

Vincent F. Gerbino (VG 0555)
Michael A. Callinan (MC 7052)
BRUNO, GERBINO & SORIANO, LLP
445 Broad Hollow Road, Suite 220
Melville, New York 11747
Telephone: (631) 390-0010
Facsimile: (631) 393-5497

*Counsel for Plaintiffs, Government Employees Insurance Co.,
GEICO Indemnity Co., GEICO General Insurance Company
and GEICO Casualty Co.*

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GOVERNMENT EMPLOYEES INSURANCE CO.,
GEICO INDEMNITY CO., GEICO GENERAL
INSURANCE COMPANY and GEICO CASUALTY CO.,

Plaintiffs,

Docket No.: _____ ()

-against-

**Plaintiffs Demand a Trial
By Jury**

COLUMBIA PSYCHOLOGY SERVICES, P.C.,
TISBURY PSYCHOLOGICAL SERVICES, P.C.,
CLEAR WATER PSYCHOLOGICAL SERVICES, P.C.,
WALTER E. SPEAR, PH.D.,

Defendants.

-----X

COMPLAINT

Plaintiffs, GOVERNMENT EMPLOYEES INSURANCE CO., GEICO INDEMNITY CO., GEICO GENERAL INSURANCE COMPANY and GEICO CASUALTY CO. (collectively referred to as "GEICO"), by and through their counsel, Bruno, Gerbino & Soriano, LLP, as and for their Complaint against the Defendants, COLUMBIA PSYCHOLOGY SERVICES, P.C., TISBURY PSYCHOLOGICAL SERVICES, P.C., CLEAR WATER PSYCHOLOGICAL SERVICES, P.C. and WALTER E. SPEAR, PH.D., hereby alleged, upon information and belief, as follows:

I. INTRODUCTION

1. This action seeks to recover more than \$1,529,801.45 that the Defendants have acquired from the Plaintiffs by submitting, and causing to be submitted, thousands of fraudulent No-Fault insurance charges for psychological services that allegedly were rendered to individuals (“Insureds”) who were involved in automobile accidents and eligible for insurance coverage under the Plaintiffs’ insurance policies. The actions taken by the Defendants were part of a scheme perpetrated against the Plaintiffs whereby the treatment provided, to the extent that it was provided at all, was based upon a preset protocol designed solely to maximize the amount of billing submitted to the Plaintiffs without regard to the injuries allegedly sustained or the individual psychological needs of the patients.

2. Based upon information and belief, laypersons together with the Defendants have created and instituted a pre-determined “protocol” of performing diagnostic interviews, psychological testing and psychotherapy sessions for the sole purpose of maximizing the Defendants’ pecuniary gain regardless of patient need. To date, the “protocol” has resulted in the Defendants submitting in excess of over \$2,312,947.37 in fraudulent claims to the Plaintiffs.

3. Laypersons allegedly employed by COLUMBIA PSYCHOLOGY SERVICES, P.C., TISBURY PSYCHOLOGICAL SERVICES, P.C., CLEAR WATER PSYCHOLOGICAL SERVICES, P.C., have assisted the professional corporations in the rendering of false or intentionally excessive psychological services, or directed, controlled, employed and/or derived unlawful pecuniary benefit from Defendant WALTER E. SPEAR, PH.D., a licensed professional engaged in the rendering of psychological services.

4. In addition, Plaintiffs seek a declaration that they are not legally obligated to pay reimbursement of pending no-fault insurance claims that have been submitted by or on behalf of

Defendants COLUMBIA PSYCHOLOGY SERVICES, P.C., TISBURY PSYCHOLOGICAL SERVICES, P.C., CLEAR WATER PSYCHOLOGICAL SERVICES, P.C. and WALTER E. SPEAR, PH.D. for the following reasons:

- i) the Fraudulent Services were not medically necessary and were provided, to the Extent that they were provided at all, pursuant to pre-determined fraudulent protocols designed solely to financially enrich the Defendants, rather than to treat or otherwise benefit the Insureds who purportedly were subjected to them;
- ii) in many cases, the Fraudulent Services never were provided in the first instance;
- iii) the billing codes used for the Fraudulent Services misrepresented and exaggerated the level of services that purportedly were provided in order to inflate the charges submitted to the Plaintiffs;
- iv) the Fraudulent Services were provided, to the extent that they were provided at all, pursuant to illegal kickback arrangements between the Defendants and others; and
- v) COLUMBIA PSYCHOLOGY SERVICES, P.C., TISBURY PSYCHOLOGICAL SERVICES, P.C., CLEAR WATER PSYCHOLOGICAL SERVICES, P.C., and WALTER E. SPEAR, PH.D. unlawfully split fees with unlicensed individuals and entities and, therefore, are/were ineligible to bill for or to collect no-fault benefits.

5. Plaintiffs seek a monetary judgment over and against the Defendants for the recovery of monies, sums, and funds paid by the Plaintiffs to the Defendants by virtue of the Defendants' systematic scheme to defraud the Plaintiffs.

6. In addition, Plaintiffs seek a declaratory judgment as to the following relief:
- i) That Plaintiffs are not obligated to provide any coverage, reimbursements, or pay any monies, sums, or funds to Defendants COLUMBIA PSYCHOLOGY SERVICES, P.C., TISBURY PSYCHOLOGICAL SERVICES, P.C., CLEAR WATER PSYCHOLOGICAL SERVICES, P.C. and WALTER E. SPEAR, PH.D. for any and all No-Fault related services for which claims/bills have been, or many in the future be, submitted by said Defendants to the Plaintiffs;
 - ii) That Defendants COLUMBIA PSYCHOLOGY SERVICES, P.C., TISBURY PSYCHOLOGICAL SERVICES, P.C., CLEAR WATER PSYCHOLOGICAL SERVICES, P.C. and WALTER E. SPEAR, PH.D. lack standing to seek or receive No-Fault reimbursements;

- iii) That the Defendants instituted a predetermined treatment protocol which included the rendition of unnecessary psychological services regardless of the patients need for same; and
- iv) That Defendants COLUMBIA PSYCHOLOGY SERVICES, P.C., TISBURY PSYCHOLOGICAL SERVICES, P.C., CLEAR WATER PSYCHOLOGICAL SERVICES, P.C. and WALTER E. SPEAR, PH.D. engaged in illegal fee splitting and/or giving the monetary amounts collected for professional services with non-professional lay persons.

