 ¶87 ¶89 ¶90	¶85 ¶86 ¶87 ¶89 ¶90	¶85 ¶86 ¶87 ¶89 ¶90	¶89	¶87 ¶89
Page 11	¶95 ¶97 ¶98 ¶101	¶95 ¶97 ¶98 ¶101	¶95 ¶97 ¶98 ¶101		¶101
Page 12	¶104 ¶105 ¶106 ¶107	¶104 ¶105 ¶106 ¶107	¶104 ¶105 ¶106 ¶107		
Page 13	¶111	¶111	¶111		
Page 14 – COUNT ONE - ¶118 – **Plaintiff incorporates**	¶119	¶121			¶122

by reference each preceding paragraph as though fully set forth herein					
Page 15	¶124 ¶125 ¶126 ¶127 ¶128	¶124 ¶126 ¶128	¶127		¶124 ¶125 ¶126 ¶127 ¶128
Page 16	¶130 ¶132 ¶133 ¶134 ¶135	¶132 ¶133			¶131 ¶132 ¶133 ¶134
Page 17	¶137	¶135 ¶137 ¶138			¶135 ¶136 ¶138
Page 18	¶139	¶139 ¶141 ¶143			¶140 ¶141 ¶142 ¶143
Page 19	¶144 ¶145 ¶146 ¶147	¶145 ¶146 ¶147			¶144 ¶145 ¶146 ¶147
Page 20	¶148 ¶150	¶149 ¶150 ¶151			¶148 ¶149 ¶150 ¶151
Page 21	¶152 ¶154 ¶155 ¶156	¶152			¶152 ¶153 ¶154 ¶155 ¶156
Page 22	¶157 ¶158 ¶159 ¶160	¶157 ¶158 ¶159 ¶160			¶157 ¶158 ¶159
Page 22 – COUNT TWO - ¶161 - **Plaintiff incorporates by reference each preceding paragraph as though fully set forth herein**	¶162				
Page 23	¶163 ¶165 ¶167	¶165 ¶167			¶163 ¶165 ¶167
Page 24	¶168 ¶169	¶168 ¶169			¶168 ¶169

Page 25	¶170 ¶171 ¶172 ¶173 ¶174	¶173 ¶174	¶171		¶170 ¶172 ¶173 ¶174
Page 26	¶175 ¶176 ¶177 ¶178	¶175 ¶176 ¶178			¶175 ¶176 ¶177 ¶178
Page 27	¶179 ¶180 ¶181	¶180 ¶182			¶179 ¶180 ¶181 ¶182
Page 28	¶183 ¶187	¶183 ¶187			¶183 ¶185 ¶186 ¶187
Page 29	¶188 ¶189 ¶190 ¶191	¶190 ¶191			¶188 ¶189 ¶191
Page 30	¶192 ¶193 ¶194	¶193 ¶194			¶192 ¶193 ¶194
Page 31	¶195 ¶196	¶195			¶195 ¶196
Page 32	¶197 ¶198 ¶199 ¶200	¶198 ¶199			¶197 ¶198 ¶199 ¶200
Page 33	¶201 ¶202	¶201 ¶202			¶201 ¶202
Page 33 - COUNT THREE - ¶203 - **Plaintiff incorporates by reference each preceding paragraph as though fully set forth herein**	¶204 ¶206	¶206			
Page 34	¶208	¶208			¶208
Page 35	¶209 ¶210 ¶211 ¶212 ¶213	¶209 ¶211 ¶212			¶209 ¶210 ¶211 ¶212 ¶213
Page 36	¶214 ¶215 ¶216 ¶217 ¶218 ¶219	¶218 ¶219	¶215		¶214 ¶215 ¶217 ¶218 ¶219
Page 37	¶220 ¶221	¶220 ¶221	¶217		¶220 ¶221
Page 38	¶222 ¶224 ¶225	¶225			¶222 ¶223 ¶224 ¶225
Page 39	¶226 ¶227 ¶228 ¶229 ¶230 ¶231				¶226 ¶227 ¶228 ¶229 ¶230 ¶231
Page 40	¶232 ¶233	¶232 ¶233			¶232 ¶233

Page 41	¶234 ¶235 ¶237 ¶238	¶234 ¶235 ¶236			¶234 ¶235 ¶236 ¶237 ¶238
Page 42	¶239 ¶240 ¶241	¶239 ¶240 ¶241			¶239 ¶240 ¶241
Page 43 – COUNT FOUR - ¶243 - **Plaintiff incorporates by reference each preceding paragraph as though fully set forth herein**	¶244 ¶247		¶245		
Page 44	¶249 ¶250 ¶251	¶250 ¶251			¶250 ¶251
Page 45	¶252 ¶253 ¶254 ¶256	¶253 ¶254 ¶255	¶255		¶252 ¶253 ¶254 ¶255 ¶256
Page 46	¶257 ¶258 ¶259 ¶260	¶257 ¶259 ¶260			¶257 ¶258 ¶259 ¶260
Page 47	¶261 ¶262 ¶263		¶263		¶261 ¶262 ¶263
Page 48	¶264 ¶266 ¶268	¶264 ¶266 ¶268			¶264 ¶265 ¶266 ¶267 ¶268
Page 49	¶271 ¶272 ¶273				¶269 ¶270 ¶271 ¶272 ¶273
Page 50	¶274 ¶275 ¶276 ¶277	¶275 ¶276 ¶277			¶274 ¶275 ¶276 ¶277
Page 51	¶278 ¶279 ¶280 ¶281	¶278 ¶279			¶278 ¶279 ¶280 ¶281
Page 52	¶282 ¶283 ¶284	¶283 ¶284			¶282 ¶283 ¶284
Page 53	¶285 ¶286	¶285 ¶286			¶285 ¶286
Page 53 – ANTITRUST IMPACT	¶287	¶287 ¶288 ¶289			¶287

Page 54	¶290 ¶292 ¶293	¶290 ¶292			¶290 ¶293
Page 55 – COUNT FIVE - ¶297 – **Plaintiff incorporates by reference the preceding allegations**	¶298	¶298	¶298		¶298
Page 56	¶299 ¶300 ¶302	¶299 ¶300 ¶301 ¶302			¶299 ¶300
Page 57 – COUNT SIX - ¶305 – **Plaintiff incorporates by reference the preceding allegations described above**	¶306 ¶307 ¶308 ¶309	¶307 ¶308	¶306		¶307 ¶308 ¶309
Page 58	¶310 ¶311	¶310 ¶311			¶310 ¶311
Page 59	¶312 ¶313 ¶314 ¶315	¶312 ¶314 ¶315	¶312	¶312	¶313 ¶314 ¶315
Page 60	¶316 ¶318	¶316			¶316 ¶318
Page 64	¶319	¶319			¶319
Page 65 – COUNT SEVEN - ¶320 – **Plaintiff incorporates by reference the preceding allegations**	¶321 ¶322	¶321 ¶322	¶321 ¶322		¶321 ¶322
Page 66	¶323 ¶324 ¶325	¶324 ¶325			¶323 ¶324 ¶325
Page 67	¶326 ¶327 ¶328 ¶329 ¶330	¶326 ¶327 ¶328 ¶329 ¶330			¶326 ¶327 ¶328 ¶329 ¶330

Page 68	¶331 ¶332 ¶333 ¶334	¶331 ¶332			¶331 ¶332 ¶334
Page 72	¶335	¶335			¶335
Page 73- COUNT EIGHT – ¶337 - **Plaintiff incorporates by reference the preceding allegations**	¶338	¶338			¶338
Page 73	¶339 ¶340	¶339 ¶340			¶339 ¶340
Page 74	¶341 ¶342 ¶343 ¶344	¶341 ¶342 ¶344			¶341 ¶342 ¶343 ¶344
Page 75	¶345 ¶346 ¶348	¶345 ¶346 ¶348			¶345 ¶346 ¶348
Page 80	¶349	¶349			¶349
Page 80 – COUNT NINE - ¶351 – **Plaintiff incorporates by reference the preceding allegations**	¶352 ¶353	¶353			¶352 ¶353
Page 81	¶354	¶354			¶354
Page 84	¶356	¶356			¶356
Page 85 – COUNT TEN - ¶358 – **Plaintiff incorporates by reference the preceding allegations**	¶359 ¶360	¶359 ¶360			¶359 ¶360
Page 86 – COUNT ELEVEN - ¶364 – **Plaintiff**	¶365	¶365			¶365

hereby repeats and incorporates by reference each and every one of the foregoing paragraphs as though fully set forth					
Page 87	¶366 ¶367 ¶368	¶366 ¶367 ¶368			¶366 ¶367 ¶368
Page 88	¶372 ¶373 ¶374	¶372 ¶373 ¶374	¶372		¶373 ¶374
Page 89	¶375	¶375			¶375
Page 89 – COUNT TWELVE – **¶376 - Plaintiff hereby repeats and incorporates by reference each and every one of the foregoing paragraphs as though fully set forth**	¶377 ¶380	¶377 ¶380	¶377		¶377 ¶378 ¶380
Page 90 – COUNT THIRTEEN - ¶382 – **Plaintiff hereby repeats and incorporates by reference**	¶383 ¶384 ¶385 ¶386 ¶387 ¶388 ¶389 ¶390 ¶391 ¶392	¶383 ¶384 ¶385 ¶386 ¶387 ¶388 ¶389 ¶391 ¶392	¶383 ¶384 ¶385 ¶386 ¶387 ¶388 ¶389 ¶391 ¶392		¶390

each and every one of the foregoing paragraphs as though fully set forth herein					
Page 91 – COUNT FOURTEEN - ¶398 – The **Plaintiff repeats and re-alleges the allegations set forth in the preceding paragraphs and incorporates same as if set forth fully herein**	¶399	¶399			¶399

Background

1. McNulty: D.E. 300 Page ID 8171: Page 1 Para 2 – **"Dr. Richard A. Kaul, originally trained as an anesthesiologist ... spine surgeries"** – False
Kaul: D.E. 241 Page ID 5737: Page 8 Para 66 – **"Dr. Richard Arjun Kaul is a minimally invasive spine surgeon ... eight years of post---graduate training in the US and UK, in the fields of general surgery, anesthesiology, interventional pain and minimally invasive spine surgery."**

2. McNulty: D.E. 300 Page ID 8171: Page 1 Para 2 – **"In March ... incompetence"** - False
Kaul: D.E. 241 Page 5737: Page 8 Para 69 – **"From 2002 to 2012 performed eight hundred (800) minimally invasive spine surgeries and total of six thousand (6000) spine procedures with good to very good outcomes in 90---95% of cases, and complication rate of 0.1%."**

3. McNulty: D.E. 300 Page ID 8172: Page 2 Para 5 – **"... The decisions of the ALJ and the Board are also rulings of tribunals, the authenticity of which is not questioned, which may be judicially noticed, not for their truth but for their existence and legal effect. See S. Cross Overseas Agencies, Inc. v. Wah Kwong Shipping Grp. Ltd., 181 F.3d 410, 426---27 (3d Cir. 1999). See generally Fed. R. Evid. 201"**
The Law: **"Specifically, on a motion, we may take judicial notice of another court's opinion---not for the truth of the facts recited therein, but for the existence of the opinion, which is not subject to reasonable dispute over its authenticity. See Kramer v. Time Warner Inc., 937 F.2d 767, 774 (2d Cir. 1991); United States v. Wood, 925 F.2d 1580, 1582 (7th Cir. 1991); see also Funk v. Commissioner, 163 DF.2d 796, 800---01 (3d Cir. 1947) (whether a court may judicially notice other proceedings depends on what the court is asked to notice and on the circumstances of the instant case) ... it is a document on which the plaintiffs rely, as they specifically reference it in the complaint to show Wah Kwong's fraudulent behavior."** at 427 S. Cross Overseas Agencies, Inc. v. Wah Kwong Shipping Grp. Ltd., 181 F.3d 410, 426i 27 (3d Cir. 1999).
The Court has cited to this case in the mistaken belief that it provides a legal basis for its failure/ refusal to recognize the massive fraud detailed in 'The Solomon Critique' (D.E. 225) and 'The Solomon Critique 2' (D.E. 299i 25 Page ID 7202 to 8163). Truth and authenticity are different. This case permits the Court to notice the opinion of K2 defendant, Jay Howard Solomon, in as far as it is a document that contains his signature. However, the Cross Overseas case does not stand for the proposition that recognition means his opinion is truthful. In fact, it is a massive fraud, as evidenced by 'The Solomon Critique' + 'The Solomon Critique 2'.
The centrality of the license revocation and associated proceedings to the claims and defenses of the SAC, and the proven fraud within the proceedings, is the reasoning that underpins the motion for summary judgment against Defendant Allstate (D.E. 299).

4. McNulty: D.E. 300 Page 8173: Page 3 Para. 1 – **"(a) because the allegations here are unintelligible without this background and (b) for their existence and legal effect. (See n. 1. Supra)."**

Kaul: D.E. 241 Page 5733 to 5741: Page 4 Para. 48 to Page 13 Para. 117 – The claims are preceded by a recitation of fact that details the events preceding the administrative board proceeding, the proceeding itself and the fraud that was perpetrated by the defendants in the proceedings. These facts provide a clear, concise and logical context to the claims. The Court's purpose in mischaracterizing the claims as "**unintelligible**" and thus requiring a recitation of the board proceedings and a reference to the "**legal effect**" proposition of the S. Cross Overseas case, is to manufacture a legal basis to improperly give credibility to the irrefutably fraudulent opinion of K2 defendant, Jay Howard Solomon, as is evidenced in 'The Solomon Critique' (D.E. 225) + 'The Solomon Critique 2" (D.E. 299-25 Page ID 7202 to 8163).

5. McNulty: D.E. 300 Page 8173 to 8179: Page 3 Para 2 to Page 9 Para. 3 – Based on Judge McNulty's alleged "**unintelligible ... existence ... legal effect**" opinion, he devotes two hundred and forty lines (240) to entering into his opinion, verbiage from the fraudulent opinion of K2 defendant, Jay Howard Solomon, that he knew and knows were and are the product of a massive state orchestrated crime. The purpose of this is to attempt to give credibility to a proceeding that Kaul has proven with the state's own evidence, to be a massive fraud. Judge McNulty submits no opinion as to the irrefutable fraud, but yet uses six (6) pages to re-publish information that he knows is fraudulent. Judge McNulty, throughout his opinion, ignores the conclusive and overwhelming evidence that proves Kaul's claims and dismantles the defendants' defenses. Judge McNulty fails to state that Kaul was able to gather this evidence, despite the fact that for a period of almost three years, the Court prevented him from engaging in discovery.

6. McNulty: D.E. 300 Page 8182: Page 12 Para.4 – "**From 2002 to 2012, Dr. Kaul performed 800 minimally invasive spine surgeries and 6,000 spine procedures. (2AC ¶ 69).**"
Kaul: D.E. 241 Page 5737: Page 8 Para. 69 – "**From 2002 to 2012 performed eight hundred (800) spine procedures with good to very good outcomes in 90---95% of cases, and a complication rate of 0.1%.**"
Judge McNulty deleted the superior outcomes data, as it undermined the case that caused the illegal revocation of Kaul's license, in that it disproved the state's false claim that was Kaul was allegedly incompetent. Judge McNulty's pattern of evidential omission and mischaracterization, although of slightly greater sophistication than that of K2 defendant, Jay Howard Solomon, is unquestionably prejudiced and designed to undermine Kaul's case.

7. McNulty: D.E. 300 Page 8182: Page 12 Para. 4 – " **... he developed an enviable reputation in the field of minimally invasive spine surgery...**"
Kaul: D.E. 241 Page 5732: Page 3 Para. 4 – "**Kaul's reputation in the field of minimally invasive spine surgery grew steadily from 2002, and he frequently taught his technique to other physicians, who observed him in the operating room and attended hands---on---cadaver training courses.**"

8. McNulty: D.E. 300 Page 8182: Page 12 Para 5 – "**In 2004 ... organization, I note is distinct from the American Academy of Minimally Invasive Spinal Medicine and Surgery (2AC ¶ 75). This organization, I note, is distinct from the American Academy of Minimally Invasive Spinal**

Medicine and Surgery." Judge McNulty has incorrectly cited to the websites for the Mayo Clinic and the Academy of Minimally Invasive Foot & Ankle Surgery, to conclude that there is a difference between the American Academy of Minimally Invasive Spinal Medicine and Surgery and as stated by Kaul, "**the American Academy of Minimally Invasive Medicine and Surgery**.". Judge McNulty could not but have known this was a typo, for throughout the case file Kaul has referred to his membership of the American Academy of Minimally Invasive Spinal Medicine and Surgery (D.E. 67-2 Page ID 698 + D.E. 179 Page ID 2384 + D.E. 179-2 Page ID 3091). Of note is the fact that Judge McNulty has incorporated online sources of information, albeit incorrectly, but yet refused to view the video links that prove Kaul's competence in the performance of minimally invasive spine surgery, the reason being that this evidence undermines the state's fraudulent case that Kaul was not competent to perform minimally invasive spine surgery. The irony, and there are many, is that K2 defendant Hafner used these videos on June 13, 2012, as evidence to have K2 defendant NJBME suspend Kaul's license. These videos show Kaul performing minimally invasive spine surgery, and show how the patients benefited from the procedures. Judge McNulty gave no reason as to why he did not want to view these videos, but he willfully ignored evidence that undermines the state's fraudulent case. The reason is not yet clear.

9. McNulty: D.E. 300 Page 8183: Page 13 Para 1 – "**... by the letter organization; neither apparently is he (See id ¶¶ 75---76).**"
Kaul: D.E. 241 Page ID 5737: Page 8 Para. 75 – "**In 2004 Kaul became board certified by the American Academy of Minimally Invasive Spinal Medicine and Surgery**".
Judge McNulty's conclusion that Kaul is "**apparently**" not certified by the American Academy of Spinal is inconsistent with Kaul's statement, and Judge McNulty has referenced no evidence to the contrary.
If Judge McNulty's statement has any truth, then it is the product of improper ex-parte communications with K2 defendant Hafner and or her agents.

10. McNulty: D.E. 300 Page 8183: Page 13 Para. 1 – "**... unidentified persons published multiple articles about Dr. Kaul's work in minimally invasive spine surgery. (2AC ¶¶ 39, 47).**"
Kaul: D.E. 241 Page 5731: Page 2 Para. 39 – "**... it was reported in the Bergen Record, that NJSR Surgical Center had a zero (0) % post---operative infection rate.**"

11. McNulty: D.E. 300 Page 8183: Page 13 Para. 2 – " **... was innovative it provoked hostility and envy within the New Jersey neurosurgical community.**"
Kaul: D.E. 241 Page 5731: Page 2 Para. 37 – "**Kaul's innovative work caused overt hostility within the New Jersey neurosurgical community...**"
Judge McNulty's erroneous insertion of the word "**envy**" is eerily consistent with the defendants' strategy to attack Kaul's character, and Kaul respectfully suggests is evidence of improper ex-parte communications.

12. McNulty: D.E. 300 Page 8183: Page 13 Para. 2 – "**Dr. Kaul came to learn ... had caused immense jealousy in the "medical community.(2AC ¶¶ 39, 41).**"

Kaul: D.E. 241 Page 5731: Page 2 Para 39 + Page 3 Para 41 – "**Between 2010 to 2012 multiple articles were published about Kaul's work in minimally invasive spine surgery and in 2011 it was reported in the Bergen Record, that NJSR Surgical Center had a zero (0) % post---operative infection rate … Kaul came to know through conversations with spine device representatives, patients and physicians … this included defamatory comments made by Defendant Heary to Kaul's patient, Frances Kuren in 2008, by Defendant Kaufman to Kaul's patients Corey Johnson in 2010, and John Zerbini in 2012.**"

13. McNulty: D.E. 300 Page 8184: Page 14 Para. 2 – "**… Dr. Kaul summarizes his own skills thus:" … Thus, the only way that one could compare the abilities of two surgeons, as for example with two baseball players, is to observe them in action. Kaul's videos demonstrate him in action, while no video evidence exists to support the technical abilities, or lack thereof, of any of the other physician defendants.**"
Kaul: D.E. 241 Page 5822: Page 93 REFERENCES – Kaul provided a list of links to online videos, demonstrating his irrefutably competent performance of minimally invasive discectomies and fusions, and a link to a lecture in which he demonstrates his knowledge regarding the diagnostic and therapeutic aspects of spinal degeneration and minimally invasive spine surgery: **(i)** Dr. Kaul lectures about minimally invasive spine surgery; **(ii)** First outpatient minimally invasive lumbar fusion March 2005; **(iii)** First outpatient minimally invasive correction of adolescent spondylolisthesis August 2011; **(iv)** First outpatient minimally invasive correction of four-level degenerative scoliosis August 2011. Kaul provided these video links as evidence in support of his summarization of "his own skills", in order that the Court could view video evidence in support of Kaul's statement. Judge McNulty, for reasons not yet clear, refused to view the videos. Kaul asserts that had Judge McNulty viewed the videos, he could not but have come to the conclusion that the assertion and finding respectively of K2 defendants Hafner + Solomon, that Kaul was not competent to perform the procedures, were but a part of the massive fraud detailed in 'The Solomon Critique' + 'The Solomon Critique 2'.

