

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

TERESSA MESTEK,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3:21-cv-00541
)	
)	
LAC COURTE OREILLES)	
COMMUNITY HEALTH CENTER,)	
LOUIS TAYLOR,)	JURY TRIAL DEMANDED
(in both his personal and official capacity))	
JACQUELINE BAE, PH.D.,)	
(in both her personal and official capacity))	
SHANNON STARR, M.D.,)	
(in both his personal and official capacity))	
SARAH KLECAN)	
(in both his personal and official capacity))	
DAVID FRANZ,)	
(in both his personal and official capacity))	
)	
And)	
)	
MICHAEL POPP,)	
in his personal capacity)	
)	
Defendants.)	

AMENDED COMPLAINT

Plaintiff Teresa Mestek, by and through her counsel, and pursuant to Fed. R. Civ. P. 15(a)(1)(B), hereby complains and states as follows:

I. NATURE OF THE CASE

1. This is an action for damages and injunctive relief under the federal False Claims Act (FCA) anti-retaliation provision, 31 U.S.C. § 3730(h), and Wisconsin common law against Lac Courte Oreilles Community Health Center (LCO CHC) and affiliated individuals by Plaintiff

Teressa Mestek, LCO CHC's former Director of Health Information.

2. This Complaint concerns the August 24, 2018 termination of Ms. Mestek's employment on the pretext that her position was no longer needed. As alleged herein, Ms. Mestek's position was eliminated not because it was no longer needed but rather as retaliation against Ms. Mestek because she had engaged in whistleblowing and other activities protected by the federal False Claims Act.

II. FEDERAL JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 31 U.S.C. § 3732(a). This action involves a retaliation claim under the federal FCA.

4. The Court has supplemental jurisdiction of Plaintiff Mestek's state law employment claims pursuant to 28 U.S.C. § 1367.

5. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2). The acts of the Defendants that form the factual basis of the claims stated herein took place in the Western District of Wisconsin.

III. PARTIES

6. **Plaintiff Teressa R. Mestek**, MA, RHIA, is a resident of the State of Wisconsin, County of Sawyer . At all times relevant to this Complaint, Ms. Mestek served as LCO CHC's Director of Health Information and was a certified Registered Health Information Administrator (RHIA).

7. **Defendant LCO CHC** is a health clinic with a principal place of business located at 13380 W Trepania Rd, Hayward, Wisconsin 54843. LCO CHC provides a wide variety of

health service, including, but not necessarily limited to, outpatient medical services, diagnostic laboratory services, dental services, addiction services. These services are subject to state federal regulations and paid for, in the case of many patients, at least in part by federally funded insurance programs, such as Medicare and Medicaid.

8. **Defendant Shannon Starr** is a physician licensed to practice Medicine in the state of Wisconsin. At all times relevant to the complaint, Defendant Starr was LCO CHC's Medical Director.

9. **Defendant Sarah Klecan** is a resident of the State of Wisconsin, County of Washburn. At all times relevant to this Complaint, Defendant Klecan served as the head of the LCO CHC's Human Resources office ("HR Manager").

10. **Defendant Louis Taylor** is a resident of the State of Wisconsin, County of Sawyer. At all times relevant to this Complaint, Defendant Taylor served as the Chairman and CEO of Lac Courte Oreilles Tribe.

11. **Defendant David Franz** is a resident of the state of Wisconsin and resides in the Western District of Wisconsin. At all times relevant to the Complaint, Defendant Franz served as LCO CHC's Information Technology (IT) Director.

12. **Defendant Jaqueline Bae** is a resident of the state of California and served as LCO CHC's Chief Executive and Administrative Officer for the LCO CHC at the time of Ms. Mestek's employment termination.

13. **Defendant Michael Popp** is a resident of the state of Wisconsin, City of Muskego. At all times relevant to the Complaint, Defendant Popp was the owner and president of MJP Healthcare Consulting, LLC through which he was engaged by LCO-CHC to provide healthcare consulting services.

IV. GENERAL FACTUAL BACKGROUND

A. LCO CHC's Independent Operation, Decision Making, and Waivers

14. During the times relevant to this complaint including 2017 and 2018, LCO CHC acted *de facto* as a business entity independent of the LCO Tribe.