7. As such, the Defendants do not now have, and never had, any right to be compensated for the Fraudulent Services that have been billed to the Plaintiffs through Defendants COLUMBIA PSYCHOLOGY SERVICES, P.C., C, CLEAR WATER PSYCHOLOGICAL SERVICES, P.C. and WALTER E. SPEAR, PH.D.

8. The Defendants' fraudulent scheme began as early as November 2010 and has continued uninterrupted since that time. As a result of the Defendants' scheme, the Plaintiffs have incurred damages in excess of \$1,534,778.40. The Court is respectfully directed to **Exhibits "1" through "4"** to view a list of fraudulent claims submitted by Defendants COLUMBIA PSYCHOLOGY SERVICES, P.C., TISBURY PSYCHOLOGICAL SERVICES, P.C., CLEAR WATER PSYCHOLOGICAL SERVICES, P.C. and an entity named WES Psychological Services, P.C. (which reincarnated into Defendant TISBURY PSYCHOLOGICAL SERVICES, P.C.), respectively.

II. PARTIES

A. Plaintiffs

9. Plaintiffs, GOVERNMENT EMPLOYEES INSURANCE CO., GEICO INDEMNITY CO., GEICO GENERAL INSURANCE COMPANY and GEICO CASUALTY CO. are Maryland corporations with their principal place of business in Chevy Chase, Maryland.

GEICO is authorized to conduct business and to issue automobile policies in the State of New York.

B. Defendants

10. Defendant, COLUMBIA PSYCHOLOGY SERVICES, P.C. (hereinafter referred to as “COLUMBIA”) is a New York professional service corporation with its principal place of business in New York, through which many of the Fraudulent Services have been billed to insurance companies, including the Plaintiffs. COLUMBIA was incorporated on October 1, 2012, and is owned by Defendant WALTER E. SPEAR, PH.D.

11. Defendant, TISBURY PSYCHOLOGICAL SERVICES, P.C. (hereinafter referred to as “TISBURY”) is a New York professional service corporation with its principal place of business in New York, through which many of the Fraudulent Services have been billed to insurance companies, including the Plaintiffs. TISBURY was incorporated on July 3, 2013, and is owned by Defendant WALTER E. SPEAR, PH.D.

12. On or about November 14, 2013, SPEAR merged a predecessor company, WES PSYCHOLOGICAL SERVICES, P.C. (hereinafter referred to as “WES”) into TISBURY so that they became one legal entity, with TISBURY being the successor in interest. Prior to the merger, WES submitted billing to GEICO utilizing the same fraudulent protocol discussed at length throughout this Complaint.

13. Defendant, CLEAR WATER PSYCHOLOGICAL SERVICES, P.C. (hereinafter referred to as “CLEAR WATER”) is a New York professional service corporation with its principal place of business in New York, through which many of the Fraudulent Services have been billed to insurance companies, including the Plaintiffs. CLEAR WATER was incorporated on April 21, 2014, and is owned by Defendant WALTER E. SPEAR, PH.D.

14. Defendant, WALTER E. SPEAR, PH.D. (hereinafter referred to as “SPEARS”) resides in and is a citizen of New York. SPEAR was licensed to practice psychology in New York on April 6, 1979, is the owner of Defendants COLUMBIA, TISBURY and CLEAR WATER, and purported to perform many of the Fraudulent Services.

III. JURISDICTION AND VENUE

15. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §1332(a)(1) because the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different states. In addition, this Court has supplemental jurisdiction over the subject matter of the claims asserted in this action pursuant to 28 U.S.C. §1367.

16. Venue in this District is appropriate pursuant to 28 U.S.C. §1391, as the Eastern District of New York is the District where one or more of the Defendants reside and because this is the District where a substantial amount of the activities forming the basis of this Complaint occurred.

IV. ALLEGATIONS COMMON TO ALL CLAIMS

A. Overview of the No Fault Law

17. The Plaintiffs underwrite automobile insurance in the State of New York.

18. New York’s No-Fault laws are designed to ensure that injured victims of motor vehicle accidents have an efficient mechanism to pay for and receive the healthcare services that they need. Under New York’s Comprehensive Motor Vehicle Reparations Act (N.Y. Ins. Law Section 5101, *et seq.*) and the No-Fault Regulation (11 NYCRR 65, *et seq.*) automobile insurers are required to provide personal injury protection benefits (“No-Fault benefits”) to their insureds.

19. No-Fault benefits include up to \$50,000.00 per insured for necessary expenses

that are incurred for healthcare goods and services. An insured can assign his/her rights to the provider(s) of healthcare services in exchange for those services. Pursuant to a duly executed assignment, a healthcare provider may submit claims directly to an insurance company and receive payment for necessary medical services rendered by submitting the claim form required by the New York State Department of Insurance, commonly referred to as an “NF-3”.

20. Pursuant to the No-Fault Regulation, only healthcare providers in possession of a direct assignment of benefits are entitled to bill and collect No-Fault benefits. There is both a statutory and regulatory prohibition against payment(s) of No-Fault benefits to anyone other than the patient or his or her healthcare provider.

21. For a healthcare provider to be eligible to bill and to collect charges from an insurer of healthcare services pursuant to Insurance Law Section 5102(a), it must be the actual provider of the service. Under the Insurance Law and No-Fault Regulation, a professional service corporation is not eligible to bill for services, or to collect for those services from an insurer, where the services were rendered by persons who are not employees of the professional corporation.

B. Licensed Professionals are Prohibited from Sharing Fees With Non-Professionals

22. A licensed healthcare professional is prohibited from sharing fees with non-professionals. Pursuant to Education Law § 6509(9) and the implementing regulation at 8 NYCRR § 29.1(b)(4), a licensed professional is prohibited from permitting any person to share in the fees for professional services, other than another person or entity authorized to practice the same profession.

23. Under Sachs v. Saloshin, 138 A.D. 2d 586 (N.Y. App. Div. 2d Dep’t 1988) and Baliotti v. Walkes, 115 A.D. 2d 581 (N.Y. App. Div. 2d Dep’t 1985), the Second Department

held that payments of a percentage of patient fees to non-professionals, pursuant to a management agreement, were illegal fee splitting arrangements in violation of the Education Law. In Accident Claims Termination Corp. v. Durst, 224 A.D. 2d 343 (N.Y. App. Div. 1st Dep't 1996) and Greene v. Metropolitan Insurance, 74 Misc. 2d 932 (N.Y. County Court, Buffalo Co, 1973), it was held that claims for payment by individuals illegally engaged in the practice of medicine are unenforceable.