14. McNulty: D.E. 300 Page 8185: Page 15 Para. 2 – "**The Second Amended Complaint … patients have turned to opioids. (Id. at 291---96).**"
Kaul: D.E. 241 Page ID 5782: Page 53 Para. 287 – "**The neurosurgeons effectuated the change without publicizing it for comment, from the Plaintiff or other similarly trained physicians. This was in violation of both NASS and AMA by laws and regulations**." **Omitted** by the Court.
Kaul: D.E. 241 Page ID 5782: Page 53 Para. 288 – " **… which thus caused these patients to be deprived of care.**" **Omitted** by the Court because it undermines the purported mission of K2 defendant NJBME, that it "**protects the public**". It does nothing of the sort, as is also evidenced by the fact that every year in the United States, four hundred and forty thousand (440,000) patients die in hospitals consequent to medical mistakes. Not one patient died under Kaul's care in the United States outpatient healthcare system, in a period from 2002 to 2012. K2 defendant NJBME serves only the political and economic agendas of its political and economic masters, one of whom is K1/K2 defendant Allstate, and one of whom was K2 defendant, Christie. These defendants do not give one thought to protecting or serving the public, but do indeed focus on ways to exploit/deceive the public for monies and votes.

Kaul: D.E. 241 Page ID 5782: Page 53 Para. 289 – "**As a consequence, the Plaintiff sustained substantial losses and damage to his business and property because of the reduced reimbursement fees associated with outpatient endoscopic discectomy.**"
Kaul: D.E. 241 Page ID 5783: Page 54 Para. 290 – " **...have through the bribing of politicians ... reduced the availability of outpatient minimally invasive spine surgery.**"
Kaul: D.E. 241 Page ID 5783: Page 54 Para. 291 – "**The aforementioned acts ... excluded patients with accident related injuries, most of whom have no secondary insurance, from receiving minimally invasive spine surgery.**" This is not protecting the public, but simply protecting the economic agendas of K1/K2 defendants Allstate + Geico.
Kaul: D.E. 241 Page ID 5783: Page 54 Para. 292 – "**The rise in opiate consumption ... while the Defendant Hospitals, Neurosurgeons and Insurance Carriers reaped larger profits.**" This is not protecting the public.
Kaul: D.E. 241 Page ID 5783: Page 54 Para. 293 – "**Defendant Allstate's share price has risen almost four hundred percent (400%) ... products of nothing but bribery and legal chicanery.**"
Kaul: D.E. 241 Page ID 5783: Page 54 Para. 294 – "**The Defendant Neurosurgeons and Hospitals ... Defendant Insurance Carriers increased profits were not shared with the New Jersey public who have continued to incur annual increases in their auto premiums.**"
Kaul: D.E. 241 Page ID 5783: Page 54 Para. 295 – "**The Defendant's anticompetitive acts ... charge ... prices in excess ... absent its unlawful actions.**"
Kaul: D.E. 241 Page ID 5783: Page 54 Para. 296 – "**The prices were inflated ... and the consequent price gouging by the defendant neurosurgeons and hospitals.**" This is not protecting the public.

15. McNulty: D.E. 300 Page 8185: Page 15 Para. 3. Footnote 13 – "**It is unclear how many claims were presented for arbitration and how many involved the defendant Carriers.**"
Kaul: D.E. 241 Page 5730: Page 1 Para. 31 + Page 5731: Page 2 Para. 32 – "**... successfully treated thousands of patients ... hundreds of these individuals had purchased expensive personal injury policies from Defendants GEICO and Allstate ... From 2006 to 2012 the Plaintiff prevailed on almost ninety---nine percent (99%) of all claims presented for arbitration. Defendants GEICO and Allstate employed their legions of lawyers to contest each and every claim and lost almost ninety-nine percent (99%) of all claims.**"
Judge McNulty has provided no reason as to the relevance at this juncture of the case, of the specific number of claims that were arbitrated, and what percentage of those claims pertained to Defendants Allstate + GEICO. That is the purpose of discovery, a litigation tool, of which the Court has denied Kaul, no doubt at the behest of the defendants and third-party witnesses. Just another reason as to why the case must be re-transferred to the S.D.N.Y. This Court is hopelessly conflicted, an argument that Kaul submitted in 2016, and an argument that has been proved in 2019.

16. McNulty: D.E. 300 Page 8186: Page 16 Para. 1 – "**I take judicial notice that the action was dismissed because the parties reported that it had been settled. (Civ. No. 13---2597 D.E. 117, 118, 119, 120, 121**)".
Kaul: D.E. 241 Page 5731: Page 2 Para. 34 – " **... with absolutely no evidence ever having been presented to support any of the eleven (11) causes of action.**"

In taking judicial notice of the case and its associated files, Judge McNulty, could not but be aware that it contained "**absolutely no evidence**", regardless of whether it was settled, prior to its dismissal from the court docket. Why else would defendant Geico with its alleged claims of massive schemes of healthcare fraud, agree to have the case settled and dismissed, other than the fact that it was frivolous, and a case that was purposed to manufacture an excuse to not pay Kaul for clinical services he had rendered to their clients.

17. McNulty: D.E. 300 Page 8186: Page 16 Para 2 – "**On February 15, 2015 … sanctioned arbitration forums.**" (Id. ¶ 36)."
Kaul: D.E. 241 Page 5731: Page 2 Para. 36 – "**As with GEICO Allstate has not presented a scintil** of evidence in support of its …"

18. McNulty: D.E. 300 Page 8187: Page 17 Para 1 – "**The defendant State government officials and agencies … remain in the Second Amended Complaint, however**."
Kaul: D.E. 241 Page 5733: Page 4 Para. 48i 52 – "**The Division of Consumer Affairs controls the medical board … The Defendants exercised control of the aforementioned process by funneling bribes to Governor Christie, that were disguised as 'campaign donations', and fees to lobbyists and public relation companies.**"
Judge McNulty's dismissal of the State defendants from the First Amended Complaint, although ostensibly based on immunity grounds, was a calculated move, purposed to weaken the thrust of the Kaul's case, i.e. that of political corruption. However, their noni defendant status has been substituted by their thirdi party status, which is why they are referenced in the allegations. The evidence that came into existence subsequent to the opinion of June 30, 2017 (D.E. 200), is as Kaul explained during the case management conference on September 5, 2018, the basis for K2, a complaint that is evidentially, factually and legally distinct from K1, and that does convert these thirdi party State witnesses, back into defendants affiliated with the State of New Jersey.

19. McNulty: D.E. 300 Page 8187: Page 17 Para. 6 to Page 18 Para. 1 – "**On May 22, 2012, the Acting Director of the Division of Consumer Affairs … suspended … CDS prescribing privileges … Kanefsky responded by filing a motion to rescind Dr. Kaul's consent order.**"
Kaul: D.E. 241 Page 5739: Page 10 Para. 86 – "**On May 22, 2012 the Acting Director of the Division of Consumer Affairs, Eric Kanefsky, unilaterally and without due process suspended Kaul's CDS prescribing privileges, an act that prevented Kaul from practicing medicine entirely**." Kaul: D.E. 241 Page 5739: Page 10 Para. 87 – "**Kaul indicated … Kanefsky retaliated by filing a motion on May 29, 2012 to rescind the consent order, based on false allegations that Kaul had not modified his website and complied with a subpoena request.**"
Judge McNulty omitted the fact that the suspension of the CDS license was procured illegally and in the absence of due process, and changed "**retaliated**" to "**responded**". The purpose of this omission and substitution was to weaken Kaul's allegations, and reduce the defendants' vicarious liability. The omissions/alterations pattern.

20. McNulty: D.E. 300 Page 8188: Page 18 Para. 3 – "**On June 13, 2012, the Board granted the motion of Kanefsky (not a party here) to rescind the consent order.**

It is not clear as to why Judge McNulty's clarified that Kanefsky is not a party to the action, as Kaul has not identified him as such, as yet.

21. McNulty: D.E. 300 Page 8188: Page 18 Para. 3 – " **...The patient in the video, Dr. Kaul alleges, had improved after Dr. Kaul performed a successful minimally invasive outpatient lumbar fusion.**"
Kaul: D.E. 241 Page 5823: Page 94 – "**10. The DAG Hafner video June 2012:**
The link to this particular video, one that was submitted into evidence of the administrative board proceedings by K2 defendant, Hafner, was not viewed by Judge McNulty. The link to the video is included."

22. McNulty: D.E. 300 Page 8188: Page 18 Para. 4 – "**Although Dr. Kaul's license had been revoked ...**"
Kaul: D.E. 241 Page 5739: Page 10 Para. 90 – "**Subsequent to the suspension of Kaul's license ...**"

23. McNulty: D.E. 300 Page 8189: Page 19 Para. 2 – "**On September 16, 2013 ... ethics complaint with Michael Keating ("Keating") against non-party Hafner. (2AC ¶ 96). Keating dismissed Dr. Kaul's complaint. (Id.)**"
Kaul: D.E. 241 Page 5740: Page 11 Para. 96 – "**On September 16, 2013 Kaul filed an ethics complaint against Hafner, which he brought to Keating's attention in 2014, when he suggested that Hafner should have no involvement in Kaul's application for license reinstatement. Keating dismissed Kaul's concerns, despite the fact that Hafner had used prejudicial and pejorative terms in her opposition to Kaul's application.**"
Judge McNulty incorrectly asserted that Keating dismissed Kaul's complaint, when in fact what Kaul asserted was that Keating dismissed Kaul's "concerns". The complaint was filed with the ethics committee of the New Jersey Supreme Court, of which Keating is not a member.

24. McNulty: D.E. 300 Page 8189: Page 19 Para. 5 – "**In a separate action, on September 23, 2013, non---party Corey Johnson, one of Dr. Kaul's patients, filed a complaint against Dr. Kaufman and Gonzalez.**"
Kaul: D.E. 241 Page 5740: Page 11 Para. 97 – " **... Corey Johnson, filed a complaint against Defendant Kaufman with Defendant Gonzalez ... slandered and defamed Kaul ... just before he performed a spinal procedure on Johnson.**"

25. McNulty: D.E. 300 Page 8189: Page 19 Para. 4 Footnote 19 – "**Dr. Kaul also alleges that a number of his patients have provided a video response. (D.E. 241¶ 100). I decline Dr. Kaul's invitation to watch those videos, which are not directly related to the substance of the motions before me.**"
Kaul: D.E. 241 Page 5740: Page 11 Para. 100 – "**After the Washburn article a number of Dr. Kaul's patients provided a video response (Ref # 12).**"
Judge McNulty's explanation as to why he declined to view the referenced video is with all due respect, erroneous. The subject matter of the case and thus the motions pertain to professional jealousy + political corruption + fraud + Kaul's competency/patient outcomes in the practice of

minimally invasive spine surgery. The video is directly related to the latter point, and is evidence that undermines the fraudulent case that caused the illegal revocation of Kaul's license. Kaul asserts that this is further evidence as to why the case must be re-transferred to the SDNY, as it predicts that if this case ever found its way to trial with Judge McNulty, Kaul's conclusive evidence of all claims would be excluded. The trial would be a charade, as was the administrative board proceedings that commenced on April 9, 2013 and concluded on June 28, 2013. This case cannot be tried in New Jersey, and to do so would make a mockery of American justice.

26. McNulty: D.E. 300 Page 8190: Page 20 Para 6 – "**On November 11, 2015, Dr. Kaul filed a letter with the International Criminal Court.**"
Kaul: D.E. 241 Page 5741: Page 12 Para. 109 – "**A letter was also sent on November 11, 2015 to the International Criminal Court, regarding the Governor of New Jersey and ex US Attorney, Christopher J. Christie. Kaul received a response from the Chief Prosecutor on August 15, 2017, a copy of which was sent to NJ Gubenatorial candidate, Philip Murphy, as part of a request to initiate an official investigation, pursuant to Section 2C:38---3 of the NJ Code of Criminal Justice, should murphy become the next Governor. The letter was sent on October 16, 2017."Judge McNulty omitted the reason for letter, which was a request that the ICC investigate Kaul's allegations that K2 defendant had participated in the trafficking of chemical weapon components to Syrian rebel forces in a period from 2012 to 2013. These substances became instrumental in the commission of genocide. From the perspective of genocide and closing federal bridges, the falsification of legal evidence + perjury + obstruction of justice + kickbacks + fraud in an administrative New Jersey court, were merely consistent with the pernicious politico---legal environment created by K2 defendant Christie. That is why Kaul will vigorously oppose any cover---up of these heinous crimes, a fact he made clear in the letter he sent to Governor Murphy on August 15, 2017:"**

"I will continue to pursue and publicize this issue until I find the truth, and as suggested in the letter from the ICC, I intend on contacting international authorities to have the matter independently investigated. I hope that if you become the Governor, you will employ state resources to ascertain the culpability of the name offenders. These heinous crimes must not go unpunished, and I will not rest till those responsible are brought to justice."

Judge McNulty, instead of ignoring this issue, ought to refer the matter for further investigation. This would be in accordance with his legal oaths.

27. McNulty: D.E. 300 Page 8191: Page 21 Para. 1 – "**In May, former Governor ... Dr. Kaul argues was retaliatory. (2AC ¶ 111).**"
Kaul: D.E. 241 Page 5742: Page 13 Para. 111 – "**In May 2016, Christie's administration, after having been named as a defendant in Kaul v Christie, filed a retaliatory action against Kaul in Mercer County Court regarding alleged unpaid state taxes.**"
When individuals, agencies or the state itself are sued, their first reaction is to use the power of the state to retaliate against the suing person/s. This pattern of abuse is evident in two (2) cases filed in the United States District Court for the Northern District of Georgia, in which Kaul

is a secondary plaintiff (Patel v Allstate/Crist: 1:19-CV-0612 + Patel v Allstate/State of NJ: 1:19-CV-0739). Shortly after the filing of the cases, Plaintiff Patel became the subject of a retaliatory action (**Exhibit 1**).

28. McNulty: D.E. 300 Page 8191: Page 21 Para. 5 – "**On February 22, 2016, Dr. Kaul … Sullivan transferred venue of the case to this Court. (D.E. 1 D.E. 19).**"
Kaul: D.E. 305-3 Page 8313-8366: Page 1 to 53 (Case 16-1397 Document 41) – On July 14, 2016 Kaul filed an interlocutory brief in the Second Circuit Federal Court of Appeals, in which he argued, amongst other things, that: **"(16) The plaintiff-appellant could not reasonably have brought the case in the District of New Jersey, because of the politico-legal nexus between the defendant-appellee and the federal judiciary; (18) The District of New Jersey will be strained to deliver impartial justice because of the politico-legal nexus between its judiciary and the defendant-appellees**."

29. McNulty: D.E. 300 Page 8192: Page 22 Para. 1- "**On July, 2017, I filed a memorandum and order denying Dr. Kaul's motions for default judgment (D.E. 149, 192) against Stein. (D.E. 202).**" The reasons given by Judge McNulty for the denial was, "**An Affirmation of Service, dated May 2, 2016, states that on that date, Melissa Cecala served defendant Stein by hand delivery at an office building in Succasunna, NJ (ECF No. 54 at 13-14, filed May 23, 2016). The recipient might well have been confused, however, by the attachment of a caption indicating that the defendant is being sued in the Southern District of New York, where the case was previously venued.**" (D.E. 202 Page 3767 to 3768). Kaul filed another motion for entry of default and default judgment after he failed to respond or otherwise plead, after having been served (November 10, 2017) with and signed for a copy of the summons and SAC (D.E. 281 Page ID 6599 to 6632). Kaul filed this motion on November 13, 2018, and it was ignored by Judge McNulty. Kaul sent Judge McNulty a letter on February 22, 2019 (D.E. 305 Page 8290), that: **(i)** requested he enter a decision: **(ii)** alerted him to the fact that a letter filed by Kaul, dated November 29, 2018, regarding Stein's misrepresentation to the Court, had not been posted to the court docket; **(iii)** reminded the Court that it had, without good cause, prevented Kaul from obtaining discovery for a period of three (3) years from either the defendants or third-party witnesses; **(iv)** remined the Court that the record was replete with arguments that Kaul would not receive "**substantive justice**" in New Jersey, which is one of the reasons he had fought to have the case litigated in the S.D.N.Y.; **(v)** alerted the Court to the conflict of judicial interests that existed in both his and that of Judge Mannion's involvement in the case; **(vi)** requested the case be re-venued in the S.D.N.Y; **(vii)** the Court permit Kaul to commence discovery. Co-incidentally, the Court issued a document, entitled **OPINION**, who supposed date of issuance was Friday February 22, 2019, but which was only transmitted to the parties via e-mail on Monday February 25, 2019. In this document Judge McNulty once again denied Kaul's motion for default judgment against Defendant Stein, an ex-president of the Morris County Bar Association, and ex-treasurer of the New Jersey Bar Association. This time the reason given by Judge McNulty was "**Federal Rule of Civil Procedure 55(c) provides that relief from entry of default will be granted for "good cause." As a general matter, defaults are disfavored. Gross v. Stereo Component Sys.. Inc., 700 F.2d 120, 122 (1983) … Finally, given the confusing nature of Dr. Kaul's still quite prolix Second Amended Complaint, I cannot find that Stein's failure to**

appear and defend was willful." Judge McNulty completely ignored the law that Kaul had cited in his brief (D.E. 281-2 Page 6616 (Carpenters Health, 1995 WL 20848 *2 (E.D. Pa 1995)), which mandates the entry of default judgment, when a defendant, like Stein, willfully and while misrepresenting facts to the Court, ignores a complaint for three (3) years. Similarly, throughout the entirety of his opinion (D.E. 300), Judge McNulty ignored all of the law cited to by Kaul, and ignored all of the legal analyses submitted by Kaul (D.E. 268 + 269 + 272 + 273 + 276 + 283 + 284)) in undermining the law cited to by the defendants in their omnibus and supplemental briefs (D.E. 257 + 258 + 259 + 260 + 261+ 262 + 263 + 264).
Judge McNulty's failure to enter default judgment against Defendant Stein violates the law, and sends out a dangerous message, that if you are politically/professionally/socially connected with the judge, you are not subject to the law, i.e. an out-law.

30. McNulty: D.E. 300 Page 8192: Page 22 Para. 2 – "**On August 10, 2017, Dr. Kaul filed another proposed second amended complaint. (D.E. 204). On September 6, 2018 (meant to be 2017), upon sua ponte review, the Honorable Steven C. Mannion, United States Magistrate Judge, filed a letter order vacating this amended complaint (D.E. 204) for several reasons. Among those reasons was that its unnecessary length placed an unjustified burden on the Court. (D.E. 208 p.3).**"
Kaul: On August 9, 2017, Kaul filed the **first** version of the Second Amended Complaint, not **another** version of the SAC. On September 6, 2018 Judge Mannion entered a letter order that vacated the SAC because it was supposedly late and not in compliance with Rule 8 of the Federal Rules of Civil Procedure. However, Kaul had filed the complaint one day in advance of the date set forth by Judge McNulty, in an amended order entered on July 10, 2017 (D.E. 203 Page 3774), that date being August 10, 2017.