15. During the times relevant to this complaint including 2017 and 2018, the LCO's budget, although it did include some funding from the LCO Tribe, was largely federal government funded through grants and reimbursements from Medicare and Medicaid programs.

16. During the times relevant to this complaint including 2017 and 2018, the LCO CHC's daily operation and decision making, including decisions regarding termination of employment of LCO CHC staff including Ms. Mestek, was controlled by the LCO CHC's own administrative staff and not the LCO Tribe.

17. Although the Medical Director of LCO CHC, who ran the operations of the LCO CHC during this time, was purportedly overseen by a Health Director who reported to the LCO Tribal Governing Board, the Health Director position was either left unfilled or filled by someone on an interim basis or someone appointed for accreditation purposes who served in a figurehead capacity rather than a functional leadership role.

18. At the time Ms. Mestek's employment was terminated, the letter noticing Ms. Mestek of the termination of her employment was physically signed by the LCO CHC Medical Director, Dr. Shannon Starr.

19. Although the then-Health Director Ms. Jacqueline Bae's typed name appeared below Medical Director Starr's signature on this termination notice letter, upon Ms. Mestek's direct inquiry by phone with then-Health Director Bae, Ms. Mestek learned that the Health

Director had not made the decision to terminate Ms. Mestek's employment but rather that the decision was made by Medical Director Starr.

20. The decision to terminate Ms. Mestek's employment was an *ultra vires* act of LCO CHC Medical Director Shannon Starr that was not approved by the LCO Tribal Governing Board.

21. Ms. Bae had begun her tenure as Health Director of LCO CHC on July 9, 2018, arriving just a day before the LCO CHC was to be subject to an accreditation survey.

22. Shortly after this accreditation survey was completed in July 2018, Ms. Bae was no longer physically present on the LCO CHC site, and was engaged in employment and/or consulting work in another state.

23. Ms. Bae served as Health Director of LCO CHC in a figurehead capacity only for purposes of obtaining a favorable accreditation decision.

24. During the times relevant to this complaint including 2017 and 2018, certain LCO CHC staff and consultants were engaged in a rogue operation of improper and false billing of federal Medicare and Medicaid programs in the name of LCO CHC, which became the subject of Ms. Mestek's protected whistleblowing activities.

25. The LCO Tribal Governing Board was unaware of this false billing of federal programs and had not knowingly approved the submission to federal programs of these false billings.

26. LCO CHC is a Medicare-enrolled provider and recipient of federal Medicare funds with National Provider Identification (NPI) number 1598890378, according to public ally available federal records. *See* Center for Medicare & Medicaid, NPPES NPI Registry, available at <https://npiregistry.cms.hhs.gov/registry/provider-view/1598890378>.

27. Thus, LCO CHC and/or the LCO Tribe entered into Medicare Provider Agreements with the federal government's Centers for Medicare and Medicaid Programs (CMS) pursuant to which LCO CHC and/or the LCO Tribe and its providers and management agreed to be subject to the requirements of applicable federal laws, including the Federal False Claims Act.

28. As a result of its acceptance of federal Medicare funds, LCO CHC agreed to abide by federal rules and procedures intended to safeguard such funds.

29. As a result of its receipt of Medicare funds and/or its express or implied agreement as a Medicare-enrolled provider, LCO CHC consented to be bound by certain federal laws, including the federal False Claims Act (FCA) and its prohibition of the submission of false claims and whistleblower retaliation, thereby waiving any alleged sovereign immunity as to Plaintiff's claims under 31 U.S.C. § 3730(h).

B. Ms. Mestek's LCO-CHC Employment History

30. In January 1994, Ms. Mestek was hired to be the Director of Health Information at LCO CHC. She served in that capacity until October 2003 at which time she resigned to take a position at the Hayward Area Memorial Hospital as the Director of Health Information.

31. As a Health Information Management (HIM) professional, Ms. Mestek was obligated to protect patient information and assist clinicians with the correct information where it is needed while maintaining data integrity, patient confidentiality, and security.