24. In Pomerantz v. N.Y.S. Department of Social Services, 228 A.D. 2d 242 (N.Y. App. Div. 1st Dep't 1996) and Schorr v. Bernard MacFadden Foundation, Inc., 5 A.D. 2d 151 (N.Y. App. Div. 4th Dep't 1958), the First and Fourth Departments held that a payment of a percentage of medical fees to a layperson billing company constituted an unacceptable practice.

C. Historical Background and Antecedents Underlying Defendants' Current Fraudulent Scheme

25. It is believed that since 2004 up until the present time, Defendant SPEAR has engaged in illegal schemes that include the use of his psychology license to bilk no-fault insurers of millions of dollars in claims for bogus no-fault psychological services that are medically unnecessary, exaggerated or never performed at all.

26. The alleged psychological services are performed at several multi-disciplinary medical clinics, specifically designed to offer an exhaustive list of No-Fault related healthcare services and supplies to individuals injured in automobile accidents and are billed under one of several professional corporations opened under Defendant SPEAR's name and license.

27. At first glance these medical facilities appear legitimate but further investigation reveals they are "medical mills" owned and operated in violation of New York State law by unlicensed laypersons who accept "kickbacks" for access to patients. These "kickback" payments typically are disguised as alleged rental payments for use of space and personnel.

28. A patient treating at one of these facilities is blindly guided through a predetermined medically unnecessary treatment protocol created to maximize profit regardless of the patient's symptomology or injuries.

29. Upon information and belief, the healthcare providers located at the clinics solely treat the clinics' patients and do not maintain stand-alone practices. Every business and professional aspect is controlled by unlicensed laypersons. Pursuant to their "kickback" arrangement with these laypersons, the healthcare providers receive a steady supply of patients eliminating the need to market or advertise. The healthcare providers operate together with management as one entity sharing staff, the same phone number and equipment.

30. Defendant SPEAR has financially benefited for several years by associating with layperson individuals who intentionally violate New York state laws in the manner described above to commit insurance fraud.

31. One particular individual, Vladimir Grinberg ("Grinberg"), was indicted on or about February 29, 2012 on federal charges of health care fraud, conspiracy, mail fraud and conspiracy to commit money laundering, among other things, in connection with a scheme to defraud New York automobile insurance companies of more than \$275,000,000.00 under New York's no-fault insurance laws.

32. The federal criminal case against Grinberg concluded on or about June 26, 2013, by Grinberg entering into a plea agreement wherein he pleaded guilty to conspiracy to commit healthcare fraud and conspiracy to commit money laundering in connection with his ownership and control of Five Boro Psychological Services, P.C., All Boro Psychological Services, P.C. and Five Boro Psychological and Licensed Master Social Work Services, PLLC.

33. The February 2012 indictment depicts the scheme perpetuated by Grinberg in that

Grinberg hired licensed psychologists, including Defendant SPEAR, to render medically unnecessary psychological services in a preset manner for the purpose of bilking No-Fault insurers by submitting an enormous measure of claims.

34. Both Grinberg and Defendant SPEAR have been named as Defendants twice in two separate actions filed in the United States District Court for the Eastern District of New York (See Allstate v. Vladimir Grinberg, et. al. (1:14-CV-00483), and GEICO v. Five Boro Psychological Services, P.C., et. al. (1:12-CV-02448), wherein they were accused of participating in No-Fault fraud and civil RICO violations.

35. According to the complaint filed in Allstate v. Vladimir Grinberg, et. al., Defendant SPEAR swore in an affidavit dated September 26, 2012, that he worked for All Boro Psychological Services, P.C. for eight months under Vladimir Grinberg and John Braun's instruction. He was told to refer every patient for psychological testing or treatment despite the lack of necessity. Further, he did not administer or interpret tests, review medical records or speak to the patients' families as claimed.

36. Despite the dissolution of Vladimir Grinberg's scheme, which upon information and belief concluded after Mr. Grinberg was convicted of medical fraud and money laundering in connection with Five Boro Psychological Services, P.C. and All Boro Psychological Services, P.C., Defendant SPEAR conspired with other laypersons to incorporate professional corporations under new names to avoid detection while operating in the same manner as his predecessor corporations.

D. DEFENDANTS' CURRENT FRAUDULENT SCHEME

i. Kickbacks and Layperson Control at the Professional Corporations

37. The Plaintiffs' investigation into Defendants COLUMBIA, TISBURY and

CLEAR WATER revealed their involvement in an illegal operation. These corporations have operated concurrently with other professional healthcare corporations located at 1220 East New York Avenue, Brooklyn, New York (hereinafter referred to as “1220 East New York Avenue”) and 1552 Ralph Avenue, Brooklyn, New York (hereinafter referred to as “1552 Ralph Avenue”).

38. Upon information and belief laypersons fully control and manage the operation situated at 1220 East New York Avenue and 1552 Ralph Avenue yet they never possessed a medical or professional health care license in the State of New York and are operating both medical facilities in direct conflict with New York law.

39. Upon information and belief, the laypersons conspired with several healthcare professionals, including Defendant SPEAR, for permission to exert total control over the services rendered by the professional healthcare corporations operating out of 1220 East New York Avenue and 1552 Ralph Avenue in exchange for a fixed income or other compensation.

40. The 1220 East New York Avenue / 1552 Ralph Avenue enterprise streams a steady flow of patients to Defendant SPEAR, eliminating the need for marketing or advertising. In exchange, the laypersons are compensated by “kickback” payments from a portion of the profits earned. To mask the impropriety of these illegal payments, Defendant SPEAR refers to them as “rent” for use of space, equipment and personnel. Defendant Spear provided GEICO with copies of two separate “lease agreements,” that claim to bind Defendant SPEAR on behalf of CLEAR WATER into a rental agreement with the purported owner of the facility located at 1220 East New York Avenue and the other binding Defendant SPEAR on behalf of CLEAR WATER with the alleged owner of the facility located at 1552 Ralph Avenue. On paper these two facilities appear unconnected listing different owners and facility names; however, the lease agreements for space at each location are identical containing the same lease terms which were

provided to Defendant SPEAR by front desk personnel who run the offices and collect “rent.” The interested parties separately signed the agreement without negotiating the terms.