31. Third-Party Witness- John Zerbini: D.E. 205-1 Page 4275: A statement was provided in support of Kaul by an individual/patient who had testified for the state against Kaul on May 2, 2013. As detailed in the motion for summary judgment against Defendant Allstate (D.E. 299 Page 7017 to 8170), 'The Zerbini Certification' provides proof in support of all fourteen claims.
McNulty: D.E. 300 – This piece of critical evidence was ignored by McNulty, as was all the evidence submitted in support of the summary judgement against Defendant Allstate.

32. Mannion: D.E. 208 Page 4288: Judge Mannion entered a LETTER ORDER, that vacated the SAC, based not on non-compliance with Rule 9, but on non-compliance with Rule 8(a) and (8e). The docket entry states, " **... granting leave until September 26, 2017 to provide the Court with a revised second amended complaint which addresses the deficiencies identified by Judge McNulty's Opinion and complies with Rule 8**." Neither Judge Mannion nor Judge McNulty made any mention of Rule 9, but it is upon Rule 9 that Judge McNulty bases his dismissal with prejudice (D.E. 300 Page 8201). Rules 8 + 9 are to some extent contradictory, in terms of specificity and generality, and what now appears apparent is that Judges Mannion and McNulty had Kaul 'spinning his wheels', in the knowledge that whatever he did, they were going to dismiss his case. Judge Mannion repeatedly suggested Kaul retain a lawyer (D.E. 208 text), but the true purpose of this was not to assist Kaul, but to ensure that when the matter

was appealed, the Court would say "**well he had legal representation**" and the "**full panoply**" (D.E. 200 Page 3759) of due process.

33. McNulty: D.E. 300 Page 8193: Page 23 Para. 1 – "**On September 26, 2017, Dr. Kaul filed a revised version of that proposed second amended complaint. (D.E. 209)**."
In this document Kaul submitted the clinical evidence that details how all of the eleven (11) patients upon whom the state based its case against Kaul, had actually improved after the care they received from Kaul (D.E. 209 Page ID 4306 to 4326). Judge McNulty ignored this objective evidence, as it undermined the state's fraudulent case, and despite the fact that it was the fundamental subject matter of Kaul v Christie. Judge McNulty, however, did insert testimony from a patient, TZ, who as the clinical notes indicate improved after the surgery (D.E. 209 Page 4322), but who, K2 defendant Hafner, caused to engage in the subornation of perjury, and provide false testimony.

34. Defendants: D.E. 210 Page 4689 – September 28, 2017: The defendants submitted a letter that sought the Court continue its obstruction of Kaul's efforts to engage in discovery, "**... request that your Honor stay all proceedings and deadlines in this matter until the October 18, 2017 conference**." What the letter also evidences is the fact that ex-parte had been occurring with Judge Mannion, as in the letter the defendants refer to a conference scheduled for October 18, 2017. The docket contains no evidence that the Court had scheduled such a conference. Throughout the case counsel for the defendants had conducted multiple ex-parte communications with the Court, of which there is no record and to which Kaul was not a party. It is also significant that the defendants asserted that "**We write on behalf of all Defendants on September 26, 2017, to respectfully request that ...**" but yet in the same letter in the next paragraph state, "**On September 6, 2017 while Defendants were working on preparing their coordinated response to the SAC, Your Honor issued a letter Order vacating Plaintiff's initial second Amended Complaint pursuant to Fed. R. Civ. P. 8...**". This is further evidence of the defendants efforts to delay the proceedings.

35. Mannion: D.E. 211 Page 4691 - On October 4, 2017: Judge Mannion granted the defendants' letter motion "**to stay all deadlines and proceedings in this matter until the 10/18/17 cnf.**" It is significant that both Judge Mannion and the defendants submitted that the basis for the delay was the purported non-compliance of the SAC with Rule 8 and not Rule 9 of the F.R.C.P, but yet it was Rule 9 to which Judge McNulty cited in his order to dismiss with prejudice Kaul's entire complaint (D.E. 300 Page ID 8201). The only aspect of the SAC that was amended by Kaul between August 10, 2017 and June 4, 2018 pertained to the sections preceding the legal claims. The construction of the legal claims remained identical, but yet neither the defendants nor the Court referenced any non-compliance with Rule 9, but on multiple referenced non-compliance with Rule 8. This is further evidence of the Court's efforts to delay the proceedings, while simultaneously preventing Kaul from obtaining discovery.

36. Kaul: D.E. 212 Page 4692 – October 12, 2017: Kaul filed a letter that corrected an inaccurate statement made by the defendants in the letter they filed on September 28, 2017 (D.E. 210), in which they asserted in Footnote 1, "**The September 6, 2017 letter Order also**

correctly notes that Plaintiff failed to file his SAC within the thirty-day period imposed by Judge McNulty's June 30, 2017 Order. (See DE Nos. 201, 204 and 208)." However what D.E. 203 states is, "**Any amended complaint shall be filed within 30 days after the date of this Amended Order**." (D.E. 203 Page ID 3774), an order that as entered on July 10, 2017.

37. Mannion: D.E. 213 TEXT ORDER – October 18, 2017: Judge McNulty omitted the fact that Judge Mannion continued the Court's obstruction of Kaul's efforts to obtain discovery or be allowed to properly prosecute the case, "**Meanwhile, re: discovery, see the orders see D.E. 100, 122 and 199 for guidance that subpoenas are not currently permitted and that discovery does not begin until after the initial scheduling conference or entry of the initial scheduling order, which has not yet happened**." (D.E. 213 text).
D.E.100 Page ID 939 – August 23, 2016: "**the subpoenas are quashed and leave to file a motion to compel is denied without prejudice**."
D.E. 122 Page ID 1085 – October 19, 2016: " **... the time for commencing discovery has not yet begun ... potential witnesses are not obligated to cooperate without a valid subpoena served during the period of discovery or trial**."
D.E. 199 TEXT ORDER – June 29, 2017: **"... submission of discovery plan is adjourned until 8/16/2017. Defendants may each provide a cite for their respective reasons to stay discovery in their proposed plans and an initial scheduling order on or about 8/23/2017**." The defendants never submitted any opposition to Kaul's motion to compel discovery, never submitted any proposed discovery plan and the Court continued to obstruct Kaul's efforts at obtaining discovery. This is one of the reasons why Kaul vigorously argued that the case remain in the S.D.N.Y., as he knew he would not receive "**substantive justice**" in New Jersey, of which discovery is an essential component.

38. MINUTE ENTRY FOR PROCEEDINGS – October 18, 2017: Judge Mannion conducted a conference on October 18, 2017, during which the parties agreed upon a briefing schedule, that required the defendants to submit by December 11, 2017, their motions to dismiss Kaul's SAC, which Kaul had agreed to submit by October 27, 2017. Kaul did indeed submit the SAC on October 27, 2017. The only amendments made were those to the pre-claim section pertaining to statement of fact. No changes were made to the construction of the legal claims. The Court continued to deny Kaul discovery.

39. McNulty: D.E. 300 Page 8193: Page 23 para.1 – "**On October 18, 2017, Magistrate Judge Mannion again rejected the submission. He ordered Dr. Kaul to file a "revised proposed amended complaint that omits claims already dismissed with prejudice and reduces the pages of exhibits**." (D.E. 213). The Court continued to deny Kaul discovery.

40. McNulty: D.E. 300 Page 8193: Page 23 Para 1 – "**On September 26, 2017, Dr. Kaul filed a revised version of that proposed amended complaint (D.E. 209). On October 18, 2017 Magistrate Judge Mannion again rejected the submission. He ordered Dr. Kaul to file a "revised proposed amended complaint that omits claims already dismissed with prejudice and reduces the pages of exhibits**." The Court continued to deny Kaul discovery.

Kaul: On October 18, 2017, there occurred a case management conference, during which Judge Mannion enquired of Kaul if wanted to proceed with the Second Amended Complaint he had filed on August 10, 2017 (D.E. 204). Kaul indicated that he did not want to proceed with this document, and the Court asked how much time he would require to amend the document. There then followed an exchange between Kaul, the Court and the defendants, in which a briefing schedule was agreed upon, and it was during this exchange that Judge Mannion referred to Kaul as "**The Man of Steel**", when Kaul indicated he would require two weeks to answer the defendants response to his amended complaint. Judge Mannion assigned Kaul thirty (30) days to respond. It was also agreed upon that the defendants would reply to Kaul's response by December 11, 2017.

41. McNulty: D.E. 300 Page 8193: Page 23 Para. 1 – "**On October 18, 2017, Magistrate Judge Mannion again rejected the submission. He ordered Dr. Kaul to file a "revised proposed amended complaint that omits claims already dismissed with prejudice and reduces the pages of exhibits.**" The Court continued to deny Kaul discovery.
Kaul: The SAC submitted by Kaul on September 26, 2017 did not contain any of the claims or parties dismissed with prejudice by Judge McNulty in his opinion of June 30, 2017 (D.E. 200). Judge Mannion's TEXT ORDER (D.E. 213) "**... file a revised proposed amended complaint that omits claims already dismissed with prejudice and reduces the pages of exhibits**." was incorrect, and Kaul suggests was part of the ongoing efforts of the defendants and Court to hinder/delay Kaul's prosecution of the case.

42. McNulty: D.E. 300 Page 8193: Page 23 Para. 2 – "**On October 27, 2017, Dr. Kaul filed another, revised version of the proposed second amended complaint. (D.E. 214). By letter order, on February 8, 2018, Magistrate Judge Mannion filed a letter order striking this proposed amended complaint for failure to comply with the court's previous order. (D.E. 229, citing 213). Magistrate Judge Mannion further ordered that Dr. Kaul's next version of the amended complaint include red-lined changes to assist the Court in its review. (*Id*).** The Court continued to deny Kaul discovery.
Kaul: See below at 43.

43. Mannion: D.E. 214 – October 27, 2017: Judge Mannion struck the SAC from the record as per a LETTER ORDER entered on February 8, 2018 (D.E. 229). The basis of this action was that, "**...In pertinent part, this order directed Mr. Kaul to " omit[ ] claims already dismissed with prejudice and reduce [ ] the pages of the exhibits." ... Mr. Kaul's October 27, 2017 Proposed Complaint failed to meet the requirements set forth in the Court's October 18, 2017 Order. First, the Proposed Complaint continues to identify Dr. Peter Carmel as a defendant ... Second, the Proposed Complaint also contains and refers to causes of action and predicate acts which have been dismissed with prejudice, including mail and wire fraud. Finally, Mr. Kaul's Proposed Complaint, at 151 pages, still pushes the limit of a "short and plain statement of the claim" and includes what appears to be exhibits of online patient reviews, affidavits recounting hearsay conversations and self-serving conclusory statements that are not in compliance with the letter or spirit of Rule 8 of the Federal Rules of Civil Procedure**." These claims, made by Judge Mannion were false, and on February 14, 2018 (D.E. 230) Kaul submitted

a letter that demonstrated their falsity. This letter was submitted in response to Judge Mannion's continued repeating of these false claims (D.E. 229), in what now appears to be part of the defendants/court overall scheme to hinder Kaul's prosecution of the case. The LETTER/TEXT ORDERS submitted by Judge Mannion on October 27, 2017 (D.E. 214) and February 8, 2018 (D.E. 229) are identical, and make the same erroneous claims. The SAC submitted on October 27, 2017 does not contain any of the claims/parties which/who were dismissed with prejudice by Judge McNulty on June 30, 2017, but yet Judge Mannion and the Court continued to repeat these falsehoods in their LETTER ORDERS/TEXTS. This is further evidence of why Kaul argued that he would not receive "**substantive justice**" in New Jersey, which is why he argued to have the cases litigated in the S.D.N.Y. It is also significant that neither Judge Mannion nor the Court made any reference to non-compliance with Rule 9, although this was the ultimate basis used by Judge McNulty for dismissal with prejudice. The Court devoted an inordinate amount of time to repeating its claims regarding non-compliance with Rule 8 and the exhibits, but chose not to reference Rule 9. The simple truth in all of this is that the defendants/Court believed that if they prolonged the case, Kaul would "**pack his bags and leave**." The Court continued to deny Kaul discovery.

44. Kaul: D.E. 215 Page 4844 – November 6, 2017: Kaul requested a summons, in order to commence service of the SAC.

45. Kaul: D.E. 216 Page 4845 – November 7, 2017: The Court issued Kaul with a summons.

46. Kaul: D.E. 218 Page 4855 – December 22, 2017: Kaul submitted a letter that brought the Court's attention to the fact that the defendants had failed to respond to Kaul's SAC, "**I write this letter to bring to the attention of the Court, the fact that the Defendants have failed to file a timely response to the revised Second Amended Complaint. It is my understanding, based on the Case Management Conference on October 18, 2017, that the Defendants requested a period of forty-five (45) days to file a response. The revised Second Amended Complaint was filed on October 27, 2017 ... Defendants response ought to have been submitted on December 13, 2017.**" This is further evidence of the defendants/Court's efforts to hinder Kaul's prosecution of the case. The Court continued to deny Kaul discovery.

47. Kaul: D.E. 218 Page 4856 to 4858 – December 22, 2017: Kaul submitted a motion for entry of default against Defendant Stein, for failure to respond or otherwise plead.

48. Defendants: D.E. 217 Page 4847 to 4854 – December 27, 2017: The defendants submitted a letter regarding Kaul's motion for default against Defendant Stein, based on Judge Mannion's docket entry, dated October 27, 2017 (D.E. 214), regarding the SAC and its compliance with Rule 8 of the F.R.C.P. It is noteworthy that Defendant Stein submitted no opposition to the motion, but what this motion evidences is the continued obstruction by the defendants of Kaul's prosecution of the case. Neither the defendants nor the Court raised any question pertaining to the compliance of the SAC with Rule 9, the rule upon which Judge McNulty dismissed with prejudice Kaul's entire case. The Court continued to deny Kaul discovery.

49. Defendants: D.E. 219 Page 4859 – December 28, 2017: The defendants submitted a letter urging the Court to deny consideration of Kaul's motion for entry of default against the defendants, based on Judge Mannion's docket entry, dated October 27, 2017 (D.E. 214), regarding the SAC and its compliance with Rule 8 of the F.R.C.P. The Rule 8 issue was part of the defendants/Court's efforts to hinder Kaul's prosecution of the case. Neither the defendants nor the Court raised any question pertaining to the compliance of the SAC with Rule 9, the rule upon which Judge McNulty dismissed with prejudice Kaul's entire case. The Court continued to deny Kaul discovery.

50. Kaul: D.E. 221 Page 4862 to 4863 – December 28, 2017: Kaul submitted a letter to the Court regarding the defendants failure to respond to the SAC, as agreed to during the case management conference on October 18, 2017.The filing date was December 13, 2017. Kaul recited the events of the case management conference, and indicated that his abbreviated complaint would be one hundred and forty (140) pages, to which the Court agreed. However, when Kaul submitted his abbreviated SAC it was just under one hundred and fifty (150) pages, which caused the Court to have Kaul revise the SAC several times, which resulted in a delay of almost six (6) months, before the Court accepted the SAC on June 4, 2018. Counsel for Defendant TD Bank, William Marshall, moved the Court to continue the defendants/Court's prohibition of commencing discovery, an obstructionist tactic that the Court granted. Counsel for Defendant Marc Cohen, moved the Court to continue the discovery blockade, but neither the Court nor the defendants raised the issue of Rule 8 compliance. The Rule 8 issue was fabricated as part of the overall strategy to hinder Kaul's prosecution of the case. Kaul concluded the letter with, "**Therefore, my letter of December 22, 2017 is correct, and the Court should not permit the dilatory action of the Defendants, to impede my Rule 1 right to a "just, speedy and inexpensive determination of my claims. The motions for Default should be granted**." The Court continued to deny Kaul discovery.

51. Kaul: D.E. 222 Page 4864 to 4875 – December 28, 2017: Kaul submitted motions for entry of default against the defendants, for failure to plead or otherwise answer the SAC. All of the defendants had ignored the SAC, despite being served with copies of the summons + complaint in early November, 2017. The defendants/Court continued to obstruct Kaul's prosecution of the case. The Court continued to deny Kaul discovery.

52. Defendants: D.E. 220 Page 4860 to 4861 – December 29, 2017: Counsel for Defendants Cohen and Mitchell submitted a letter in response to Kaul's letter, dated December 28, 2017, that objected to Kaul's motion for entry of default, and stated, "**We await instruction from Your Honor as to whether plaintiff Kaul's newest proposed amended complaint has been accepted for filing, and if the briefing schedule which was discussed at the conference will be implemented**." The defendants/Court continued to obstruct Kaul's prosecution of the case. The Court continued to deny Kaul discovery.

53. Court: January 2, 2018: The Clerk of the Court entered a QUALITY CONTROL MESSAGE, that denied Kaul's motions for default, because there had been no proof of service submitted.

However, Kaul filed affidavits in support of the motions that confirmed service of process had been effectuated on October 27, 2017 (D.E. 222 to 222-17 Page 4864 to 4917). This complied with the Rules, and the Clerk's denial of the motion was further evidence of the defendants/Court's efforts to obstruct Kaul's prosecution of the case. The Court continued to deny Kaul discovery.

54. Defendants: D.E. 223 Page 4933 to 4934 – January 2, 2018: Counsel for Defendants Przybylski + Kaufman + Lomazow submitted a letter that requested the Court enter an order permitting the defendants to not answer or otherwise plead to the SAC, copies of which had been served upon them by Kaul. Of note is the fact that counsel highlighted the Court's ongoing obstruction of Kaul's right to discovery, "**Meanwhile, re: discovery ... subpoenas are not currently permitted.**" (D.E. 213 – October 18, 2017).

55. Defendants: D.E. 224 Page 4935 to 4936 – January 2, 2018: Counsel for defendants Heary + University Hospital submitted a letter that referenced the SAC and its compliance with Rule 8, stating that until the Court deemed the complaint compliant, the defendants were not required to respond to the SAC. The Court, since October 27, 2018, had not rendered an opinion regarding compliance of the SAC with Rule 8. This lack of action continued to hinder Kaul's prosecution of the case. The Court continued to deny Kaul discovery.

56. Kaul: D.E. 225 Page 5271 to 5270 – January 17, 2018: Kaul submitted 'The Solomon Critique', a critical analysis of the trial transcript and evidence in the administrative board proceedings that caused the illegal revocation of Kaul's license. The proceedings commenced on April 9, 2013 and concluded on June 28, 2013, and the document proves that during this period K1/K2 defendants Przybylski/Kaufman + K2 defendant Solomon, collectively committed **two hundred and seventym eight (278) separate instances of perjury + evidential misrepresentations + omissions + gross mischaracterizations**. Judge McNulty has minimized the criminal magnitude of this piece of conclusive evidence, evidence that makes illegal the administrative proceedings and the resultant revocation. He even goes on to denigrate the evidence submitted by an independent forensics expert on behalf of Dr. Kenneth Zahl, that proves the state engaged in Evidence Tampering in his licensing case in 2013 (D.E. 300 Page 8190). It is noteworthy that neither Kaul nor Zahl directly accused the Office of the New Jersey Attorney General, but Judge McNulty has singled out this office, as oppose to any of the other agencies involved in the administrative proceedings.

57. Kaul: D.E. 228 Page 5281 to 5284 – February 2, 2018: Kaul submitted a certification for the exhibits attached to 'The Solomon Critique'.

58. Kaul: D.E. 226 Page 5274 to 5277 – February 5, 2018: Kathleen Calabrese, one of Kaul's patients, submitted a certification, in which she communicated the contents of a conversation her brother had with a colleague who had knowledge about the events surrounding the revocation of Kaul's license. The colleague stated, "**I think it is terrible what they are doing to Dr. Kaul.**"
Judge McNulty omitted this quote from his opinion.

59. Kaul: D.E. 227 Page 5278 to 5280 – February 5, 2018: Kaul submitted a letter that requested the Court enter default against Defendant Stein and against the remaining defendants, or in the alternate order the defendants to respond or otherwise plead to the SAC. Kaul also requested that the Court vacate the stay on the issuance of subpoenas. The Court continued to deny Kaul discovery, and in the letter Kaul states, amongst other things, "**On October 18, 2017, the Court entered a TEXT ORDER that stayed the issuance of subpoenas, and I have thus been foreclosed from this avenue of evidence gathering. Over three (3) months have passed since the revised Second Amended Complaint was filed, and I believe that the hurdles placed to the prosecution of the case, in conjunction with the failure of the Defendants to respond, and the failure of the Court to enter Default against Defendant Stein, are severely prejudicing my right to properly litigate the claims.**"
The defendants/Court's conduct violated Rule 1 of the F.R.C.P. and were intended to dissuade Kaul from prosecuting the case, and "**pack his bags and leave**". Kaul has not packed any bags, he has not left and he will not leave, until all the defendants are stripped of all of their assets and some are sent to jail. These events will cause Kaul to "**pack his bags and leave**", but only for two weeks, after which he will return. This case and K2 will be re-transferred to the S.D.N.Y., which is where they should have been litigated, for all of the reasons detailed in Kaul's appellate briefs to the United States Court of Appeals for the Second Circuit.

60. Mannion: D.E. 229 Page 5285 to 5287 – February 8, 2018: Judge Mannion entered a LETTER ORDER, in which he found that the SAC was not compliant with the order of Judge McNulty of June 30, 2017 (D.E. 200) and with Rule 8 of the F.R.C.P. Based on these findings he instructed the Clerk of the Court to terminate Kaul's requests for entry of default (D.E. 218 + 222), stating that "**these requests for default were inappropriately and prematurely requested**." Judge Mannion concluded the letter with a reference to Rule 8 of the FRCP, but makes no mention of Rule 9. The Court continued to deny Kaul discovery.

61. Kaul: D.E. 230 Page 5288 to 5290 – February 14, 2018: Kaul submitted a letter that addressed the errors in Judge Mannion's LETTER ORDER (D.E. 229). One example was an incorrect assertion that Peter Carmel was still a defendant in the SAC. He was not. Another example was that the SAC contained claims and parties who had been dismissed with prejudice from the First Amended Complaint on June 30, 2017 (D.E.). The SAC did not contain any claims or parties who had been dismissed with prejudice. The Court continued to deny kaul discovery.

62. Kaul: D.E. 231 Page 5292 to 5542 – February 22, 2018: Kaul submitted a revised SAC, and a table that compared the FAC with the SAC (D.E. 231-1 Page 5419 to 5421). This demonstrates that the SAC did not include those parties or claims that had been dismissed with prejudice by Judge McNulty, in his opinion of June 30, 2017 (D.E. 200). This also undermined the Court's repeated assertions, that commenced on October 27, 2017, that Kaul had not modified the SAC in compliance with the June 30, 2017 order.

63. McNulty: D.E. 300 Page 8193 Page 23 Para. 3: "**On February 22, 2018, Dr. Kaul filed a red-lined version of the next version of his proposed revised amended complaint (D.E. 231).**

This represented progress, but apparently was not yet satisfactory." This entry is further evidence of the defendants/Court's obstruction of Kaul's prosecution of the case, as is clear from the LETTER ORDER (D.E. 238 Page 5613), that was entered on April 16, 2018 by Judge Mannion, in which he states, as the reason for the "**not yet satisfactory**" status, the following, "**Dr. Kaul's Proposed Complaint generally complies with the Court's June 30, 2017, Opinion, and February 8, 2018, Order. For example, Dr. Kaul has removed Dr. Peter Carmel as a defendant and removed claims that were dismissed with prejudice (these had been removed from the first submission of the SAC on August 10, 2017 – D.E. 204). Additionally, although still voluminous, Dr. Kaul did shorten his Proposed Complaint from 151 pages to 121 pages**." However, on October 18, 2017 the Court agreed with Kaul that his SAC would be approximately one hundred and forty pages (140) (D.E. 221 Page ID 4862). Judge Mannion continued with, "**Nevertheless, Dr. Kaul's Proposed Complaint fails to meet certain requirements (not specified) with regard to omitting certain defendants. For example, the Proposed Complaint continues to identify, The North American Spine Society ("NASS"), Dr. Steven Lomazow, and Dr. Frank Moore as defendants, despite the fact that the Court had dismissed those parties from the case, with prejudice**." This is continuing evidence of the defendants/Court's efforts to obstruct Kaul's prosecution of the case, as Kaul had removed Carmel and Moore as defendants with the filing of the first version of the SAC on August 10, 2017 (D.E. 204), and removed Lomazow with the filing of the second version of the SAC on September 26, 2017. The Court, despite going into detail about the supposed faults of the SAC, did not cite to any Rule 9 violations, the rule upon which Judge McNulty dismissed with prejudice Kaul's entire complaint. The Court continued to deny Kaul discovery, and what is now clear, is that the defendants/Court's strategy was to find any illegitimate excuse to obstruct Kaul's prosecution of the case, in the hope/expectation that he would "**pack his bags and leave**". They were wrong.

64. Defendants: D.E. 232 Page 5544 – March 5, 2018: Counsel for Christopher J. Wolfla, MD filed a notice of appearance.

65. Kaul: D.E. 233 Page 5545 – March 19, 2018: Kaul filed a letter with the Court, the purpose of which was to inform it of Kaul's intention to re-name Jay Howard Solomon as a defendant in the matter, based on the evidence contained within 'The Solomon Critique' i.e that of Evidence Tampering and Obstruction of Justice. Defendant Solomon was subsequently named in K2, as Judge McNulty had dismissed him from K1, based on his defense of absolute immunity, a defense that provides no defense to federal felonies. Judge McNulty, upon becoming aware of the crimes detailed within 'The Solomon Critique' was obligated under his code of judicial conduct and the law to report the issue to federal investigatory authorities. He did not, and instead he has simply ignored the evidence of the massive state orchestrated fraud detailed in 'The Solomon Critique' + 'The Solomon Critique 2". These offenses will lead to criminal convictions of defendants Kaufman + Przybylski + Solomon + Hafner.

66. Kaul: D.E. 234 Page 5601 – April 4, 2018: Kaul submitted a letter that sought the Court enter an order compelling the defendants to answer or otherwise plead the revised SAC, which Kaul had filed on February 22, 2018. The defendants non-response is further evidence of the

defendants/Court's scheme to obstruct Kaul's prosecution of the case. The Court continued to deny Kaul discovery, in what can only now be interpreted as a belief/hope/conviction that Kaul, without access to evidence, would be unable to prosecute the matter. Counsel for defendants ensured that the New Jersey medico-legal community did not respond to Kaul's requests for informal interviews, and they used the mail and wires to propagate this information in furtherance of their scheme to obstruct Kaul's prosecution of the case. Judge McNulty and Mannion were aware of this pattern of 'silencing' the witness pool, and facilitated its perpetration by denying Kaul the right to commence discovery. In fact, in September 2018, in K2, Kaul filed a notice of deposition of third-party witness Arnold Erwin Feldman. This notice was ignored by the defendants and the Court, and on October 2, 2018 the Court entered an administrative stay of the case, in what now can be seen as further evidence of the defendants/Court's scheme to prevent Kaul from gathering further evidence. The Court did not respond to Kaul's letter and did not enter an order compelling the defendants to answer or otherwise plead.

67. Kaul: D.E. 1 – Kaul v Christie: 18-CV-08086 – K2 - April 9, 2018: Kaul filed a lawsuit in the United States District Court for the Southern District of New York.

68. Kaul: D.E. 235 Page 5603 – April 13, 2018: Kaul submitted a letter that requested a summons for the revised SAC, in order that he could commence service of process.

69. Kaul: D.E. 236 Page 5604 – April 13, 2018: Kaul was provided with a summons.

70. Defendants: D.E. 237 Page 5606 to 5611 – April 13, 2018: Counsel for defendants HUMC and Garrett filed a letter on behalf of all defendants, seeking advice from the Court as to how to respond to K2. It is noteworthy that counsel, in referencing the Court's ongoing and intentionally protracted review of the multiple revisions of the SAC, identified Rules 8 and 12 of the F.R.C.P. as those with which the SAC was supposedly not in compliance. Rule 9 was not referenced, but yet it was the rule on which Judge McNulty dismissed with prejudice the entire case. The defendants objected to the fact that the Clerk of the Court had issued Kaul with a summons for service of the SAC, which Kaul asserts is further evidence of the defendants/Court's ongoing scheme to obstruct Kaul's prosecution of the case. The Court continued to deny Kaul discovery, while finding any excuse to deem the SAC non-compliant with Rule 8, and thus prevent Kaul from advancing the matter. The defendants frantic reaction to the fact that Kaul had been provided with a tool to move his case forward, evidenced their role on the overall scheme to obstruct Kaul's prosecution of the case.

71. Court: April 16, 2018: The Clerk of the Court entered a QUALITY CONTROL MESSAGE that caused the summons to be disregarded by the defendants, thus furthering the defendants/Court's scheme to obstruct Kaul's prosecution of the case. The Court continued to deny Kaul discovery.

72. Mannion: D.E. 238 Page 5612 to 5614 – April 16, 2018: Judge Mannion entered a LETTER ODRER that indicated the Court, sua ponte, had found that Kaul's revised SAC did not comply

with the June 30, 2017 opinion of Judge McNulty. The Court's opinion is confused and contradictory, and an obvious reaction to the defendants letter, dated April 13, 2018. The LETTER ORDER now provides the following reasons as to why Kaul's revised SAC was not compliant with the rules: **(i)** it failed to establish a plausible cause of action or subject matter jurisdiction – Kaul had not modified the construction of the legal claims section from the time of the first SAC (August 10, 2017), through two revisions, to the most recent version (February 22, 2018), but yet the Court had never raised the issue that Kaul's SAC failed to establish a plausible cause of action. This was just another excuse to obstruct Kaul's prosecution of the case. It is interesting, however, that the Court these ultimately deemed these claims compliant, when it permitted the SAC to proceed on June 4, 2018, almost two years after the case management conference on October 18, 2018. The revised SAC that was submitted on September 26, 2017 was simply ten pages over the length agreed upon during the conference (140 pages), had excluded all of the claims/parties dismissed with prejudice by Judge McNulty on June 30, 2017 (D.E.), and contained legal claims whose construction was deemed acceptable by the Court on June 4, 2018; **(ii)** Dr. Kaul's Proposed Complaint fails to meet certain requirements (not specified or cited in the record) with regard to omitting certain defendants. For example, the Proposed Complaint continues to identify The North American Spine Society ("NASS"), Dr. Steven Lomazow, and Dr. Frank Moore as defendants, despite the fact that the Court had dismissed those parties from this case, with prejudice. – The SAC submitted on February 22, 2018 did not reference as defendants, The North American Spine Society + Dr. Steven Lomazow + Dr. Frank Moore, as is evident from a plain reading of the SAC. These errors of fact are further evidence of the defendants/Court's obstruction of Kaul's efforts to prosecute the case, as is the fact that the Court made null + void the summonses that had been issued to Kaul by the Clerk of the Court, in order that he commence service of process.

73. Kaul: D.E. 239 Page 5615 to 5717 – May 11, 2018: Kaul submitted a fifth revised SAC, despite the fact that the second revision (D.E. 209) omitted all parties/claims that had been dismissed with prejudice by Judge McNulty on June 30, 207 (D.E. 200). The fifth revised SAC contained claims whose construction was identical to those rejected by the Court in the fourth revised SAC, but yet the Court deemed these claims acceptable in the fifth revised SAC, filed on May 11, 2018 and accepted by the Court on June 4, 2018. Below is table that shows the progression of the five versions of the SAC and the Court's reasons as to why all, but the fifth were supposedly not compliant with the rules of the F.R.C.P and or Judge McNulty's opinion, dated June 30, 2017 (D.E. 200):

SAC revisions	Claims dismissed with prejudice on June 30, 2017 (D.E. 200) + Claim construction changes	Parties dismissed with prejudice on June 30, 2017 (D.E. 200)	Length of SAC + exhibits. As agreed per case management conference on October 18, 2017 (D.E. 213) length of	Reasons used by Court to deny revised versions of the SAC	Discovery	Court reference to Rule 9

			SAC was to be 140 pages			
First revision: August 10, 2017: D.E. 204	None present	Christie + Chiesa + Lomazow + Roeder present.	493 Complaint 149 pages Exhibits 344	Order entered on September 6, 2017: D.E. 208. Reasons: **(i)** Filed late (incorrect as per D.E. 203 Page 3773 to 3774); **(ii)** length of "**nearly 500 pages**"; **(iii)** claim construction supposedly non-compliant with Rule 8; **(iv)** "**incorporates over 400 pages in exhibits**" (incorrect); **(v)** not compliant with opinion of Judge McNulty of June 30, 2017 (D.E. 200).	Denied	None
Second revision: September 26, 2017: D.E. 209	None present No claim construction changes	None present	397 Complaint 126 Exhibits 271	Order entered on October 18, 2017: D.E. 213. Reasons: (**i**) "**omits claims already dismissed with prejudice...**"(incorrect as all claims dismissed with prejudice on June 30, 2017 (D.E. 200), had been omitted from the first revision of the SAC - D.E. 204, See columns 2 +3); **(ii)** reduce the exhibit page number (incorrect. See column 4)	Denied	None
Third revision: October 27, 2017: D.E. 214	None present No claim construction changes	None present	151 Complaint 132 Exhibits 19	Order entered on February 8, 2018: D.E. 229. Reasons: **(i)** initial pleading failed to establish a plausible cause of action or subject matter jurisdiction. The initial pleading (D.E. 57) was filed on June 8, 2016, was dismissed without prejudice by Judge	Denied	None

				McNulty on June 30, 2017 (D.E. 200), and thus provided no basis/relevance for the Court's dismissal of the third revision of the SAC. (not cited in previous two opinions D.E. 208 + 213); **(ii)** failed to omit claims "**already dismissed with prejudice and reduce the pages of exhibits.**" (incorrect. See columns 2-4); **(iii)** the third revision of the SAC "**continues to identify Dr. Peter Carmel as a defendant**" (incorrect. See column 3); **(iv)** the third revision of the SAC "**contains and refers to causes of action and predicate acts which have been dismissed with prejudice, including mail and wire fraud.**" (incorrect. See column 2); **(v)** the third version of the SAC "**... at 151 pages, still pushes the limit ...**" (the Court agreed to 140 pages at the case management conference on October 18, 2017); **(vi)** the third version of the SAC "**... and includes what appears to be exhibits of online patient reviews, affidavits recounting hearsay conversations, and self-serving conclusory statements that are not in**		

				compliance with the letter or spirit of Rule 8 of the Federal Rules of Civil Procedure." (D.E. 229 Page 5289) (the Court is improperly making the defendants argument. The question of hearsay is one for trial).		
Fourth revision: February 22, 2018: D.E. 231	None present No claim construction changes	None present	128 Complaint 110 Exhibits 18	Order entered on April 16, 2018: D.E. 238. Reasons: **(i)** initial pleading failed to establish a plausible cause of action or subject matter jurisdiction. The initial pleading (D.E. 57) was filed on June 8, 2016, was dismissed without prejudice by Judge McNulty on June 30, 2017 (D.E. 200), and thus provided no basis/relevance for the Court's dismissal of the third revision of the SAC. (not cited in previous two opinions D.E. 208 + 213); **(ii)** the revised fourth SAC **"... continues to identify, The North American Spine Society ("NASS"), Dr. Steven Lomazow and Dr. Frank Moore as defendants..."(**incorrect. See column 3).	Denied	None
Fifth revision: May 11, 2018 D.E. 239	None present	None present	103	Order entered on May 22, 2018 : D.E. 240. The Court stated, " ... **Plaintiff, Richard Kaul's latest proposed second**	Denied	None

	No claim construction changes			**amended complaint (D.E. 239), and the Court having reviewed Dr. Kaul's proposed pleading and having found that it generally complies with this Court's Opinions and Orders."**		

What the above table demonstrates is the strategy employed by the defendants/Court to obstruct Kaul's prosecution of the case. The three main tactics were:

6. Deny discovery.
7. Enter orders that misrepresented the pled parties + legal claims + exhibit page number of the previous revisions of the SAC.
8. Omit any reference to Rule 9, in the knowledge that although the SAC and the pleadings contained plausibly pled fact sufficient to meet the required pleading standards, it would be used as the 'fallback' basis for a dismissal with prejudice. The defendants/Court employed tactics 1 + 2 with the expectation that Kaul would "**pack his bags and leave**", and avoided any reference to Rule 9, with the understanding that if Kaul did not "**pack his bags and leave**", Rule 9 would become the basis for the dismissal with prejudice.

It is of immense significance that the construction of the legal claims did not change from the first revision to the fifth revision, yet the Court used this factor as an excuse to cause Kaul to 'spin his wheels' filing a total of five revisions with identical claims, with the fifth being found to be legally compliant, but then on February 22, 2019, it was found to be not legally compliant (D.E. 300). Judge McNulty's rushed, back dated order, was a direct consequence of Kaul's motion for summary judgment against Defendant Allstate New Jersey Insurance Company. Allstate Insurance Company has made large 'political' contributions to US Senator, Charles E. Schumer, since the commencement of the case. Senator Schumer is the brother-in-law of Judge Kevin McNulty.

Kaul asserts that from the commencement of the case, there were multiple ex-parte communications between counsel for defendants and the Court, regarding this strategy, to which Kaul was not privy.

74. McNulty: D.E. 300 Page 8193 Page 23 Para. 4: "**On May 11, 2018, Dr. Kaul filed another version of the proposed second amended complaint. (D.E. 239) ... subject of this motion.**"

75. Mannion: D.E. 240 Page 5718 – May 22, 2018: The Court entered an order that the revised version of the SAC as now compliant with this "**Court's prior Opinions and Orders**." The third version, if not the second were compliant with the June 30, 2017

order, and the legal claim constructions had been identical from the first revision of the SAC to the fifth revision of the SAC. The Court continued to deny Kaul discovery, and find continual excuses to obstruct his prosecution of the case.

76. Kaul: D.E. 241 Page 5720 – June 4, 2018: Kaul filed a fifth version of the SAC, the legal claims section of which was identical to the first version. The changes made were simply to the number of exhibits and the length of the pre-claim section. The Court, in its scheme to obstruct the prosecution of Kaul's case, continued to deny him discovery, and enter false reasons as to why a particular revision was not compliant with the June 30, 2017 order. It raised Rule 8 reasons, but made no reference to Rule 9, its 'fallback' excuse for dismissal if Kaul did not "**pack his bags and leave**." These events all occurred under the judicial watch of Judge Kevin McNulty, who as a lawyer represented a number of the defendants, and who was the director of Gibbons, PC law firm, a firm that represents defendants Washburn and North Jersey Media Group. Judge McNulty and or members of his family remain the commercial beneficiaries of monies from Gibbons, PC. Judge McNulty is also the brother-in-law of US Senator Chuck Schumer, who received monies from, amongst others, Defendant Allstate Insurance Company, in the period from the commencement of the case. Judge Steven C. Mannion was the partner of a law firm that sued Kaul in 2005, and counsel for defendant HUMC and Robert Garrett, Liza Walsh is married to the Clerk of the Court, William Walsh. These are just some of the reasons as to why K1 + K2 must and will be removed to the SDNY, where the "**politico-legal nexus**" will have fewer connections to the New Jersey medico-legal community, and where venue is proper.

77. McNulty: D.E. 300 Page 8193 Page 23 Para. 5: "**On June 4, 2018, Dr. Kaul filed the Second Amended Complaint now before this Court. (D.E. 241). The Second Amended Complaint asserts fourteen causes of action:**"

78. Kaul: D.E. 243 Page 5844 to 5861 – June 6, 2018: Kaul submitted a letter regarding an e-mail he had received requesting an interview with a journalist at USA Today, the company that purchased Norther Jersey Media Group in July 2016, several months after Kaul had initiated legal action on February 22, 2016, against Defendants Washburn and North Jersey Media Group. On June 25, 2016 Kaul filed a TRO and PI to block the sale, but on July 10, 2016, the Court declared the motion moot, as supposedly the sale had already been effectuated. Kaul indicated to the Court in his letter of June 6, 2018 that he would amend his complaint to include Gannet Media, the company that purchased North Jersey Media Group, in what Kaul asserted was a fraudulent conveyance, intended to conceal assets. Gibbons PC, Judge McNulty's law firm, represented defendants Washburn and North Jersey Media Group.