41. Defendant SPEAR has never exercised control over the daily operations of Defendants COLUMBIA, TISBURY or CLEAR WATER but obediently acts as instructed by laypersons. All aspects of his professional corporations, including the selection of psychological services prescribed per patient, are designated by laypersons.

42. Defendant SPEAR and the Defendant corporations COLUMBIA, TISBURY and CLEAR WATER have operated in unity with the 1220 East New York Avenue / 1552 Ralph Avenue enterprise pursuant to a complex scam to cater a wide variety of medically unnecessary No-Fault services precontrived for the purpose of submitting voluminous amounts of billing.

43. Once collections prove problematic, Defendant SPEAR, at the direction of laypersons, closes one corporation and incorporates under a new name to avoid detection.

44. As to date, the Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER have billed the Plaintiffs for \$2,312,947.37 dollars for psychological services that were either unwarranted, inflated or in some cases never rendered at all.

ii. Defendants’ Fraudulent Treatment Billing Protocol

45. During Plaintiffs’ investigation of Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER, thirty-one patient statements were obtained from individuals who allegedly received psychological services for which the Defendants sought remittance. The statements offered valuable insight into the fraudulent treatment protocol in place by revealing a pattern of improper billing that includes billing for services not rendered and up-coding to maximize profit.

46. Patients received, if received at all, identical treatment predetermined and outside

the scope of what any ethical physician or healthcare provider would reasonably prescribe. This fraudulent treatment protocol was specifically devised by laypersons together Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER to ensure maximum revenue.

47. Upon entering either facility located at 1220 East New York Avenue or 1552 Ralph Avenue, a patient is assigned a course of treatment that systematically includes psychological services without regard to the patient's symptomology, history, or condition.

48. Patients are asked by front desk personnel to execute a self-referral form. After completing the aforementioned paperwork, patients are ushered to Defendant SPEAR. At first, most patients are completely unaware Defendant SPEAR is a psychologist because they are intentionally misled by front desk personnel that they are to receive ordinary rehabilitative services pursuant to their treatment regimen.

49. After introduction, if a patient then agrees to proceed, Defendant SPEAR purportedly conducts a diagnostic interview along with an alleged review of records, and in some instances supposedly interprets his findings with family or responsible persons associated with that patient. Thereafter, improper charges are submitted utilizing Current Procedure Terminology (CPT) Codes 90801, 90885 and 90887, respectively for services performed, if rendered at all, that are unbundled and up-coded to falsely exaggerate the level of care.

50. Patients are further instructed to answer various questionnaires that do not require more than approximately twenty minutes to complete. These questionnaires are rudimentary brief checklists; however, Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER allege these are psychological tests (charged under CPT Codes 96100 and 96101) that command five hours to accomplish.

51. Numerous patients deny receiving psychotherapy treatment at either 1220 East

New York Avenue or 1552 Ralph Avenue. Patients who confirmed receipt of therapy typically participated in two to four psychotherapy sessions that reportedly concluded within fifteen minutes; however, Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER deceitfully seek compensation under CPT code 90806 for forty-five to fifty-minute long sessions. In either circumstance, the Defendants consistently falsify billing with the intention of committing insurance fraud.

52. Each and every patient is treated identically. After the governing laypersons procure a patient, he or she is steered to the various providers that pay kickbacks at the 1220 East New York Avenue/1552 Ralph Avenue operation, including Defendant SPEAR and his professional corporations. Without attention to a patient's actual medical needs, if any exist, an individual is prescribed a variety of medically unnecessary treatment predesigned to justify each step of the protocol, and to induce the Plaintiffs and other insurance carriers to issue payments on claims that they were not legally entitled to receive. Further analysis of Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER's submission of fraudulent charges is detailed below.

iii. CPT Code 90801

53. The first inessential service administered and submitted for No-Fault reimbursement by Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER that was invented by laypersons is a diagnostic interview -CPT Code 90801.

54. Defendants' version of a diagnostic interview dramatically differs from what an ethical psychologist would perform. An honest diagnostic interview consists of a fully detailed mental status exam taking into account a patient's appearance, orientation, mood, thought content, thought process, speech, motor skills, intellect, insight, judgment, impulse control,

memory, concentration, attention, behavior, etc. It would also involve analyzing a patient's individual risk assessment and risk factors to formulate a diagnosis and treatment recommendation.

55. Patients interviewed by Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER are not interviewed in this manner and in fact neither the content of the discussion nor the physical observations matters because the diagnosis and recommended treatment is predetermined.

56. Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER produce ersatz reports containing boilerplate language designed to lay the foundation for future medically unnecessary psychotherapy sessions. The reports fail to include any information unique to those allegedly interviewed because the reports are duplicated patient to patient. Thus, any interview allegedly performed is of no medical use or benefit to patient and is performed at the bequest of laypersons according to their illicit operation.

iv. CPT Codes 96100 and 96101

57. The Plaintiffs routinely receive bills for extensive psychological testing purportedly performed by Defendants COLUMBIA, TISBURY and CLEAR WATER administered in an identical manner for each patient seen despite the injuries, if any exist; and are the result of low impact automobile accidents.

58. Prior to meeting with Defendant SPEAR, a patient treating at 1220 East New York Avenue or 1552 Ralph Avenue is provided a packet of questionnaires by clerical staff said to include a Personal Injury Questionnaire, Davidson Trauma Scale, Sleep Impairment Index, Profile of Mood States, Miller Forensic Assessment of Symptoms Test and McGill Pain Questionnaire. These tests are mere checklists generally completed within fifteen minutes;

however, Defendants COLUMBIA, TISBURY and CLEAR WATER intentionally submit charges under CPT Codes 96100 or 96101 that misrepresent five hours of testing executed per patient.

59. These tests are brief uncomplicated checklists concocted for the sole purpose of justifying further treatment and appointing a phony diagnosis.

60. In fact, every patient allegedly tested is diagnosed as suffering from “adjustment disorder” or “adjustment disorder with anxiety or depressed mood.”

61. Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER misrepresent that they administer these tests and that it requires five hours to complete each set of tests per patient.