79. Kaul: D.E. 249 Page 5875 – July 10, 2018: Kaul submitted a letter to the Court that was directed at Kaul v Christie: 18-CV-08086 – K2, and was with regards to the fact that an order signed by Judge McNulty on April 23, 2018 in K2 (D.E. 5 Page 510), instructing the US Marshal Service to serve the Summons + Complaint on the defendants, had not been

effectuated. Kaul stated, "**On July 9, 2018 I visited the Office of the US Marshall, as I had not received any receipts of service, as I was rather concerned that service would not be effectuated within the permitted ninety (90) day period.**" It required an in-person visit from Kaul to ensure service commenced. This was simply another example of the delay tactics that had been employed in the federal court in Newark.

80. Defendants: D.E. 255 Page 5882 – July 26, 2018: Counsel for defendants Washburn + NJMG, and on behalf of all defendants, submitted a letter that incorrectly asserted that K1 and K2 were "**substantially the same**", and requested a telephone conference in order to procure guidance from the Court, as to how to respond to K2. The Court continued to deny Kaul discovery.

81. Mannion: D.E. 256 Page 5891 – July 30, 2018: Judge Mannion scheduled a conference regarding the defendants course of action in K2. The Court continued to deny Kaul discovery.

82. Defendants + Kaul: D.E. 257 to D.E. 295 Page 5892 to 6844 – Page 5892 to 6839 – August 15, 2018 to December 12, 2018: The defendants filed motions to dismiss and Kaul filed his replies and a motion for default and default judgement against Defendant Stein. These are further detailed below in **ANALYSIS OF SECOND SECTION OF JUDGE MCNULTY'S OPINION (D.E. 300 PAGE ID 8197 TO 8217.**

83. Kaul: D.E. 296 Page 6847 to 7011 – January 17, 2019: Kaul submitted a letter that alerted the Court to Defendant Allstate's proposed procurement of a judgment against Kaul in a state matter (Allstate v Kaul – UNN-L-322-15), in which Kaul asserted the judge, Mark P. Ciarrocca, had received bribes from Defendant Allstate New Jersey Insurance Company. Kaul moved the Court to consider these judgments null + void. This matter is now on appeal in the New Jersey Appellate Division, and the judge is now the subject of a complaint with the Advisory Judicial Committee. His predecessor, Kenneth J. Grispin, is now a defendant in a civil rights/racial discrimination action filed in the United States Court for the Northern District of Georgia (1:19-CV-0739). The Court continued to deny Kaul discovery.

84. Kaul: D.E. 299 Page 7017 to 8170 – February 11, 2019: Kaul filed a motion for summary judgment against Defendant Allstate.

85. Defendant Allstate: D.E. 298 Page 7014 to 7016 – February 15, 2019: Defendant Allstate submitted a letter that requested the Court not publish the motion to the Court docket.

86. McNulty: D.E. 300 Page 8197 to 8217 – February 22, 2019: Kaul has identified, above, the factual errors/omissions in the Judge McNulty's opinion up to Page ID 8193 Page 23. The following analysis identifies the remainder of the errors of law + fact from Page ID 8197 (Page 27/47) to 8217 (Page 47/47), and addresses the docket entries of Kaul + defendants to the final entry of D.E. 305. This final section is organized in this manner as

it juxtaposes the multiple errors/omissions/acts of the second section (Page 27 to 47) of Judge McNulty's opinion (D.E. 300) with the evidence + facts + law of the pleadings pertaining to the fifth version of the SAC:

87. McNulty: D.E. 300 Page 8197 Page 27 Para.1: "**Five motions to dismiss ... filed a separate brief in support of the Omnibus Motion to Dismiss (D.E. 261).**"
Kaul: Judge McNulty ignored the motion for summary judgement against Defendant Allstate New Jersey Insurance Company (D.E. 299). In fact, Kaul asserts it was the filing of this motion that caused the rushed publication of his opinion, one that was transmitted on February 25, 2019, but was back-dated to February 22, 2019.

88. Kaul: D.E. 268 Page 6390 to 6496 – October 29, 2018: Kaul submitted his opposition to the defendants omnibus brief, in which he rebutted every argument and differentiated/undermined every citation upon which they had advanced their defenses. In their response to this document, none of the defendants raised any arguments that revived their defenses.

89. Kaul: D.E. 269 Page 6497 to 6511 – November 1, 2018: Kaul submitted his opposition papers to Defendant Mitchell's supplemental brief regarding his preclusion defenses. Kaul's arguments were not rebutted in Defendant Mitchell's reply, and Kaul filed a supplementary brief that further undermined the arguments contained in Defendant Mitchell's reply brief.

90. McNulty: D.E. 300 Page 8197 to 8198: McNulty omitted from his opinion, any reference to Kaul's opposition.

91. Kaul: D.E. 269-1 Page 6514 to 6525 – November 1, 2018: Kaul submitted his opposition papers to Defendant Allstate's supplemental brief containing their purported litigation privilege defenses. Kaul's arguments were not rebutted in Defendant Allstate's reply, and neither did they deny Kaul's allegations of bribery and political corruption.

92. McNulty: D.E. 300 Page 8197 to 8198: McNulty omitted from his opinion, any reference to Kaul's opposition.

93. Kaul: D.E. 273 Page 6547 to 6558 – November 6, 2018: Kaul submitted his opposition papers to Defendants Washburn + NJMG, both of whom were represented by the law firm of Judge McNulty, Gibbons PC.

94. McNulty: D.E. 300 Page 8197 to 8198: McNulty omitted from his opinion, any reference to Kaul's opposition.

95. Kaul: D.E. 278 + 279 + 280 + 281 Page 6596 to 6632 – November 13, 2018: Kaul filed motions for default and default judgment against Defendant Stein, who had failed to answer or otherwise plead, at any point in the case. This was the second motion that

Kaul filed for default + default judgment, and as with the first, it denied by Judge McNulty, not because he believed Defendant Stein was confused about venue, but because he believed that if Defendant Stein had entered a defense, he would have submitted the same defenses as the other defendants, albeit that these defenses were dismantled by Kaul in his reply papers (D.E. 300 Page 8199 to 8200). Of note is the fact that despite Kaul making Judge McNulty aware of Defendant Stein's lies to the Court, he failed to either enter default judgment or refer him to the Ethics Committee of the New Jersey Supreme Court (D.E. 305 Page 8290 to 8295). Judge McNulty's action in regard to Defendant Stein was a gross abuse of discretion, if not more. Further evidence of why K1 + K2 must be transferred back to the SDNY, where such egregious violations will become remote, consequent to a substantially muted "**politico-legal nexus**", the rampant and resultant corruption of which in New Jersey, has perverted the course of justice this case.

96. Kaul: D.E. 283 Page 6636 to 6660 – November 19, 2019: Kaul filed opposition papers (sur-reply) to Defendant Mitchell's Reply papers to Kaul's opposition to Defendant Mitchell's supplemental brief.

97. McNulty: 300 Page 8198 Page 28 Para. 1: Judge McNulty stated, "**I will consider Dr. Kaul's sur-reply**.", but in actuality, as with every argument Kaul filed in his opposition papers to the defendant omnibus + supplemental briefs, Judge McNulty provided no legal analysis of the arguments, that do indeed prove Kaul's claims and dismantle the defendants' defenses, as Kaul made evident in his motion for summary judgment against Defendant Allstate New Jersey Insurance Company (D.E. 299). **Judge McNulty's opinion (D.E. 300) ignored the entire body of law + fact presented in the briefs filed from August 15, 2018 to December 12, 2018.** His conclusion is indeed "**conclusory**" and is not based upon a proper analysis of the law and its application to the submitted facts/evidence within the case. The irony is that Judge McNulty has accused Kaul's claims of being "**conclusory**", but it his opinion that lacks analytical substance. It was an opinion issued in a rushed reaction to Kaul's motion for summary judgment against Defendant Allstate New Jersey Insurance Company, a fact that explains it's multiple errors of fact and law.

98. Kaul: D.E. 284 Page 6704 to 6746 – November 19, 2018: Kaul submitted a supplemental submission in support of his opposition to Defendant Allstate's supplemental brief. It contained evidence + fact + argument submitted in a state case (Allstate v Kaul -UNN-L-322-15) that pertains to judicial corruption, and Defendant Allstate New Jersey Insurance Company's bribing of state court judge, Kenneth J. Grispin. After Kaul filed a motion in July 2018 for Grispins recusal, he suddenly retired and became a partner in a local law firm. However, he is now a defendant in a civil rights case pending in the United States District Court for the Northern District of Georgia (Patel v Allstate - 1:19-CV-0739), in which he, along with Defendant Allstate is accused of having engaged in policies of racially profiling and discriminating against Indian physicians. Defendant Allstate is desperately fighting to have the case transferred to one of its corrupted

courts in New Jersey. Within this submission, Kaul also details how a case filed against Kaul/other physicians in Judge McNulty's court on April 27, 2013 that made a multitude of claims pertaining to violation of healthcare statutes was dismissed in its entirety on December 8, 2014, with no evidence ever having been submitted in support of any of the frivolous claims. The truth of this entire insurance industry/court debacle is that NJ courts/judges/lawyers/politicians have been bribed by defendants Allstate + Geico for a period of almost twenty-two (22) years. These facts are pled in Patel v Allstate (1:119-CV-0612 + Patel v Allstate/State of NJ 1:19-CV-0739), both actions pending in the United States District Court for the Northern District of Georgia.

99. McNulty: 300 page 8197 to 8198: Judge McNulty omitted this supplemental submission from his opinion, as it contained allegations of judicial corruption, of which it is possible that he, because of his brother-in-law relationship with Senator Charles Schumer (received monies/donations/bribes from defendants) and his/his family stake/stocks in Gibbons PC, is guilty. This is why K1 + K2 must + will be retransferred to the SDNY.

100. Defendant Stein: D.E. 282 Page 6634 to 6635 – November 26, 2018: Defendant Stein, almost three (3) years after the case commenced, filed a two-page document in which he lied to the Court, that he had retired from the practice of law.

Preliminary Applications

101. McNulty: D.E. 300 Page 8198 to 8199 Page 28 Para.5 to Page 29 Para.2: Judge McNulty has misrepresented the contents of a letter that Kaul sent to a journalist from USA Today, on June 6, 2018. Gannet Media, which owns USA Today, purchased defendant NJMG on July 7, 2016, and thus the basis of Kaul's letter was not to suppress free speech, but to prevent a media defendant from using its media platform to pervert the course of justice. Judge McNulty, based on his false representation of the facts surrounding this incident, has used this misrepresentation as the basis for denying Kaul the right to amend the SAC.

102. McNulty: D.E. 300 Page 8199 to 8200 Page 29 Para. 3 to Page 30 Para. 3: Based on this two-page fraud, Judge McNulty denied Kaul's second motion for entry of default judgment, and ordered the Clerk of the Court to rescind the order of default. This was against the law, but at the very least constitutes a gross abuse of discretion, and a gross violation of Kaul's civil rights and his Constitutionally right to due process. Significantly, Judge McNulty mischaracterized Kaul's request that he refer Defendant Stein to the Ethics Committee of the New Jersey Supreme Court, as a claim. It was not a claim, but simply a request that Judge McNulty, as is required by his code of judicial conduct, refer matters of lawyer dishonesty, when brought to their attention and when there exists probable cause. Judge McNulty did not only not refer the matter, but then used his opinion as cover for Defendant Stein's professional misconduct.

103. Kaul: D.E. 286 Page 6748 – November 27, 2018: Kaul submitted a letter, in response to Defendant Stein's 'opposition' that his absence from the case prohibited him from asserting any defense, as dishonest and frivolous as it actually was, **"Defendant Stein's retirement is irrelevant to the claims of racketeering and aid in the commission of tort ... name remains on the placard outside his office**."

104. McNulty: D.E. 300 Page 8199 to 8200 Page 29 Para. 3 to Page 30 Para. 3: Judge McNulty incredulously claimed that the basis for his dismissal of Kaul's motions for default and default judgment were "**vacated for the same reasons I previously vacated default against Stein (D.E. 282; see also D.E 202).**" This is a false statement. The reason given on July 7, 2017 (D.E. 202 Page 3767) was, "**The recipient [Stein] might well have been confused, however, by the attachment of a caption indicating that the defendant is being sued in the Southern District of New York, where the case was previously venued**." The reason given on February 22, 2019 (D.E. 300 Page 8200) is, "**Finally, given the confusing nature of Dr. Kaul's still quite prolix Second Amended Complaint, I cannot find that Stein's failure to appear and defend was willful.**" Judge McNulty ignored the fact, asserted in Kaul's motion for default judgment, that Defendant Stein signed document entitled CONFIRMATION OF SERVICE, that verified his personal receipt of the summons + complaint on November 10, 2017 (D.E. 281-5 Page 6627). Judge McNulty also ignored the authority of the United States Supreme Court in Carpenters

Health, which held, "**In any event, since Defendants have not made an appearance, this Court is "not in a position then to determine whether Defendants have a meritorious defense or whether any delay is the result of culpable misconduct." (D.E. 281-2 Page 6616 – Carpenters Health, 1995 WL 20848* 2 (E.D. Pa 1995). Judge McNulty then went onto find that, "Dr. Kaul will not be prejudiced if default is vacated." (D.E. 300 Page 8200 Page 30 Para. 2), despite the fact that Kaul had argued, "In this same vein, because Kaul has "no other means of vindicating its claim against" Defendant Stein, Kaul will be prejudiced if the default judgment is not granted. Asher, 2006 US Dist. LEXIS 14027, 2006 WL 680533*2 (granting default judgment where defendant "has not responded in any fashion, "has not asserted any meritorious defense," and has not "offered any excusable reason for his default."** (D.E. 281-2 Page 6616).

105. Kaul: D.E. 288 Page 6751 to 6760 – November 28, 2018: Kaul submitted a letter in response to Defendant Stein's purported 'opposition', in which he demonstrated that Defendant Stein had lied to the Court regarding his alleged "**retirement**" from the practice of law. Kaul verified with the New Jersey Bar and Ombudsman of the Morris County Superior Court, that Defendant Stein was still practicing law. Kaul moved the Court, once again, to enter default judgment. It did not, and on February 22, 2019 it denied Kaul's motion, in contravention of the law. Judge McNulty's excuses for not entering default judgment (prolix SAC + lack of prejudice to Kaul + lack of willful misconduct by Stein) are not supported by the facts or law. This decision is clearly wrong.

106. Defendant Heary: D.E. 290 Page 6763 – December 6, 2018: Defendant Heary filed a supplemental brief in support of is motion to dismiss Kaul's claims.

107. Defendants Washburn + NJMG: D.E. 291 Page 6780 – December 7, 2018: Defendants Washburn + NJMG filed a supplemental brief in support of their motion to dismiss Kaul's claims

108. Defendants: D.E. 294 Page 6799 – December 12, 2018: Defendants filed an omnibus reply brief in response to Kaul's opposition (D.E. 268 Page 6392) to their omnibus brief (D.E. 260 Page 6251) for dismissal of Kaul's claims.

109. Defendant TD + Kothari: D.E. 295 Page 6839 – December 12, 2018: Defendants TD + Kothari filed a reply to Kaul's opposition (D.E. 272 Page ID 6531) to their supplemental brief for claim dismissal (D.E. 261 Page 6353).

110. Kaul: D.E. 296 Page 6847 – January 17, 2019: Kaul submitted a letter that sought the Court consider null + void any judgments that emanated from the Union County Court of the New Jersey Superior Court system, in the matter of Allstate v Kaul (UNN-L-322-15). The basis for Kaul's submission, was the fact that the judge, Mark P. Ciarrocca, refused to recuse himself upon motion from Kaul, a motion based on the fact that he

was appointed to the bench by K2 defendant Christopher J. Christie, and allegations that he, like defendant Grispin, had received bribes from defendant Allstate. Judge McNulty did not respond to the letter or refer the matter to federal authorities for investigation into the allegations of judicial corruption.

111. Defendants CNS + Wolfla: D.E. 297 Page 7012 – January 24, 2019: Defendants CNS + Wolfla noticed the Court re: substitution of counsel.

112. Kaul: D.E. 299 Page 7017 – February 11, 2019: Kaul filed a motion for summary judgment against Defendant Allstate New Jersey Insurance Company. This motion is pending.

113. Defendant Allstate: D.E. 298 Page 7014 – February 15, 2019: Defendant Allstate New Jersey Insurance Company submitted a letter seeking to have Kaul's motion for summary judgment NOT published to the court docket.

114. McNulty: D.E. 300 Page 8197 Page 27 Page 2: "**On November 6, 2018, Dr. Kaul filed the following: ((1) an opposition to the Omnibus Motion to Dismiss (D.E. 268); (2) an opposition to the brief in support filed by the TD Bank Defendants (D.E. 272); and (3) an opposition to motion to dismiss of Dr. Heary (D.E. 276).**" Judge McNulty omitted the following facts: **(1)** on October 29, 2018 Kaul submitted his opposition to the defendants' omnibus brief (D.E. 268); **(2)** on November 1, 2018 Kaul submitted his opposition to Defendant Mitchell's supplemental brief (D.E. 269); **(3)** on November 1, 2018, Kaul submitted his opposition to Defendant Allstate's supplemental brief (D.E. 269-1 Page 6512); **(4)** on November 6, 2018 Kaul submitted his opposition to Defendant Washburn + NJMG supplemental brief (D.E. 273 Page 6547)

115. McNulty: D.E. 300 Page 8198 Page 28 Para. 2. "**On November 27, 2018, Dr. Kaul filed a letter reply. (D.E. 286).**" Judge McNulty, in contrast to his lengthy, and prejudicially purposed recitation of the perjury of patient T.Z., suborned by K2 defendant, Hafner, omitted to reference the contents of Kaul's letter, " **... Defendant Stein's absence from the case prohibits his submission of any defense...**" (D.E 286 Page ID 6748 – November 27, 2018), and the fact that Defendant Stein had lied to the Court when he stated, "**I took permanent medical leave (retirement) from my ... association with the law firm ...**" (D.E. 282 Page ID 6634). Kaul brought this lie to the attention of Judge McNulty with a letter filed/date stamped on November 29, 2019, "**On November 28, 2018 ... I spoke with a representative in the Court User Resource Center, Office of the Ombudsman at the Morris Country Superior Court ... Defendant Stein I still practicing law.**"(D.E. 305-1 Page 8294). This letter was not published to the Court docket, which caused Kaul to submit a letter to the Court on February 26, 2019 (D.E. 305), in which he stated, "**I would also like to bring to the Court's attention, the fact that a letter I filed on November 29, 2018, was not posted to the court docket (Exhibit 1).**" In this letter Kaul also raises the fact that the Court had denied him discovery for a period of three (3) years, "**With regards to discovery this case has been in existence for three (3) years,**

having been filed on February 22, 2016 ... the Court has prohibited me from engaging in any discovery from either the defendants or any third-party witnesses. I do not consider this to be consistent with Rule 1 of the Federal Rules of Civil Procedure." (D.E. 305 Page 8290).

116. McNulty: D.E. 300 Page 8198 Page 28 Para. 2: "**Dr. Kaul filed a second letter in support of default judgment.**". Judge McNulty omitted any critical text from the letter, in which Kaul requested Judge McNulty refer Stein to the "**Ethics Committee of the New Jersey Supreme Court.**" (D.E. 288 Page ID 6751). Kaul does not believe that Judge McNulty, as is required by his code of judicial conduct, actually referred Defendant Stein for having lied to the Court. As stated in 1777 by William Pitt, "**where law ends, tyranny begins**". This comment was made in the context of the American War of Independence, in support of the colonialists fight for independence. These men did not give their lives so that men such as Lewis Stein, who swore oaths to uphold the Constitution and follow the law, could then lie with impunity in an American court of law, while acting as officers of the court. This is a tragic/system broken/swamp like state of affairs, but one that Kaul assures this Court, he will continue to fight until justice is done. The corruption within the body politic and those of the lower courts is pervasive + profound, and is a plague, the extent of which this country has never experienced. America has become a kleptocracy, is no longer a democracy, which is why ex-president, Jimmy Carter, has attached his name/support to public campaigns fighting for campaign finance reform.

117. McNulty: D.E. 300 Page 8198 to 8199 Page 28 Para. 5 to Page 29 Para. 2: "**... The Second Amended Complaint is the product of four drafts ...**". While this is a technically true statement, what Judge McNulty does not place on the record is that the defendants/Court had Kaul 'spinning his wheels' and causing him to illegitimately revise the SAC based on knowingly false orders, as is detailed above. The purpose of this part of the delay/hope he goes away/"**pack his bags and leave**" strategy was to obstruct Kaul's prosecution of the case (justice denied is justice delayed), and when it did not work, suddenly Rule 9 became the 'fallback' excuse for the dismissal with prejudice. That is why amendment is unnecessary, as all of the facts required to meet the "**who, what, where, how and even why**" elements of the case are contained within Kaul's pleadings submitted on October 29, 2018 (D.E. 268) + November 1, 2018 (D.E. 269) + November 6, 2018 (D.E. 272) + November 6, 2018 (D.E. 273) + November 6, 2018 (D.E. 276) + November 19, 2018 (D.E. 283) + November 19, 2018 (D.E. 284) + November 28, 2018 (D.E. 288) + January 15, 2019 (D.E. 296). However, assuming amendment is necessary and based on all of the foregoing facts, if the court does not reconsider its position and deny the defendants motions, Kaul will move the court to grant amendment in order to insert into the Third Amended Complaint facts that are already within the record. It was Kaul's motion for summary judgment against Defendant Allstate (D.E. 299), his arguments and the contents of Exhibit 18: 'The Solomon Critique 2', that caused the Court to hurriedly issue an opinion replete with error of fact and law, and one that contains no legal analysis of the law cited by the defendants and its

subsequent differentiation by Kaul. The purpose of this was shut Kaul down as quickly as possible, as the summary judgment motion contained irrefutable evidence.

118. McNulty D.E. 300 Page 8199 to 8200 Page 29 Para. 3 to Page30 Para. 3: Judge McNulty's explanation for denying Kaul's motion for default judgment against Stein has no basis in the law or the facts of the case. Defendant Stein's refusal to plead or otherwise answers mandated entry of default and default judgment. However, as further evidence of the legal error in Judge McNulty's opinion he recited Defendant Stein's two-page 'opposition' and characterized his defenses as: (1) "**the Second Amended Complaint fails to state a claim**" – what Stein actually stated was, "**On essentially the same allegations this Court in a previous application to Enter a Default Judgment on July 7, 2017 "concluded Kaul's claims failed to state a claim (D.E. 202 Page ID 3770).**"(D.E. 282 Page ID 6634). Kaul had differentiated the claims of the FAC from the SAC (D.E. 231-1 Page 5419 to 5421). Judge McNulty knew that the claims in the FAC and the SAC were different, but yet used Defendant Stein's false argument in support of his denial of Kaul's proper motion for entry of default judgment. Clear error; (2) "**default should be vacated for the same reasons I previously vacated default against Stein (D.E. 282; see also DE 202)"**. The reason given by Judge McNulty on July 7, 2017 pertained to Defendant Stein's purported confusion with regards to venue (D.E. 202 Page 3768). Kaul however ensured that Defendant Stein signed a CONFIRMATION OF SERVICE receipt to ensure there was no confusion (D.E. 281-5 Page ID 6627), and thus this reason did not exist, and Judge McNulty had no basis to deny Kaul's motion for default judgment. Judge McNulty, in furtherance of the Court's inexplicable departure from the law, believed it relevant to repeat Defendant Stein's irrelevant and false assertion that he had retired from the practice of law. Kaul proved this to be a lie, and submitted a letter to the Court on November 29, 2019, that was not posted to the docket, until Kaul re-submitted it as **Exhibit 1** to a letter filed on February 26, 2019 (D.E. 305 Page ID 8290 to 8366). **Exhibit 2** is a copy of the case report in which Judge McNulty, while in private practice at his law firm, Gibbons, PC, represented two of the defendants in K1 + K2, and Exhibit 3 is a copy of the brief Kaul filed on July 14, 2016 in the United States Federal Court of Appeals for the Second Circuit, in which he vigorously and vehemently argued that he would not receive "**substantive justice**" in New Jersey.
Judge McNulty has not differentiated the law cited to by Kaul in support of his motion for default judgment (D.E. 281-2 Page 6605), and this includes FRCP 55(a) + FRCP 55(b)(2). Instead he has cited to FRCP 55(c) which states, "**The court may set aside an entry of default for good cause, and it may set aside a final default judgment under Rule 60(b).**" Judge McNulty then cites to Gross v Stereo Component Systems, Inc., 700 F.2d 120, 122 (1983). This case, however, in light of the facts, claims and parties to K1 is unsupportive of Judge McNulty's finding. The court asks three questions pertaining to: **(i)** prejudice to the plaintiff – Kaul, as argued in the motion, "**Kaul asserts that Defendant Steins's lack of response did prejudice Kaul's legal rights, because Kaul was denied his right to examine Defendant Stein's defense arguments, and thus his re-drafting of the Second Amended Complaint was foreclosed from the benefit of this information**"; **(ii)** meritorious defense – Kaul filed two charges against Defendant Stein:

(a) COUNT FOUR: VIOATIONS OF 18 U.S.C. § 1962(C)-(D), THE RACKETEER INFLUENCED AND CORRUPT ACT ORGANIZATIONS ACT, 18 U.S.C. § 1961, ET SEQ; (b) COUNT FOURTEEN: AID IN THE COMMISSION OF TORT. Judge McNulty argues that Defendant Stein would have been the beneficiary of Kaul's alleged Rule 9 pleading deficiencies, the basis of the dismissal of the RICO counts, but he had no meritorious defense against COUNT FOURTEEN; **(iii)** willful misconduct- Defendant Stein, after having signed a CONFORMATION OF SERVICE and in the knowledge that the case was pending in the District of New Jersey, willfully failed to answer or otherwise plead. This is factually alien to the finding in Gross that the defendants failure to answer was not willful. In Gross, the reason for the defendants failure to answer pertained to a "**serious breakdown in communication between Griffin [lawyer] in Boston and Sigmund [lawyer] in Philadelphia**." Defendant Stein is a lawyer, is self-represented and received and signed for the summons and complaint. Judge McNulty quotes the court, "**As a general matter**", defaults are disfavored, but omits the next part of the holding, "**that in a close case doubts should be resolved in favor of setting aside the default and reaching a decision on the merits."** This is not a "**close case**". Defendant Stein willfully ignored the case, until I filed a motion for default judgment, and then submitted a two-page letter, in which he was caught lying to the United states Federal Court. The case upon which Judge McNulty rests his opinion hurts, more than helps, in the context of Defendant Stein's fact pattern; **(iv)** lesser sanctions – Judge McNulty cites to Gold Kist, Inc, v. Laurinburg Oil Co., 756 F.2d 14, 19 (3d Cir. 1985) in what appears to be support for consideration of the fourth factor in determining whether to set aside default/default judgment. This case is of no use to his opinion, as first of all the Gold Kist Court did not enter a sanction less than default judgment, nor is there any reference to the issue of a lesser sanction, and secondly even if there were, Judge McNulty did not enter a lesser sanction against Defendant Stein. Instead he manufactured excuses for his colleague's willful disregard of the case for three (3) years. Judge McNulty's refusal to enter default and default judgment materially prejudiced Kaul's prosecution of the case, and is reversible error.

Legal Standard: Motion To Dismiss

119. McNulty: D.E. 300 Page 8200 Page 30 Para. 4: "**The defendant, as the moving party, bears the burden of showing that no claim has been stated. Animal Science Products, Inc. v. China Minmetals Corp., 654 F.3d 462 n 9 (3d Cir. 2011)".** This citation does not assist the Court. The specific citation is, **"... the defendant carries the burden in a Rule 12(b)(6) motion**". The Animal Science Court did not restrict the motion to only the complaint, but refers to the motion in general and thus all of the pleadings surrounding the motion. Kaul has, within the SAC and the subsequent motion pleadings, pled plausible fact in support of each of the elements of all of the claims.

120. McNulty: D.E. 300 Page 8200 Page 30 Para. 4: **"For the purposes ... New Jersey Carpenters ... (3d Cir. 2014).** This citation does not assist the defendants or the Court, as it held that, "**To survive a motion to dismiss pursuant to Fed. R.Civ.P. 12(b)(6), a plaintiff must allege "enough facts to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007). A complaint has facial plausibility when there is enough factual content "that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged ... draw all reasonable inferences in favor of the plaintiff. Phillips, 515 F.3d at 231."** The Court makes no reference to Rule 9, and does not state that the "**who, where, when, how**" or even why, are limited to the claim section, as oppose to the entire complaint, inclusive of the pre-claims fact sections. The SAC contains the who, the where, the when and the how, that would permit the "**court to draw the reasonable inference that the defendant/s is/are liable for the misconduct alleged**." The evidence in this case of the defendants' wrongdoing is overwhelming, and provides "**enough factual content**", despite the Court's three (3) year discovery prohibition. Kaul's pending motion for summary judgment proves the claims, disproves the defendants defenses and thus this Court must either deny the motion and face appeal, or reinstate the complaint, and permit Defendant Allstate to respond to the motion.

121. McNulty: D.E. 300 Page 8201 Page 31 Para. 3: "**However, a plaintiff alleging fraud ... Rule 9(b) ... the who, what, when, where and how of the events at issue." US ex rel. Moore & Co., P.A. v. Majestic Blue Fisheries, LLC, 812 F.3d 294, 307 (3d Cir. 2016) (citing In re Rockefeller Ctr. Props., Inc. Securities Litig., 311 F.3d 198, 217 (3d Cir. 2002))**". This case is unsupportive of the Court's opinion, as the relator was afforded the opportunity of discovery, albeit in an unrelated matter, and because of that discovery was able to plead more specific fact in support of his fraud allegation against the Korean fishing company. If, however, the unrelated matter yielded no information that "**materially**" added to the claim, then the Court might have referenced Rule 9(b) in a consideration for dismissal. The analogy of this in the instant matter, is that if this Court had permitted Kaul limited discovery, and that limited discovery provided no fact consistent with that required by Rule 9(b), then this Court could justifiably use Rule 9(b) as a basis for dismissal. The fact, however, is that this Court and every other court within

the geographical boundaries of the State of New Jersey, has prevented Kaul from procuring discovery (Kaul v Christie: 18-CV-08086 – K2 – D.E. 2 Page 23 Para. 63 + 64 + 66 + 67 + 105), "**64. On June 13, 2012 Kanefsky's motion to rescind the consent agreement was argued before Defendant NJBME and once again Defendant Chiesa and Kanefsky ignored testimony subpoenas and had them quashed by Defendant NJBME. The Plaintiff's right to cross examine parties who were seeking to deprive him of his property violated his Fourteenth Amendment right to due process (Exhibit 5-21:9**." ... "**66. On June 13, 2012 ... defendant Hafner did not produce these witnesses ... The subpoenas were then quashed by Defendant NJBME, and the Plaintiff was denied his right to due process.**" ... "**67. The Plaintiff never had the opportunity to cross-examine Defendants Chiesa, Hafner ... and his testimony subpoenas were quashed by Defendant NJBME.**" ... "**105. The Plaintiff's Complaint has been pending in the DNJ for two (2) years, during which the Plaintiff's efforts at discovery have been quashed or denied...**" ... "**108. The Union County Court has repeatedly denied the Plaintiff's requests for discovery in Allstate v Kaul (Docket No. UNN-L-322-15 (Exhibit 22)**" ... "**110. The same judge, in December 2016 and February 2017 in the matter of Santos v Kaul (Docket No. UNN-L-322-15) quashed deposition and document subpoenas served by the Plaintiff on Third Party Witnesses, the majority of whom are neurosurgeons (Exhibit 24).**" ... "**112. The irrefutable evidence of the administrative, state and federal proceedings indicate that the Plaintiff has not been the recipient of Justice in New Jersey, and has, at least since 2012 been the victim of a profoundly corrupt politico-legal network, that has suppressed the Plaintiff's efforts at gathering evidence necessary to defend his interests...**" Judge McNulty has ignored and omitted any reference to Kaul's argument/cited law pertaining to the pleading requirements pursuant to Rule 9(b) (D.E. 268 Page 6468), in which the Court in Skeen v BMW of N.Am., LLC, No. 2:13-CV-1531-WHW-CL, 2014 WL 283628 held, "**But plaintiffs who fail to strictly follow this "newspaper story" approach can still overcome Rule 9)b) as long as they "otherwise inject precision or some measure of substantiation" into the allegation. Frederico, 507 F.3d at 200 (citation omitted). "Courts should, however, apply the rule with some flexibility and should not require plaintiffs to plead issues that may have been concealed by the defendants," Rolo. 155 F.3d at 658 (citation omitted). The purpose of the heightened pleading standard is to "place the defendants on notice of the precise misconduct with which it is charged." Frederico, 507 F.3d at 200**." Similarly, the defendants, in their reply (D.E. 294 Page 6799 to 6836) to Kaul's opposition to their Omnibus Brief, did not rebut Kaul's analysis of their citation. Judge McNulty (D.E. 300 Page 8206) states, "**If a conspiracy so vast and all-encompassing had existed, it surely would left some trace in the form of facts that could be cited by the plaintiff**." Well, that "**some trace**" is found within the evidence that began appearing in the case with the submission of 'The Zerbini Certification' (D.E. 205-1), through 'The Solomon Critique' (D.E. 225) to the evidence submitted in support of Kaul's motion for summary judgment against Defendant Allstate New Jersey Insurance Company (D.E. 299 Page 7017 to 8170), which Kaul asserts is proof of his claims, disproof of the defendants' defenses and is to the mind of any reasonable man, far more than a "**trace**". Kaul asserts that this is just further evidence of the corruption

that the defendants have wrecked upon this Court, and further evidence of why K1 + K2 should have remained in the SDNY. This Court, consequent to the "**politico-legal nexus**" is hopelessly conflicted. Similarly, Judge McNulty's criticism of Kaul's assertion that some of the facts are "**hidden**" as being a "**circular**" and "**speculative**" proposition, not consistent with remediation, is false. The Court has consistently denied Kaul's requests for limited discovery in both K1 + K2, has quashed any and all third-party subpoenas, has prohibited Kaul from commencing discovery, and has denied every motion he has filed to compel discovery and or enter default/default judgment against defendants Stein + Moore. The simple solution to this massive effort to obstruct Kaul's prosecution of the case, is to permit his limited discovery requests. Neither the Court nor the defendants have cited any credible reason as to why Kaul should not be permitted to commence limited discovery. This overall scheme of "**lets drag the case out long enough, prevent him from obtaining evidence, drain his resources and then he will "pack his bags and leave""** is inconsistent with Rule 1 of the FRCP, and is an ill-intended strategy that points to the defendants' guilt. It is however, incidentally, also inconsistent with Judge Mannion's characterization of Kaul, on October 18, 2017, as "**The Man of Steel**". The more one hits steel, the harder it gets.

122. McNulty: D.E. 300 Page 8201 Page 31 Para. 3: Judge McNulty's reliance on the "**some measure of substantiation**" proposition of Frederico v. Home Depot, 507 F.3d 188, 200 (3d Cir. 2007) (citing Lum. V. bank of Am., 361 F.3d 217, 224 (3d Cir. 2004) is unhelpful, as the SAC does indeed plead substance, "... **which was formed for the purpose of bribing Christie, in order to have the medical board revoke the Plaintiff's license**." (D.E. 241 Page ID 5746) ... **"... and disseminate false allegations that he had engaged in insurance fraud.".**

123. McNulty: D.E. 300 Page 8202 Page 32 Para. 2: The Court's citation to Giercyk v. Nat'l Union Fire Ins. Co. of Pittsburgh, No. 13-6272, 2015 WL 7871165, at *2 (DNJ Dec. 4 2015) states with regards to Rule 9(b), "**Plaintiffs may satisfy this requirement by pleading the 'Date, place or time of the fraud, or through 'alternative means of injecting precision and some measure of substantiation into their allegations of fraud." Lum v. Bank of Am.. 361 F.3d 217, 225 (3d Cir. 2004),** is consistent with the fifth revision of the SAC, which contains "**precision and some measure of substantiation into their allegations of fraud**". See D.E. 241 Page 5745, "**135. In furtherance of the scheme, Defendants Kaufman, Staats, Heary, Przybylski and Mitchell each affirmatively misrepresented or concealed from their professional society members, the existence of bribes, and the fraudulent nature and purpose of the scheme to revoke the Plaintiff's license ... Specifically, these Defendants claimed that the monies paid to Governor Christie, were intended to assist them in their efforts to counter pending fee reductions ... when, in fact, they were quid pro quo payments to Governor Christie to have the Plaintiff's license revoked." + "137. In exchange for the bribes paid by Defendants Staats and ASIPP, one of Staats' partners was appointed to the medical board, a position he used to block the Plaintiff's application in 2014 for license reinstatement." + "142. Each participant in the CAC RICO Enterprise had systematic**

linkages to each other through corporate ties ..." + "144. Without each CAC RICO Defendants' willing participation ... through communications of which Plaintiff cannot fully know at present, because such information lies in the Defendants' and others' hands." + "145 ... the CAC RICO Defendants each of whom is a person ... did knowingly conduct or participate, directly or indirectly, in the affairs of the CAC RICO Enterprise through a pattern of racketeering ... the use of the mail and wire facilities, in violation of 18 U.S.C. 1341 (mail fraud) and 1343 (wire fraud)" + "149. In devising and executing the illegal scheme, the CAC RICO Defendants ... defraud the Plaintiff of the property rights of his reputation, medical license and healthcare business by communicating to the public and the Plaintiff's patients, that the Plaintiff was not qualified to perform minimally invasive spine surgery, a materially false representation."

124. McNulty: D.E. 300 Page 8202 Page 32 Para. 2: The Court cites to Mladenov v. Wegmans Food Markets, Inc., 124 F.Supp. 3d 360, 372 (DNJ 2015). This Court states, with regards to Rule 9(b) "**Rule 9(b) requires a plaintiff to plead enough factual information to put the defendant on notice of the "precise misconduct with which [it is] charged". Frederico v. Home Depot, 507 F.3d 188, 200 (3d Cir.2007) (citing Lum v. Bank of America, 361 F.3d 217, 223-224 (3d Cir. 2004) (dismissing fraud claims that did not allege the date, time and place of the alleged fraud or otherwise inject precision or some measure of substantiation into a fraud allegation))**." See above 122. However, even assuming the Court is correct in its finding that the predicate acts pled by Kaul are not consistent with Rule 9(b), the Mladenov Court held, "**To satisfy the heightened pleading standard for a fraudulent affirmative act, a plaintiff need not plead the particular date, time or place of the fraud; however, "the plaintiff must indicate at the very least who made the material representation giving rise to the claim and what specific representations were made." NN & R. Inc v. One Beacon Ins. Grp., 362 F.Supp.2d 514, 518 (DNJ 2005) (quoting Mardini v. Viking Freight, Inc., 92 F.Supp.2d 378, 385 (DNJ 1999)).** For example see SAC ¶149 + ¶150– D.E. 241 Page 5749 + ¶156 – D.E. 241 Page 5750 to 5751

125. McNulty: D.E. 300 Page 8202 Page 32 Para. 2: The Court cites to Warden v. McLelland, 288 F.3d 105, 114 (3d Cir. 2002). The SAC contains no claim of honest services fraud. This case does not support the Court's opinion as the reason, according to the Third Circuit, that the RICO claims were dismissed by the district court pertained to the fact that the plaintiff had failed to "**state clearly how these or any other communications [wire fraud] were false and misleading, or how they contributed to the alleged fraudulent scheme. On the other hand, the complaint does provide a reasonably clear overall picture of what has been alleged**." The SAC alleges how the communications were false and misleading, and how they contributed to the fraudulent scheme and provides an "**overall clear picture of what has been alleged**". For example see **"¶153 ... They include thousands of communications to perpetuate and maintain the scheme, including the things and documents described above." + "¶231 The CHE RICO Defendants used, directed the use of, and of, and /or caused to be used thousands of inter-state mail and wire communication in service of their scheme through virtually**

uniform misrepresentations, concealments and material omissions." + "¶241 During the CHE RICO Defendants ... to disseminate falsehoods that the Plaintiff had committed insurance fraud, Medicare fraud, bank fraud and was not qualified to perform minimally invasive spine surgery." + "¶253 ... CMS RICO Defendants disseminated false information within the medico-legal community, that the Plaintiff had committed insurance fraud, bank fraud and was not qualified to perform minimally invasive spine surgery."