62. If a patient requires psychological services following his or her involvement in a motor vehicle accident, then customarily a diagnostic interview alone should be sufficient to reach a diagnosis. However, if that proves impossible after a diagnostic interview alone, then it is plausible that a psychologist would employ these tests. Yet Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER intentionally choose to “conduct” tests after reaching an alleged diagnosis.

63. By his own testimony, SPEAR is billing for tests, the Miller Forensic Assessment Test, without justification. He testified the test aids in deciphering a patient’s truthfulness and reports of hallucinations; however, he never had cause to suspect either in any of the cases wherein the test was performed. SPEAR rationalizes the need to conduct the exam with his patients’ inability to be forthcoming with their true emotions.

64. Bills submitted by Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER for psychological testing (CPT Codes 96100 and 96101) were conducted, if performed

at all, in furtherance of the fraudulent treatment protocol created by laypersons and Defendant SPEAR.

v. CPT Code 90887

65. Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER often submit invoices to the Plaintiffs seeking reimbursement for interpreting or explaining test results to a patient's family members or responsible persons associated with that patient; however, Plaintiffs' investigation revealed Defendants' claims to be fabrications.

66. Charges remitted for payment under CPT Code 90887 were deceitful attempts to collect fees in furtherance of the fraudulent treatment protocol created by laypersons and Defendant SPEAR.

vii. CPT Code 90885

67. Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER, at the request of laypersons, unbundle charges to maximize profit.

68. A separate charge for an evaluation of hospital records and other psychiatric reports - CPT Code 90885- is typically submitted even though minimal review is inclusive, if any records are reviewed at all, of the diagnostic interview.

viii. CPT Codes 90804, 90805 and 90806

69. The performance of the aforementioned services constructs a foundation for further claims, particularly numerous rounds of psychotherapy.

70. In comparison, the psychotherapy billed by Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER - CPT Codes 90804, 90805 and 90806- do not comport with what a legitimate psychologist would consider typical treatment. In fact, based on patient statements, the treatment, if received at all, resembles biofeedback therapy.

71. Further, the Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER deceitfully allege sessions last longer in duration (twenty to thirty minutes -CPT Codes 90804 and 90805, or forty-five to fifty minutes - CPT Code 90806) when most patients report sessions conclude within ten to fifteen minutes.

72. Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER were directed by commanding laypersons to deliberately submit bills containing material misrepresentations to the Plaintiffs that inflate fees to ensure their kickback payments and continue the overall operation of the 1220 East New York Avenue / 1552 Ralph Avenue enterprise.

ix. Patient Statements

73. Statements procured by the Plaintiffs from the Defendants' patients reflect the truth of Defendants improper and fraudulent billing in that:

- a) Patient #1 BK stated sessions were 10 minutes long and the therapist did not conduct any testing. The Plaintiffs received bills from WES for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 2) \$923.20 for five charges of CPT code 96101 testing 3) \$103.31 for CPT code 90887 explanation of results with family and 4) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes;
- b) Patient #2 WD described the initial consultation as answering a questionnaire and speaking to the psychologist for an hour. Treatment sessions were 10 minutes in duration. The Plaintiffs received bills from WES for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minute of psychotherapy 2) \$923.20 for five charges CPT code 96101 testing 3) \$103.31 for CPT code 90887 explanation of results with family members and 4) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes;
- c) Patient #3 GH was questioned about his mental status for less than an hour and never received psychotherapy. The Plaintiffs received bills from WES for 1) \$923.20 for five charges of CPT code 96101 testing and 2) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes;
- d) Patient #4 TM was told to see a psychologist and had four to five sessions that lasted 10 minutes each and denied undergoing psychological testing. The Plaintiffs received bills from WES for 1) \$923.20 for five charges of CPT code

96101 testing 2) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy and 3) \$103.31 for CPT code 90887 explanation of results with family;

- e) Patient #5 PG received four therapy sessions that lasted twenty to 30 minutes. The Plaintiffs received bills from TISBURY for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy and 2) \$923.20 for five charges of CPT code 96101 testing;
- f) Patient #6 BS filled out a questionnaire and treated three times with a psychologist. Each session lasted seven to 10 minutes long. The Plaintiffs received bills from TISBURY for 1) 923.20 for five charges of CPT code 96101 testing; 2) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 3) \$103.31 for CPT code 90887 explanation of results with family 4) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 5) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 6) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 7) \$76.88 for CPT code 90804 psychotherapy 20-30 minutes 8) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes and 9) \$76.88 for CPT code 90804 psychotherapy 20-30 minutes;
- g) Patient #7 CS filled out a questionnaire and attended three to four therapy sessions that lasted 7 minutes each. The Plaintiffs received bills from TISBURY for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 2) \$923.20 for five charges CPT code 96101 testing 3) \$103.31 for CPT code 90887 explanation of results with family and 4) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes;
- h) Patient #8 FL reported treatment sessions were 15 minutes in duration. The Plaintiffs received bills from TISBURY for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 2) \$103.31 for CPT code 90887 explanation of results with family and 3) \$120.10 for CPT code 90806 45-50 minutes psychotherapy;
- i) Patient #9 SV had an initial consultation and two subsequent visits. The consultation and follow up appointments were 10 minutes long. The Plaintiffs received bills from TISBURY for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 2) \$923.20 for five charges CPT code 96101 testing and 3) \$103.31 for CPT code 90887 explanation of results with family;
- j) Patient #10 CJ was directed to a psychologist even though she did not ask for one, was instructed to fill out a questionnaire and received treatment on three occasions that lasted no more than 30 minutes. The Plaintiffs received bills from

TISBURY for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 2) \$923.20 for five charges of CPT code 96101 testing and 3) \$103.31 for CPT code 90887 explanation of results with family;

- k) Patient # 11 ST was led to a psychologist, filled out a questionnaire within 15 minutes and on a subsequent visit underwent a 15-20 minute therapy session. The Plaintiffs received bills from TISBURY for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 2) \$923.20 for five charges of CPT code 96101 testing and 3) \$103.31 for CPT code 90887 explanation of results with family;
- l) Patient #12 MF was directed to a psychologist, did not fill out a questionnaire but met on three times for 10 minute sessions. The Plaintiffs received bills from TISBURY for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 2) \$553.92 for three charges of CPT code 96101 testing 3) \$120.10 for CPT code 90806 45-50 minutes psychotherapy 4) \$ 120.10 for CPT code 90806 45-50 minutes psychotherapy and 5) \$ 120.10 for CPT code 90806 45-50 minutes psychotherapy;
- m) Patient #13 GH was told psychological services were part of his treatment. Each visit lasted 15 minutes and he never underwent testing. The Plaintiffs received bills from TISBURY for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 2) \$103.31 for CPT code 90887 explanation of results with family 3) \$923.20 for five charges CPT code 96101 testing 4) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 5) \$470.84 for 3 charges of CPT code 20-30 minutes psychotherapy, 2 charges of CPT code 90806 45-50 minutes psychotherapy 6) \$273.86 for two charges of CPT code 90804 psychotherapy 20-30 minutes and CPT code 90806 psychotherapy 45-50 minutes and 7) \$634.16 for two charges of CPT code 90804 psychotherapy 20-30 minutes and four charges of CPT 90806 psychotherapy 45-50 minutes;
- n) Patient #14 MG was told psychological services were part of his treatment. Each visit lasted 15 minutes. The Plaintiffs received bills from TISBURY for 1) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 2) \$103.31 for CPT code 90887 explanation of results with family 3) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 4) \$196.68 for CPT code 90806 psychotherapy 45-50 minutes and CPT code 90804 psychotherapy 20-30 minutes 5) \$196.68 for CPT code 90806 psychotherapy 45-50 minutes and CPT code 90804 psychotherapy 20-30 minutes 6) \$437.18 for three charges of CPT code 90806 psychotherapy 45-50minutes, CPT code 90804 psychotherapy 20-30 minutes and 7) \$240.00 for two charges of CPT code 90806 psychotherapy 45-50 minutes;

- o) Patient #15 MS denied receiving any psychological services. The Plaintiffs received bills from TISBURY for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 2) \$103.31 for CPT code 90887 explanation of results with family 3) \$923.20 for five charges CPT code 96101 testing 4) \$360.30 for three charges of CPT code 90806 45-50 minutes psychotherapy 5) \$196.68 for CPT code 90806 psychotherapy 45-50 minutes, CPT code 90804 psychotherapy 20-30 minutes 6) \$153.76 for two charges of CPT code 90804 psychotherapy 20-30 minutes 7) \$240.20 for two charges of CPT code 90806 psychotherapy 45-50 minutes and 8) \$240.20 for two charges of CPT code 90806 psychotherapy 45-50 minutes;
- p) Patient #16 SR was informed by the main medical facility staff to see a doctor and was unaware at first that the doctor was a psychologist. She was seen twice for 15-20 minutes. No records were reviewed and no testing conducted. The Plaintiffs received bills from TISBURY for 1) \$823.20 for five charges of testing CPT code 96101 and 2) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy;
- q) Patient #17 SS, confirmed by her attorney to be a female, was listed in all of TISBURY's bills and medical records as a male. The Plaintiffs received bills from TISBURY for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 2) \$103.31 for CPT code 90887 explanation of results with family 3) \$196.98 for CPT code 90804 psychotherapy 20-30 min, CPT code 90806 psychotherapy 45-50 minutes 4) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 5) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes and 6) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes;
- r) Patient #18 SC claims to have seen a psychologist only two or three times. The Plaintiffs received bills from TISBURY for 1) \$923.00 for CPT code 96101 testing, 2) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy, 3) \$103.31 for CPT code 90887 explanation of results with family 4) \$240.00 for CPT code 90806 psychotherapy 45-50 minutes on two separate dates of service and 5) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes;
- s) Patient #19 CH saw a psychologist twice. The Plaintiffs received bills from TISBURY for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 2) \$923.20 for five charges of CPT code 96101 testing 3) \$103.31 for CPT code 90887 explanation of results with family 4) \$120.10 CPT code 90806 psychotherapy 45-50 minutes and 5) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes;
- t) Patient #20 AK saw a psychologist twice. The Plaintiffs received bills from TISBURY for 1) \$338.70 for CPT code 90801 interview, CPT code 90885

evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy and 2) \$923.20 for five charges CPT code 96101 testing;

- u) Patient #21 DM detailed the nature of his treatment sessions. He was advised to change his diet and perform relaxation exercises in order to relieve stress, headaches and difficulty sleeping. The Plaintiffs received bills from COLUMBIA for 1) \$76.88 for CPT code 90804 psychotherapy 20-30 minutes 2) \$76.88 for CPT code 90804 psychotherapy 20-30 minutes 3) \$76.88 for CPT code 90804 psychotherapy 20-30 minutes 4) \$228.88 for CPT code 90805 psychotherapy 20-30 minutes 5) \$218.34 for CPT code 90801 interview 6) \$799.81 for five charges of CPT code 96101 testing and CPT code 90887 explanation of results with family and 7) \$76.88 for CPT code 90804 psychotherapy 20-30 minutes;
- v) Patient #22 SA saw a psychologist for a 10 minute initial exam and six follow up visits each lasting 6-7 minutes. The Plaintiffs received bills from COLUMBIA for 1) \$194.56 for CPT code 90801 interview 2) \$696.50 for five charges of CPT code 90801 testing 3) \$103.31 for CPT code 90887 explanation of results with family and 4) \$76.88 for CPT code 90804 psychotherapy 20-30 minutes;
- w) Patient #23 DS saw a mental counsellor who provided him with a relaxation CD and spent 15 minutes discussing relaxation techniques. The Plaintiffs received bills from CLEAR WATER for 1) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 2) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 3) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 4) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 5) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 6) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 7) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 8) \$1,185.02 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, five charges of CPT code 96101 testing and 9) \$103.31 for CPT code 90887 explanation of results with family
- x) Patient #24 HS met with a mental counsellor once or twice a week for 5 minute therapy sessions to discuss relaxation techniques (e.g. hot bath/shower, listening to a CD) but never answered a questionnaire or reviewed paperwork. The Plaintiffs received bills from CLEAR WATER for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy and 2) \$923.20 for five charges CPT code 96101 testing;
- y) Patient #25 AA met with mental counsellor once a week for 15 minutes to focus on managing pain by showering techniques and various sleep positions. He filled out surveys but they were not reviewed. The Plaintiffs received bills from CLEAR WATER for 1) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 2) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 3) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 4) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 5) \$120.10 for CPT code 90806

psychotherapy 45-50 minutes 6) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 7) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 8) \$1,185.02 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, five charges of CPT code 96101 testing and 9) \$103.31 for CPT code 90887 explanation of results with family;