126. McNulty: D.E. 300 Page 8202 Page 32 Para. 2: The Court cites to Mala v. Crown Bay Marina, Inc., 704 F.3d 239, 245 (3d Cir. 2013) for the proposition that "**pro se litigants still must allege sufficient facts in their complaints to support a claim**." The citation is somewhat misleading, as the source of the statement is the 10th Circuit in Riddle v. Mondragon, 83 F.3d 1197, 1202 (1996). In the Riddle case, the court made the following statement that supports the non-dismissal of Kaul's complaint "**A district court should not dismiss a complaint pursuant to Rule 12(b)(6) unless it appears beyond doubt that the plaintiff could prove no set of facts in support of his claim that would entitle him to relief. *1202 Hall v. Bellmon, 935 F.2d 1106, 1109 (10th Cir.1991) (citing Conley v. Gibson, 355 US 41, 45-46, 78 S.Ct. 99, 101-02, 2L.ed.2d 80 (1957)**". Kaul filed a summary judgment motion on February 11, 2019 against Defendant Allstate New Jersey Insurance Company (D.E. 299), that contains evidence that proves facts/claims asserted in the SAC. This fact aside, however, the Riddle Court was correct in dismissing the complaint, because the only claim filed, pertained to an allegation that the plaintiff inmates had been denied medical care for their psychiatric conditions, in supposed violation of the Eight Amendment of the Constitution. The inmates submitted no evidence in support of their claim, unlike Kaul who submitted evidence sufficient for summary judgment, despite having been denied discovery for the entirety of the case. The factual landscape of this case is alien to that of the SAC and the case file for K1.

127. McNulty: D.E. 300 Page 8202 Page 32 Para. 3: Thakar v. Tan is unsupportive of the Court's opinion, because plaintiff Thakar's claim contained no evidence/fact other than the truly conclusory allegation that because his lawyers "**committed malpractice in one way or another**," this caused him to lose his federal and states cases and thus he claimed, "**this raises extremely strong circumstances of conspiracy between each of these attorneys and JFK**". Thakar submitted no evidence in support of the conspiracy, in stark contrast to the evidence submitted by Kaul in support of his motion for summary judgment (D.E. 299). The Thakar complaint bears no resemblance to the SAC, which contains well pled allegations, that Kaul has demonstrated satisfies the pleading standards of the FRCP and those established pursuant to Twombly + Iqbal (D.E. 268 Page ID 6390 to 6496).

Analysis

128. McNulty: D.E. 300 Page 8205 Page 35 Para. 3: "**To satisfy [Rule 9(b)], the plaintiff must plead or allege the date, time and place of the alleged fraud or otherwise inject precision or some measure of substantiation into a fraud allegation**." The SAC is replete with evidence/fact that substantiates the fraud elements of the asserted claims: ¶254 + 256 + 257 + 259 + 260 + 264 + 266 + 268 + 271 + 273 + 275 + 276 + 280 + 282 + 284 + 302 + 310 + 314 + 322 + 325 + 330 + 341 + 343 + 344 + 352 + 353 + 354 + 355. In Giles v Volvo Trucks North America, 551 F.Supp. 2d 359 – Dist. Court, MD Pennsylvania 2008, the Court held "**As the Third Circuit has explained: "Although Rule 9(b) falls short of requiring every material detail of the fraud such as date, location, and time, plaintiffs must use alternative means of injecting precision and some measure of substantiation into their allegations of fraud." California Pub. Employees' Ret. Sys. v. Chubb Corp., 394 F.3d 126, 144 (3d Cir.2004)**".

129. McNulty: D.E. 300 Page 8205 Page 35-36 Para. 4 -1: "**Counts One through Four fail to explain the who, what, where, and how of the alleged schemes to defraud**." This is false, as is evident from the Claim Specificity Table. "**First none of the counts allege that any specific defendant committed any particular act if either mail or wire fraud**." This is both false and misrepresents the claim. Kaul has specifically identified the defendants, and then alleged that they ALL committed the acts of using the mail and wires to transmit knowingly false information that included, amongst other things, that Kaul was not qualified to perform minimally invasive spine surgery and had committed insurance and bank fraud. The law does not require that in a multi-defendant RICO claim, at the pleading stage, the plaintiff identify exactly who sent what e-mail/letter/communication, on what date, at what time, and to what person. If the Court had permitted Kaul discovery, as it should properly have done, then Kaul would have accessed the defendants third-party witnesses e-mails/texts/communications, deposed them, and would have that very specific information that this Court erroneously states is required at the pleading stage. This Court has ignored all of the evidence that Kaul submitted in support of his motion for summary judgment on February 11, 2019 (D.E. 299). This evidence, in conjunction with the Claim Specificity Table + Kaul's Elemental Chart (D.E. 268 Page ID 6395) + the arguments/fact asserted in Kaul's opposition to the defendants' Omnibus + Supplemental briefs proves Judge McNulty's opinion is erroneous, and does not reflect the pleadings in this case.

130. McNulty: D.E. 300 Page 8206 Page 36-37 Para. 2 - 1: "**More broadly, Counts One … lack factual concreteness … utterly lacking in facts … left some trace in the form of facts … speculative … "big' cases …threadbare claim."** With all due respect, Judge McNulty does not appear to have read the same file that is located on the court docket. The evidence, which includes all of that submitted in support of the motion for summary judgment (D.E. 299) proves Kaul's claims, and dismantles the defenses of Defendant Allstate New Jersey Insurance Company: **(i)** 'The Solomon Critique'; **(ii)** 'The Solomon

Critique 2'; **(iii)** 'The Zerbini Certification'; **(iv)** 'The Sabo Certification'; **(v)** 'The Feldman Certification'; **(vi)** 'The Calabrese Certification'; **(vii)** 'The Waldman E-mail'; **(viii)** 'The Yeung E-mail'; **(ix)** 'The Przybylski Disciplinary Notice' The SAC is replete with fact. Kaul's Elemental Chart + the Claim Specificity Table identify the sections of the SAC in which fact is pled to support each of the elements of the asserted claims, and the "**who, what, when, where and how**" requirements of Rule 9(b), although the law is clear in that this rule ought to be applied with flexibility (D.E. 268 Page ID 6469) "**Plaintiffs need not, however, plead the date, place or time" of the fraud, so long as they use an "alternate means of injecting precision and some measure of substantiation into their allegations of fraud. The purpose of Rule 9(b) is to provide notice of the "precise misconduct" with which defendants are charged and to prevent false or unsubstantiated charges. Court should, however, apply the rule with some flexibility and should not require plaintiffs to plead issues that may have been concealed by the defendants. Rolo v. City Investing Co. Liquidating Trust, 155 F.3d 644, 658 (3d. Cir. 1998) (quoting Seville Indus. Machinery v. Southmost Machinery, 742 F.2d 786, 791 (3d. Cir. 1984) and citing Christidis v. First Pennsylvania Mortg. Trust, 717 F.2d 96, 99 (3d. Cir. 1983)).** Kaul's mail + wire fraud RICO claims unquestionably satisfy the required pleading standard. Kaul respectfully asserts that Judge McNulty's conflicted position, in his prior capacity as a lawyer, having represented two of the defendants and being a commercial beneficiary/prior director of a law firm, Gibbons, PC, that represents defendants Washburn and NJMG, and being the brother in law of US Senator Charles Schumer, who received 'campaign donations' from Allstate + Geico during the pendency of the case, are factors that might explain why his opinion bears no resemblance to the evidence. A federal version of 'The Solomon Critique'. These issue/events simply provide further evidence of why the case should have been litigated in the S.D.N.Y.

131. McNulty: D.E. 300 Page 8207 Page 37 Para. 3 - Page 40 Para.1: "**Dr. Kaul brings two counts alleging antitrust claims ... that these defendants thwarted him. The allegation is speculative and vague.**" Kaul refers the Court to the arguments asserted in his opposition to the defendants' omnibus brief (D.E. 268 Page ID 6392 to 6393): "**II. Plaintiff has Plausibly Pled Fact For All Elements of The Anti-Trust Claims to Satisfy Pleading Standards Pursuant to Twombly + Iqbal.**" Judge McNulty has not demonstrated any factual or legal error with these arguments, but has instead cited to law used by the defendants in their omnibus brief, but law that Kaul unequivocally differentiated. Judge McNulty has not demonstrated that Kaul's differentiation of this law contains error. (Incidentally, the Court in footnote 32 on page 37/47 states, "**CNS is not named in this count. (2AC ¶57).**" ¶57 is part of FACTUAL ALLEGATIONS, and not the claims section). For example Judge McNulty cites to the following cases, that Kaul has differentiated:

(a) Martin B. Glauser Dodge Co. v. Chrysler Corp., 570 F.2d 72, 81—82 (3d. Cir 1977): Differentiated at (D.E. 268 Page ID 6438). Neither the defendants in their response (D.E. 294) to Kaul's opposition (D.E. 268) to their omnibus application (D.E. 260),

nor the Court have contested Kaul's differentiation of this case. In fact, the Court has cited to it once again.

(b) Howard Hess Dental Laboratories Inc. v. Dentsply Int'l., 602 F.3d 237, 253 (3d Cir. 2010: Differentiated at (D.E. 268 Page ID 6438 to 6439). Neither the defendants in their response (D.E. 294) to Kaul's opposition (D.E. 268) to their omnibus application (D.E. 260), nor the Court have contested Kaul's differentiation of this case. In fact, the Court has cited to it once again.

(c) Gordon v. Lewistown Hosp. 423 F.3d 184, 207 (3d Cir. 2005)): Differentiated at (D.E. 268 Page ID 6439 to 6440)).Neither the defendants in their response (D.E. 294) to Kaul's opposition (D.E. 268) to their omnibus application (D.E. 260), nor the Court have contested Kaul's differentiation of this case. In fact, the Court has cited to it once again.

(d) Queen City Pizza v. Domino's Pizza, 124 F.3d 430, 437 (3d Cir. 1997): Differentiated at (D.E. 268 Page ID 6440)).Neither the defendants in their response (D.E. 294) to Kaul's opposition (D.E. 268) to their omnibus application (D.E. 260), nor the Court have contested Kaul's differentiation of this case. In fact, the Court has cited to it once again.

(e) Brown Shoe Co. v. US 370 US 294, 325 (1962):): Differentiated at (D.E. 268 Page ID 6443 to 6444)).Neither the defendants in their response (D.E. 294) to Kaul's opposition (D.E. 268) to their omnibus application (D.E. 260), nor the Court have contested Kaul's differentiation of this case. In fact, the Court has cited to it once again.

(f) Tunis Bros. Co., Inc. v. Ford Motor Co., 952 F.2d 715, 722 (3d Cir. 1991): Differentiated at (D.E. 268 Page ID 6443).Neither the defendants in their response (D.E. 294) to Kaul's opposition (D.E. 268) to their omnibus application (D.E. 260), nor the Court have contested Kaul's differentiation of this case. In fact, the Court has cited to it once again.

Judge McNulty states: "**Counts Five and Six do no properly define relevant product market ... the "minimally invasive spine surgery market." (See 2AC ¶¶ 298-99, 316). Footnote 34: "Dr. Kaul's briefing argues that the features of the minimally invasive spine surgery market are defined by a document titled the "Rule of Five." (See D.E. 268, 52) (citing "D.E. 5116 Page ID 5116"). No such document is referenced in the Second Amended Complaint. ("D.E. 5116, "a nonexistent entry, I assume to be a slip of the pen.)"** Judge McNulty has truncated the section of Kaul's opposition to defendants omnibus 12(b)(6) motion regarding the boundaries of the market, which Kaul has pled with sufficient particularity required at this juncture of the case, particularly in light of the fact that the Court has denied him discovery for the three (3) entirety of the case. Kaul's understanding of the historical process of common law justice, as conceived and enunciated in the Magna Carta, is to find the truth of the matter. Denying discovery is anathema to this ancient principle. Be that as it may, the relevant section of Kaul's brief is found at D.E. 268 Page ID 6441, and within this section Kaul references the relevant paragraphs of the SAC: ¶298 to ¶304 + ¶40 + 79 + ¶288 + ¶79 + ¶141 + ¶208 + ¶298 + ¶306 + ¶322 and not just ¶298-99, 316, as asserted by

Judge McNulty. Within this section, Kaul even details what data he would collect to prove his anti-trust claim, that the defendants misconduct has resulted in a reduction of the availability of the service to the public, an etiological factor in the current opiate epidemic that plagues American society. With regards to the "**slip of the pen**", the cited Page ID, 5116, belongs to D.E. 225-1, that of 'The Solomon Critique', a piece of evidence to which the Court and defendants have 'turned a blind eye'. The relevant section states: **"The critical thing that stands out is to understand the Rule of Five, which is, a physician must have first-hand expertise on fluoroscopic guidance and interpretation, and that forms the basis for which the rest of the four of the Rule of Five plays in ... Superimposed on that is my regard for the fact that he had at a minimum four years of surgical education; he is a surgeon, end of story."** (D.E. 225-1 Page 5116).

Judge McNulty states: "**This does not really rise above the level of say-so**." (D.E. 300 Page ID 8209 Page 39/47). The definition of "**say-so**" is: One's unsupported assertion or assurance. Kaul's SAC and subsequent brief have provided support of the relevant product/service + geographic market. The paradox that exists if one were to adopt Judge McNulty's interpretation of the fifth revision of the SAC and subsequent briefs regarding definitions of the market for minimally invasive spine surgery, is that it was this supposed definition of the market by Defendant Przybylski in the administrative board proceedings, and Kaul's alleged deviation in his practice from the constraints of this market, that constituted some of the purported "**gross deviations**" from the fictitious standard of care, that resulted in the illegal revocation of Kaul's license.

Judge McNulty states: "**The Second Amended Complaint fails to plead facts in relation to ... between surgical specialties**." Judge McNulty has not limited his examination of the case to the SAC in the drafting and issuance of this opinion. In fact, he has referenced affidavits from third-party witnesses by characterizing them as "**hearsay**" evidence. Therefore, in finding that the SAC is supposedly deficient in the pleading of fact with regards to the issue of "**interchangeability ... between surgical specialties**" he need look no further than 'The Solomon Critique', where the specialty issue is thoroughly described (D.E. 225-1 Page ID 5117): "**Q. These individuals, these pioneers ... isn't it true, are anesthesiologists, interventionalists, they are not neurosurgeons or orthopedic surgeons; isn't that true? A. There is ample representation ... the anesthesiologists, radiologists and all practitioners that have greater adaption ... minimally invasive surgery ... through minimal access."**

Judge McNulty states: "**Here, Dr. Kaul argues that, because Queen City Pizza and Brown ... "product" ... not "service" ... M.A.P Oil Co. v Texaco Inc., 691 F.2d 1303, 1306 (9th Circuit 1982) ("Market definition ... given set of products or *services*.**"). The case cited by the Court does not assist the Court, because the case file for K1, contains definitions of the market parameters of the *service* of 'minimally invasive spine surgery', as do the video links inserted into the SAC, the links that Judge McNulty has refused to view. More specifically, the citation is weak, as the case pertains to a

product, as do the cases to which the MAP Court cited in support of this opinion. At 1306. Regardless, this detail argues against Judge McNulty's opinion that amendment is futile. Kaul respectfully asserts that his "**moving target**" theory is but that, as an amendment such as this, would be akin to a wasp landing on an ocean liner.

Judge McNulty states: "**The geographical market ... The allegation is speculative and vague**." Judge McNulty did not find it to be speculative in his opinion of June 30, 2017 (D.E. 200). However, his opinion turns on his assertion that Kaul did not plead in his SAC that patients came from other states. For the purposes of the geographical definition of a service market based on patient care, the law does not require the pleader to state where the geographic source of the patients, and Judge McNulty has provided no authority on this issue. Kaul has asserted from the commencement of the case of his plans for global expansion, and that they were destroyed by the defendants' crimes (D.E. 1-2 Page ID 196), and their "**intention to destroy Dr. Kaul's medical career ... He mentioned that they were going to have articles and stories published, that caused permanent damage to Dr. Kaul's reputation ... make sure Dr. Kaul never practiced medicine again**." (D.E. 205-1 Page ID 4277).

132. McNulty: D.E. 300 Page 8210 Page 40 Para. 2 – Page 8212 Page 41 Para.2: "**In Count Five, Dr. Kaul alleges that the defendants ... Of course, the plaintiff does not have to prove his case in his complaint, but he does have to describe it factually.**"

Judge McNulty states: "**Dr. Kaul fails to plead plausible facts to demonstrate that an agreement was made between the defendants. See Bell Atl. Corp. v. Twombly, 550 US 544, 556 (2007)**". Kaul initially refers Judge McNulty to the 'Claim Specificity Table, which proves the incorrectness of his statement. The opening paragraph of COUNT FIVE is "**¶297 Plaintiff incorporates by reference the preceding allegations**". The preceding allegations that plausibly allege per se agreements are: ¶124 + ¶125 + ¶127 + ¶132 + ¶143 + ¶151 + ¶187 + ¶225 + ¶268. The allegations within COUNT FIVE are: ¶299. The defendants did not rebut the argument asserted by Kaul in his response to the defendants' omnibus brief (D.E. 268 Page ID 6433 to 6437): "**Plaintiff Has Plausibly Pled Fact For All Elements of The Anti-Trust Claims to Satisfy Pleading Standards Pursuant to Twombly + Iqbal**."

Judge McNulty states: "**His pleading burden is not eased, as it might be, by the presence of some per se antitrust violation or very clear anticompetitive effect**.". This is a false statement, as evidenced above. Kaul has pled multiple per se agreements. Kaul has pled more than a recitation of claim elements. See 'Claim Specificity Table' + 'Kaul's Elemental Chart' (D.E. 268 Page ID 6395 to 6400) + the evidential exhibits attached to the motion for summary judgment against Defendant Allstate New Jersey Insurance Company (D.E. 299).

Judge McNulty states: "**Second, under Section 2 of the Sherman Act, Dr. Kaul fails to plausibly allege that the defendants held monopoly power or otherwise engaged in**

predatory or anti-competitive behavior." This is a false statement. See ¶299. Similarly, the defendants did not rebut Kaul's argument (D.E. 268 Page ID 6438 to 6441): "**Plaintiff Has Plausibly Pled All Elements Of Claims Asserted Pursuant To The Sherman Act**" or refute his legal analysis of the cases upon which they advanced their motions for dismissal. Neither has Judge McNulty, as he did with Queen City Pizza and Brown Shoe (in regards to the product/service issue), contested Kaul's legal analysis of Martin B. Glauser + Howard Hess + Gordon v Lewistown + Queen City Pizza (in regards to pleading section 1 + 2 claims of the Sherman Act).