- z) Patient #26 GC met with a mental counsellor every two weeks for 15-20 minutes to discuss sleep and relaxation techniques. Her husband translated for her since the counsellor did not speak Spanish. The Plaintiffs received bills from CLEAR WATER 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 2) \$923.20 for five charges of CPT code 96101 testing 3) \$103.31 for CPT code 90887 explanation of results with family and 4) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes;
- aa) Patient #27 JC denies ever receiving psychological treatment. The Plaintiffs received bills from CLEAR WATER for 1) CPT code 90806 2) CPT code 90885 3) CPT code 90887 4) CPT code 96101 and 5) CPT code 90806 for six dates of service;
- bb) Patient #28 LDA met with a mental counsellor for 10 minute sessions once a week. The counsellor did not speak Spanish and said an interpreter was available if necessary. The Plaintiffs received bills from CLEAR WATER for 1) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 2) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 3) \$923.20 for five charges of CPT code 96101 testing 4) \$103.31 for CPT code 90887 explanation of results with family and 5) \$240.20 for two charges of CPT code 90806 psychotherapy 45-50 minutes;
- cc) Patient #29 NM had two consultations with a psychologist that both lasted 10 minutes. The first involved a questionnaire and answering questions about her mental health. The second was similar but did not include any questionnaire. The Plaintiffs received bills from CLEAR WATER for 1) \$103.31 for CPT code 90887 explanation of results with family 2) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy and 3) \$923.20 for five charges of CPT code 96101 testing;
- dd) Patient #30 KL me with a psychologist on three occasions even though he had no mental health issues following the accident. The initial session was 15 minutes long and follow ups lasted 10 minutes. Testing was never conducted and his family never spoke to the psychologist. The Plaintiffs received bills from CLEAR WATER for 1) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 2) \$120.10 for CPT code 90806 psychotherapy 45-50 minutes 3) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy 4) \$923.20 for five charges of CPT code 96101 testing 5) \$103.31 for CPT code 90887 explanation of results with family

6) \$240.20 for two charges of CPT code 90806 psychotherapy 45-50 minutes and
7) \$120.10 CPT code 90806 psychotherapy 45-50 minutes; and

ee) Patient #31 JN had two sessions with psychologist. The first involved a review of a questionnaire he was asked to fill out and a session that lasted 10 minutes. During the second appointment, they discussed his progress without reviewing any paperwork or any conducting any tests. The Plaintiffs received bills from CLEAR WATER for 1) \$338.70 for CPT code 90801 interview, CPT code 90885 evaluation of medical records, CPT code 90804 20-30 minutes of psychotherapy and 2) \$923.20- five charges CPT code 96101 testing.

74. Not only do these statements when compared to the bills received by the Plaintiffs reveal the truth of Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER alleged rendition of services but also the extent to which the Defendants would go to perpetuate insurance fraud.

75. A closer look revealed twenty days of cumulative time spent on patients exceeded thirteen hours per day. Sixty percent of the charges brought included five units of psychological testing under CPT Code 96101. This is critical evidence of up-coding to inflate bills.

76. Further review of these statements, including bills from SPEAR and all available medical records, indicate each claimant is prematurely diagnosed often using incorrect medical information.

77. A substantial number of claimants were diagnosed with posttraumatic stress disorder (PTSD) within less than one month of his or her involvement in a motor vehicle accident. Several of the claimants never reported striking their head, losing consciousness or visiting a hospital following the accident. Due to the low impact nature of the accidents the claimants were involved in, it is highly unlikely, particularly so quickly after they occur, that there would be a plausible basis for recommending a psychological evaluation or testing, and certainly improbable of diagnosing PTSD.

78. One claimant was diagnosed during an initial evaluation as suffering with an anxiety disorder, along with a post-concussion disorder, within nine days following the accident. The medical records could not substantiate a medical rationale for prescribing psychological treatment, evaluation or any other assessment.

79. Some claimants who allegedly received treatment from SPEAR appear to have lapses between therapy sessions rendering any treatment that may have been received unfruitful.

80. Typically, claimants' reported symptomology are solely stated in SPEAR's reports and are not present in any other medical records, proving SPEAR's falsifies reports in an attempt to facially legitimize the services rendered. Further, a review of his reports revealed that both symptoms and diagnoses were largely, if not always, identical claimant to claimant. Claimants with mild symptoms, detected from self-report measures, received an improperly measured amount of treatment considered excessive and medically unwarranted.

81. Finally, the reports prepared by SPEAR all contain boilerplate language with either minimal or no changes at all.

82. A fraudulent treatment protocol is revealed from the comparison of statements, bills and medical records. One that Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER executed, as instructed by the controlling laypersons, by rendering medically unnecessary services, if performed at all, falsifying reports and submitting up-coded bills to the Plaintiff for reimbursement under the No Fault coverage of the Plaintiff's insurance policies.

V. CLAIMS FOR RELIEF

**FIRST CAUSE OF ACTION
Against Defendants Spear, Columbia, Tisbury and Clear Water
(Declaratory Relief)**

83. GEICO incorporates, as though fully set forth herein, each and every allegation in paragraphs 1 through 82 above.

84. There is an actual case and controversy between GEICO and Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER regarding pending fraudulent billing submitted through Defendants COLUMBIA, TISBURY and CLEAR WATER.

85. Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER have no right to receive payment for any pending bills submitted to GEICO because the psychological services that are billed through Defendants COLUMBIA, TISBURY and CLEAR WATER are not medically or psychologically necessary and are performed - to the extent that they were performed at all - pursuant to pre-determined fraudulent protocol designed solely to financially enrich the Defendants.

86. Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER have no right to receive payment for any pending bills submitted to GEICO because the psychological services that are billed through Defendants COLUMBIA, TISBURY and CLEAR WATER in many cases are not provided in the first instance.

87. Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER have no right to receive payment for any pending bills submitted to GEICO because the psychological services that are billed through the Defendants COLUMBIA, TISBURY and CLEAR WATER are performed - to the extent that they are performed at all - pursuant to illegal kickback

arrangements between the Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER and laypersons.

88. Accordingly, GEICO requests a judgment pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, declaring that:

- (i) That Plaintiffs are not obligated to provide any coverage, reimbursements, or pay any monies, sums, or funds to Defendants COLUMBIA PSYCHOLOGY SERVICES, P.C., TISBURY PSYCHOLOGICAL SERVICES, P.C., CLEAR WATER PSYCHOLOGICAL SERVICES, P.C. and WALTER E. SPEAR, PH.D. for any and all No-Fault related services for which claims/bills have been, or many in the future be, submitted by said Defendants to the Plaintiffs;
- (ii) That Defendants COLUMBIA PSYCHOLOGY SERVICES, P.C., TISBURY PSYCHOLOGICAL SERVICES, P.C., CLEAR WATER PSYCHOLOGICAL SERVICES, P.C. and WALTER E. SPEAR, PH.D. lack standing to seek or receive No-Fault reimbursements;
- (iii) That the Defendants instituted a predetermined treatment protocol which included the rendition of unnecessary psychological services regardless of the patients need for same; and
- (iv) That Defendants COLUMBIA PSYCHOLOGY SERVICES, P.C., TISBURY PSYCHOLOGICAL SERVICES, P.C., CLEAR WATER PSYCHOLOGICAL SERVICES, P.C. and WALTER E. SPEAR, PH.D. engaged in illegal fee splitting and/or giving the monetary amounts collected for professional services with non-professional lay persons.

**SECOND CAUSE OF ACTION
Against All Defendants
(Common Law Fraud)**

89. GEICO incorporates, as though fully set forth herein, each and every allegation in paragraphs 1 through 88 above.

90. Defendants SPEAR, COLUMBIA, TISBURY, CLEAR WATER intentionally and knowingly made false and fraudulent statements of material fact to GEICO and concealed material facts from GEICO in the course of their submission of thousands of fraudulent bills

through Defendants COLUMBIA, TISBURY and CLEAR WATER SEEKING payment for psychological services.

91. The false and fraudulent statements of material fact and acts of fraudulent concealment include: (i) the fact that Defendants COLUMBIA, TISBURY and CLEAR WATER are/were psychology professional corporations that unlawfully paid kickbacks to the Clinics for its patient referrals; and (ii) In every claim, the representation that the pertinent psychological services actually are/were performed through Defendants COLUMBIA, TISBURY and CLEAR WATER, and that the pertinent psychological services are medically or psychologically necessary, when in fact the psychological services frequently are not performed at all and, to the extent that they are performed, are not medically or psychologically necessary and are performed pursuant to kickbacks that Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER must pay to the governing laypersons and pursuant to a pre-determined fraudulent protocol designed solely to financially enrich the Defendants.

92. The Defendants intentionally made the above-described false and fraudulent statements and concealed material facts in a calculated effort to induce GEICO to pay charges submitted through Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER that were not compensable under the No-fault Laws.

93. GEICO justifiably relied on the Defendants' false and fraudulent representations, and as a proximate result has been injured in its business and property by reason of the above-described conduct in that it has paid at least \$1,534,778.40 pursuant to the fraudulent bills submitted by the Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER.

94. The Defendants' extensive fraudulent conduct demonstrates a high degree of moral turpitude and wanton dishonesty that entitles GEICO to recover punitive damages.

95. Accordingly, by virtue of the foregoing, GEICO is entitled to compensatory and punitive damages, together with interest and costs, and any other relief the Court deems just and proper.

**THIRD CAUSE OF ACTION
Against All Defendants
(Unjust Enrichment)**

96. GEICO incorporates, as though fully set forth herein, each and every allegation in paragraphs 1 through 95 above.

97. As set forth above, Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER engaged in improper, unlawful, and/or unjust acts, all to the harm and detriment of GEICO.

98. When GEICO paid the bills and charges submitted by or on behalf of Defendants COLUMBIA, TISBURY and CLEAR WATER for No-fault Benefits, it reasonably believed that it was legally obligated to make such payments based on the Defendants' improper, unlawful, and/or unjust acts.

99. Defendants SPEAR, COLUMBIA, TISBURY and CLEAR WATER have been enriched at GEICO's expense by GEICO's payments, which constituted a benefit that Defendants voluntarily accepted notwithstanding their improper, unlawful, and unjust billing scheme.

100. Defendants' retention of GEICO's payments violates fundamental principles of justice, equity, and good conscience.

101. By reason of the above, the Defendants have been unjustly enriched in an amount to be determined at trial, but in no event less than \$1, 534,778.40.

VI. JURY DEMAND

102. Pursuant to Federal Rule of Civil Procedure 38(b), GEICO demands a trial by jury.

WHEREFORE, GEICO demands judgment as follows:

A. On the First Cause of Action against SPEAR, COLUMBIA, TISBURY and CLEAR WATER a declaration pursuant to the Declaratory Judgment Act, 28 U.S.C. §§2201 and 2202 that SPEAR, COLUMBIA, TISBURY and CLEAR WATER have no right to receive payment from GEICO for any pending bills submitted to GEICO;

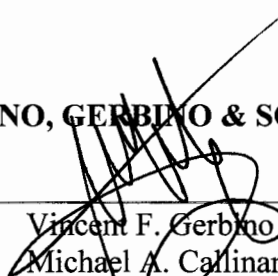
B. On the Second Cause of Action against SPEAR, COLUMBIA, TISBURY and CLEAR WATER Compensatory damages in favor of GEICO as against all defendants, joint and severally, in an amount in excess of \$1,529,801.45, the exact amount to be determined at trial, together with costs, interest and such other and further relief as this Court deems just, proper and equitable;

C. On the Third Cause of Action against SPEAR, COLUMBIA, TISBURY and CLEAR WATER Compensatory damages in favor of GEICO as against all Defendants, joint and severally, in an amount in excess of \$1, 534,778.40, the exact amount to be determined at trial,

together with costs, interest and such other and further relief as this Court deems just, proper and equitable.

Dated: Melville, New York
July 2, 2018

BRUNO, GERBINO & SORIANO, LLP

By: 

Vincent F. Gerbino (VG 0555)
Michael A. Callinan (MC 7052)

445 Broad Hollow Road
Suite 220
Melville, New York 11747
Telephone: (631) 390-0010
Facsimile: (631) 393-5497
vgerbino@bgslaw-ny.com
mcallinan@bgslaw-ny.com
Counsel for Plaintiffs