Judge McNulty states: "**For example I look to the only allegation with any factual substance-that the defendants caused professional organizations to downgrade codes associated with minimally invasive ... the Court with no insight into how that anticompetitive plan was executed**." With all due respect to Judge McNulty, there is an element in his opinion of what has no basis in law, will be 'made-up as we go along'. First of all the definition of a per se violation is that it is obvious it is anti-competitive, and the where and why-fore are not required at the pleading stage. It is irrelevant to Kaul's pleading of his anti-trust claims regarding the mechanism of the downgrading of CPT codes for minimally invasive spine surgery. All that matters at the pleading stage is that it is a fact. In this same vein, Kaul has asserted that the neurosurgeons did not publicly disclose the meeting, which was coordinated in secrecy (D.E. 287 ¶287) by defendant Przybylski and ex-defendant Peter Carmel (granted early release by Judge McNulty on June 30, 2017). Przybyklsi was the 2011 president of NASS and Carmel was the 2011 president of the AMA, both organizations that were defendants, and were granted early release by Judge McNulty on June 30, 2017. 'Gutting' the FAC was part of the defendant/Court's overall strategy to weaken the case, while denying Kaul discovery, denying every motion he filed, and then dismissing the federal claims with prejudice, because Kaul had allegedly not pled sufficient fact. All of this was conducted over three (3) years. Kaul's arguments that he would not receive "**substantive justice**" in New Jersey have been proven, which is why this case will be ordered back to the SDNY. Judge McNulty's claim that the only allegation with any factual substance is the one related to the CPT code, is with all due respect, false. See D.E. 241 ¶298 Page ID 5784 to 5785).

Judge McNulty states: "**Even if such facts ... but he does have to describe it factually**." Is false. Kaul has plausibly pled fact that the anti-competitive conduct of defendants consisted of seven separate anti-competitive acts (D.E. 241 ¶298 Page ID 5784). The CPT coding violation is but one, but even assuming arguendo, that it were the only fact, and even assuming that it was not plausibly pled, which it is, then the simple solution is to permit Kaul discovery. Judge McNulty cites to the following cases in support of his opinion:

Neotonus, Inc. v. Am. Med. Ass., 554 F. Supp. 2d 1368, 1380 (N.D. Ga 2007): This case is unsupportive of the Court's opinion for several reasons: **(i)** the meeting was publicized, in contrast to the one conducted in secrecy by defendant Przybylski and ex-defendant Carmel; **(ii)** the purpose of obtaining CPT coding for the urinary device was not to

economically harm a market competitor, as was the case with the K1 neurosurgeon and hospital defendants; **(iii)** the head of Neotonus and the president of the AMA were not professional colleagues from the same state and the same sub-specialty of medicine, as was the case with defendant Przybylski and ex-defendant Carmel; **(iv)** the Neotonus application was tabled because the AMA required further evidence in support of its efficacy. This is in contrast to the secret Przybylski/Carmel get together, in which no evidence was requested or presented to prove that the code changes would benefit the public. In fact, as Kaul has plausibly alleged, the clandestine code change has contributed to the epidemic abuse of opiates in the US. The true purpose of the code change was to divert minimally invasive spine surgery dollars towards hospitals and neurosurgeons, and reduce the availability of this service in free standing outpatient centers. Ex-defendant Carmel and defendant Przybylski converted ex-defendant AMA into a racketeering enterprise, the effects of which have caused material harm to the minimally invasive spine surgery market and the public, as evidenced by the opiate epidemic.

Broadcom Corp. v. Qualcom Inc., 501 F.3d 297, 309 (3d Cir. 2007): This case is unsupportive of the Court's opinion, as the court described the exact misconduct alleged by Kaul as being anti-competitive, **"That is not to say, however, that acceptance, including judicial acceptance, of private standard setting is without limits. Indeed, that "private standard-setting by associations comprising firms with horizontal and vertical business relations (neurosurgeons + hospitals + insurance) is permitted at all under the antitrust laws [is] only on the understanding that it will be conducted in a nonpartisan manner offering procompetitive benefits, "Allied Tube, 486 US at 506-07, 108 S.Ct 1931 and in the presence of "meaningful safeguards" that "prevent the standard-setting process from being biased by members with economic interests in stifling product competition."** at 310. That aside, the defendants CPT code misconduct had nothing to do with standard setting, but everything to do with excluding free standing surgical centers and minimally invasive spine surgeons, such as Kaul, from the minimally invasive spine surgery market, to the detriment of the public and the market.

133. McNulty: D.E. 300 Page 8211 Page 41 Para. 3 – Page 8212 Page 42 Para.1: "**In Count Six ...monopolistic sway over ... minimally invasive spine surgery market ... bribing former Governor Christie ... revoke ... sue ... fraudulent testimony ... sham litigation ... bribery ... vague and conclusory**."

Judge McNulty states: "**Factual allegations are again lacking; merely positing that official action unfavorable to the plaintiff must have resulted from bribery is not enough.**" Initially Kaul refers Judge McNulty to the 'Claim Specificity Table', which demonstrates the incorrectness of his opinion. The initial paragraph of COUNT SIX, states, "**Plaintiff incorporates by reference the preceding allegations described above.**" The who, what, where, when and how are on plain view within COUNT SIX and the preceding allegations, and Kaul has alleged that the defendants, in their quest for monopolization engaged in perjury + bribery + fraud + sham litigation.

Judge McNulty states: "**Again, Dr. Kaul fails to plausibly allege an agreement between the parties and any per se antitrust violation; moreover, the alleged anticompetitive effects are, again vague and conclusive**." If one were to adopt Judge McNulty's reading of the SAC, it would be inconsistent with the evidence of the case. 'The Zerbini Certification' provides more than any allegation, however well pled, as it provides evidence from a witness who testified for K2 defendant NJBME against Kaul, and for the defendants' case to stand, can be nothing but completely credible. In this certification is the following statement: "**... Dr. Kaufman seemed to have some kind of vendetta against Dr. Kaul, and made comments to the effect that he was going to destroy Dr. Kaul's medical career, his reputation, and make sure he never worked again as a doctor. He stated that he was going to make sure Dr. Kaul was ostracized, and that he and group of five other doctors had been working together since at least 2011, to make sure Dr. Kaul's medical license was revoked**." (D.E. 205-1 Page 4277). This is simply further evidence of why Kaul argued relentlessly that he would not receive "**substantive justice**" in New Jersey, due to the "**politico-legal nexus**". It is quite astounding that the Court is so fixated on the minutiae of a legal claim, while keeping absolute silence on the fact that K2 defendant, Christie, was instrumental in the trafficking of chemical weapon components to Syrian rebel forces in a period from 2012 to 2013 (D.E. 296-11 Page 6973 to 6975). Why?

134. McNulty: D.E. 300 Page 8212 Page 42 Para. 2: Judge McNulty states: "**Count Five and the federal antitrust claim in Count Six ... while "it is one thing to be cautious before dismissing an antitrust complaint in advance of discovery, [it is] quite another to forget that proceeding to antitrust discovery can be expensive"). The motion to dismiss is granted."** Kaul initially refers Judge McNulty to the 'Claim Specificity Table', which demonstrates the incorrectness of his opinion. The excerpt from Twombly originates from a section of the case text that includes the following, "**... stating a claim requires a complaint with enough factual matter to suggest an agreement. Asking for plausible grounds does not impose a probability requirement at the pleading stage; it simply calls for enough fact to raise a reasonable expectation that discovery will reveal evidence of an illegal agreement**." The evidence submitted in this case, and the facts pled in the SAC provide, without discovery, "**enough factual matter to suggest an agreement**". Kaul's motion for summary judgment (D.E. 299) collates all of the evidence into one submission, and it is conclusive of the claims, and conclusive that there were multiple agreements to harm Kaul's interests: "**First I want to tell you that I feel really awful that the Neurosurgeons and Medical Board have attacked you professionally and personally (D.E. 299-1 Page ID 7072) ... I think it is terrible what they are doing to Dr. Kaul (D.E. 299-6 Page ID 7122) ... There is a doctor in New Jersey, Richard Kaul, who is performing fusions, but they are going to get him (D.E. 299-9 Page ID 7140**)"

135. McNulty: D.E. 300 Page 8212 Page 42 Para. 3 – Page 8214 Page 44 Para. 3: Judge McNulty states: "**... Dr. Kaul's allegations against these defendants [Allstate + Geico] do not establish that they exercised any power under state law**". This finding is

inconsistent with Kaul's plausibly pled allegation that "**lawyers for Defendants Allstate and Geico assisted in the drafting of Jay Howard Solomon's opinion that was issued on December 13, 2013**." (D.E. 241 Page 5817 ¶372). The drafting of legal opinions purported to be from the state, are a function of state power, and Kaul has pled this violation in accordance with the pleading standards required at this juncture of the case. Defendants Allstate + Geico did not contest this allegation in their opposition briefs.

Judge McNulty, in footnote 36, states, "... **Dr. Kaul did not file an appeal, the usual route to correction of such errors in decision"**. Kaul did not come into possession of the transcript evidence until late 2017, at which point he was able to cross reference the opinion of K2 defendant Solomon, with the trial transcript, a process that resulted in the filing of 'The Solomon Critique' on January 17, 2018 (D.E. 225), a document that proves in a period between April 9, 2013 and December 13, 2013 K1/K2 defendants Przybylski + Kaufman and K2 defendant Solomon, collectively **committed two hundred and seventy-eight (278) separate instances of perjury + evidential omissions + misrepresentations and gross mischaracterizations.** Kaul's requests to K2 defendant Hafner for copies of the transcript were repeatedly denied. The reason given by Defendant Hafner, was that she had been instructed by the K2 defendant NJBME not to provide Kaul with any copies. Judge McNulty was made aware of these facts when Kaul submitted 'The Solomon Critique' on January 17, 2018, but has chosen not to include them in his opinion.

Judge McNulty states: "**I first consider whether Dr. Kaufman and Dr. Przybylski are alleged to be state actors ... testifying in a state administrative law proceeding does not create a sufficient nexus between the defendants and the state**." Judge McNulty provides no legal authority for his opinion, and fails to address Kaul's recitation of the relevant legal tests used to determine whether a "**private actor**" assumes "**state actor**" status: ¶369 + ¶370 + ¶371.

Judge McNulty states: "**I next consider whether GEICO and Allstate ... Accordingly, Count Eleven is dismissed for failure to state a claim**." The cases cited to in support of Judge McNulty's conclusion that defendants Allstate + GEICO did not assume "**state actor**" status in their alleged drafting of the opinion of K2 defendant, Jay Howard Solomon, are unsupportive: **(i)** Clark 516 F. App'x at 99 (quoting Dennis v. Sparks, 449 US 24, 27-28 (1980)) – This 1983 clam was dismissed by the district court because the plaintiff failed to allege action "**under color**" of state law i.e failed to state a claim. The matter was appealed to the Fifth Circuit and the dismissal was reversed. The Court noted, "**As the Court of Appeals correctly understood our cases to hold, to act "under color" of state law for section 1983 purposes does not require that the defendant be an officer of the State. It is enough that he is a willful participant in joint action with the State or its agents. Private persons, jointly engaged with state officials in the challenged action, are acting "under color" of law for purposes of section 1983 actions. Adickes v. S.H. Kress & Co., 398 US 144, 152 (1970); United States v. Price, 383 US 787, 794 (1966) ... The complaint in this case was not defective for failure to allege**

that the private defendants were acting under color of state law, and the Court of Appeals was correct in rejecting its prior authority to the contrary." This case distinctively undermines the opinion of Judge McNulty; **(ii)** Coulter v. Allegheny Cty. Bar Ass'n, 496 F. Appx 167, 169 (3d Cir. 2012) – The SAC (D.E. 241) + 'The Solomon Critique' (D.E. 225) + the evidence contained within Kaul's motion for summary judgment (D.E. 299) do more than present "**bare assertions of joint action or a conspiracy**". This evidence is sufficient for summary judgment. The Coulter plaintiff presented no such evidence in support of her claims, despite the fact that she was permitted discovery.

Judge McNulty states: "**Accordingly, Count Eleven is dismissed for failure to state a claim"**. With all due respect, Judge McNulty's opinion is wrong, because it is based on law that either contradicts its foundation or supports the factual landscape of Kaul's case and 1983 claim.

136. McNulty: D.E. 300 Page 8215 Page 45 Para. 1 – Page 8217 Page 47 Para. 1: Judge McNulty states: "**Under 28 USC § 1367(c)(3) ... The defendants have also raised numerous substantive and procedural grounds for dismissal of the state claims. I do not reach this arguments."**

Judge McNulty states: "**Under 28 USC § 1367(c)(3) ... supplemental jurisdiction ... provide an affirmative justification for doing so ... I have dismissed all claims ... original jurisdiction ... I have been directed to no considerations of judicial economy, convenience, fairness, or comity ... I therefore would decline to exercise supplemental jurisdiction over the state-law component of Count Six, Counts Seven through Ten, and Counts Twelve through Fourteen.**" Judge McNulty's basis for dismissing the state law claims pertains to a supposed lack of instruction as to issues of comity + judicial economy + convenience + fairness. Kaul asserts that these are matters of which the Court is aware, and needs no instruction, and Kaul respectfully asserts that this finding is inconsistent with Judge McNulty's legal analysis of the state-law claims, which is that they supposedly fail to state a claim. Judge McNulty in his ORDER opinion (D.E. 301 Page 8218) repeats the lack of subject matter jurisdiction reason as to why the state-law claims are being dismissed, but this is once again inconsistent with the body of the legal analysis, which is that the state-law claims do not contain sufficient fact to advance into litigation. This convoluted, yet conceived state of affairs is an improper attempt to prevent Kaul arguing that if the court is permitting amendment (D.E. 301 Page 8219) for the state-law claims, in truth for their supposed failure to state a claim, then why would it not permit Kaul to amend the federal-law claims for supposedly failing to state a claim. **The answer is that the Court intends to transfer the case to a corrupt New Jersey state court, and avoid it coming under the scrutiny of the Third Circuit Federal Court of Appeals, and potentially the United States Supreme Court.**

Judge McNulty has dismissed the state law claims, for an entirely different set of reasons given in his opinion of June 30, 2017,. In the opinion, date stamped February 22, 2019 and delivered to Kaul on February 25, 2019 via ECF, Judge McNulty opines that

because there has to be **complete** diversity of jurisdiction of all parties, the Court lacks supplemental jurisdiction. This is a novel and flawed argument that Judge McNulty asserts in truth for the following reason. It is the Court's belief and intention that Kaul will re-submit an amended state-law complaint, and that the case will then be shunted into a corrupt New Jersey state court, a place that justice, as least as far as Kaul is concerned, has long vacated. This is the Court's strategy, and the purpose for the change in the basis for the state-law claim dismissal, even though these facts existed at the time of the issuance of Judge McNulty's opinion on June 30, 2017 (D.E. 200). The law cited to by Judge McNulty is wrong. Diversity of jurisdiction does not require that ALL parties are residents/citizens of different states. Congress did not intend the diversity of the jurisdiction clause to mean that every party to the action must be domiciled in different districts. The law says: 28 U.S.C. §1332 (a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $75,000, exclusive of interests and costs, and is between – (1) citizens of different States. It does not say that all parties have to be citizens of different states i.e. complete diversity, just diversity.

On February 25, 2019, Judge McNulty retroactively amended his opinion from June 30, 2017 (D.E. 304 Page 8288). Judge McNulty had, in error, permitted defendants NASS and AMA to be dismissed from the FAC, based on New Jersey' s idiosyncratic doctrine, the ECD. Judge McNulty admits he applied an incorrect version of the law, which implies that had he applied the correct version of the law, he would have had no legal basis to dismiss defendants NASS and AMA prejudice. Judge McNulty retroactively states that because defendants NASS and AMA were allegedly in privity with other defendants, that the correct version of the ECD would have permitted him to dismiss these defendants. Defendants AMA and NASS were dismissed with prejudice, and Judge McNulty now recognizing his mistake, ought to have retroactively amended the order to either not dismiss them or dismiss them without prejudice. Had Judge McNulty not made this mistake, it would have permitted Kaul to include them in the SAC and would have permitted him to plead further fact within all of the claims. These two entities were central to the conspiracy that caused the downgrading of CPT codes, and their erroneous exclusion from the compliant prejudiced Kaul's ability to prosecute the SAC. Added to this was the fact that Kaul had been denied discovery for three (3) years.

Judge McNulty's "**moving target**" opinions (D.E. 300 + D.E. 301 + D.E. 303 + 304) date stamped respectively on February 22, 2019 + February 22, 2019 + February 25, 2019 (amending opinion D. E. 200 – June 30, 2017) + February 25, 2019 (memorandum and order re: amended opinion of June 30, 2017 D.E. 200), are configured to cover his prior mistake in dismissing with prejudice two key defendants (NASS + AMA), and are an attempt to keep the case away from the Third Circuit of Appeals, by 'enticing' Kaul with the promise of yet another amendment, but one limited to the state-law claims. The supplemental jurisdiction and diversity reasons given for the dismissal of the state-law claims are inconsistent with the lengthy legal analysis that focused on the state-alw claims supposed lack of fact, but more importantly are manufactured

to prevent Kaul arguing that if amendment is permitted for the state-law claims, for what in truth is an alleged failure to state a claim, then why would it not be permitted for federal-law claims. This aspect of Judge McNulty's opinion, with all due respect, is internally inconsistent, and not consistent with the opinion he rendered on June 30, 2017 (D.E. 200), pertaining to the reason for the dismissal of state-law claims.

Conclusion

Kaul believe that this Court has been conflicted from the commencement of these proceedings. Judge McNulty, when he was the director of Gibbons PC Law Firm, represented two of the defendants in this case, in a matter that found its way to the New Jersey Supreme Court (D.E. 305-2 Page 8305). Similarly, even though Judge McNulty was appointed to the federal bench in 2012, he remains a commercial beneficiary of the profits generated from Gibbons, PC, and this law firm represented defendants Washburn + NJMG. Judge McNulty is the brother-in-law of US Senator Charles E. Schumer (D-NY), a senior American politician affiliated with the Democratic Party (second in command). Senator Schumer has received large political donations from the insurance sector within the last three (3) years.

Kaul initiated this action in the United States District Court for the Southern District of New York on February 22, 2016, and it was transferred sua ponte by Judge Richard Sullivan. Kaul appealed to the United States Federal Appeals Court for the Second Circuit, arguing that because of the "**politico-legal nexus**" he would not receive "**substantive justice**" in New Jersey. On February 22, 2019 this was proven to be the case. Kaul's repeated request for discovery were denied, and his efforts at serving information subpoenas on third-party witnesses were quashed. Every motion filed by Kaul was denied, as were his motions for default against defendant Stein, an individual who failed to respond to the complaint. On February 22, 2019 Judge McNulty denied Kaul's second request for entry of default judgment (filed November 13, 2018) without giving any reason (D.E. 301 page 8219). This was in contrast to the reason he provided on July 7, 2017 (D.E. 202 Page 3767): "**The recipient might well have been confused, however, by the attachment of a caption indicating that the defendant is being sued in the Southern District of New York…**".

Kaul filed a motion for summary judgment against Allstate New Jersey Insurance Company on February 11, 2019 (D.E. 299). On March 12, 2019 Kaul submitted a letter that requested the Court adjudicate the motion, as its pendency left the case open (D.E. 312 Page 8379). On March 12, 2019, the Court, ensuring it placed its order before the docket entry of Kaul's letter, found that Kaul's motion for summary judgment was "**moot**" because Defendant Allstate New Jersey Insurance Company supposedly failed to respond to the motion. This is false. On February 15, 2019, Defendant Allstate New Jersey Insurance Company responded to the motion for summary judgment (D.E. 298 Page 7014), and submitted another letter on March 11, 2019 (D.E. 310 Page 8376). Judge McNulty considered Defendant Stein's two-page response (D.E. 282 Page 6634) sufficient to deny Kaul's motion for default judgment, but yet considered Defendant Allstate's submission on February 15, 2019 as insufficient as a response, which he then used to render the motion moot. These acts of the Court are against the law, but they occurred because, as Kaul has argued since 2016, the corruption in the courts (administrative + state + federal) within the geographic boundaries of the State of New Jersey is profound, pervasive and deep. It is a culture of corruption, which is why this case + K2 must return to the United States District Court for the Southern District of New York.

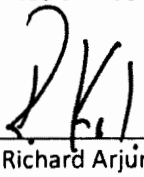
I thank you for your consideration.

Yours sincerely

Richard Arjun Kaul, MD

I certify that the foregoing statements are true and accurate to the best of my knowledge, and that if it is proved that I willfully and knowingly misrepresented the facts, then I am subject to punishment

Dated: March 15, 2019



Richard Arjun Kaul, MD