32. On September 3, 2013, Ms. Mestek was re-hired as Director of Health Information by LCO-HCH's Health Director, Greg W. Duffek.

33. As Director of Health Information, Ms. Mestek supervised three staff and was responsible for overseeing, implementing, and adhering to Health Information Management (HIM) compliance and clinical documentation standards/requirements.

34. In December 2013, Karen Pinto, RN, Medical Informaticist, of Clinical Quality Improvement Consultants, LLC, was hired by LCO CHC as a consultant to assist in working towards improvements in patient services.

35. In 2013, LCO-CHC, including Ms. Mestek and her staff, were using the Resource and Patient Management System (RPMS), which was the electronic health record (EHR).

36. Ms. Mestek had learned the RPMS EHR system during her prior employment with LCO CHC. This system was provided by the Indian Health Service (IHS) out of the Bemidji Area Office.

37. In February 2014, Consultant Karen Pinto came to LCO CHC and conducted an assessment of clinic flow and department processes.

38. In March 2014, Consultant Pinto presented a 12- page report to LCO CHC management, including Ms. Mestek. The purpose of Ms. Pinto's consultation was to assess the LCO CHC and design an approach to implement the "Patient Centered Care Medical Home" model, which focused on the quality of care, with the goal of improving and enhancing health care in the ambulatory setting and identifying standards designed to promote excellence, professionalism and patient safety.

39. In April 2014, an article in the LCO newsletter explained what Consultant Pinto would be doing for LCO CHC.

40. On May 1, 2014, Ms. Mestek was one of many LCO CHC staff sent to visit the Peter Christensen Health Center (PCHC), where the Health Director, Randy Samuelson, was a friend of LCO CHC's Health Director Gregg Duffek.

41. LCO CHC staff went to PCHC because Defendant Michael Popp, a healthcare consultant, worked there and had installed the Greenway Intergy EHR system there, which

reportedly made PCHC over \$1 million in revenue, and thus Duffek wanted LCO CHC to switch to the Greenway Intergy EHR System.

42. On June 11, 2014, Rae Baker, who worked on billings for LCO CHC, made LCO CHC management aware of certain third party billing concerns. The concerns reported by Ms. Baker to LCO CHC management included concerns that billing codes did not match, MRI's were being billed with no information in the RPMS, no injury codes were documented for billing, and no diagnoses for drug screenings were documented for billing.

43. Throughout 2015, Ms. Mestek continued to work with Consultant Pinto and Ms. Patty Subera, the LCO CHC diabetic coordinator, to get ready for the Accreditation Association for Ambulatory Health Care (AAAHC) accreditation survey that would take place on July 9-10, 2015.

44. LCO CHC was granted a 3-year accreditation until August 2018.

45. On or about November 17, 2015, the then-LCO CHC Medical Director was terminated due to a drunk driving incident.

46. DT-Trak Consulting did the coding for LCO CHC during 2015, working remotely from Miller, South Dakota.

47. During 2016, Ms. Mestek continued to work on maintaining the Patient Centered Care Medical Home and trying to improve on each area of the clinic, including billing.

48. In early 2016, HD Gregg Duffek identified three potential software companies with which to replace LCO CHC's RPMS EHR system, which would sever LCO CHC's ties with the Indian Health Services' Bemidji Area Office.

49. Later in 2016, LCO CHC staff were informed that LCO CHC, acting through Duffek, had purchased Intergy, the Greenway product, for LCO CHC's new EHR, and that this new EHR system would be implemented in January 2017.

V. DEFENDANT'S RETALIATORY CONDUCT

A. **Ms. Mestek Begins to Engage in Protected Activity**

50. LCO CHC staff, including Ms. Mestek and Assistant HD Gerry Hovde, were directed by Director Duffek to work together on the coding and billing process to try to improve reimbursement of claims.

51. On July 9, 2016, LCO CHC hired consultant James Walker and his coding group, Manning & Walkers' Consulting Services, LLC to code for LCO CHC, off site, and to provide training to LCO CHC healthcare providers to maximize LCO CHC coding and billing efforts.

52. On January 31, 2017, it was reported by Health Director Duffek that the implementation of the Greenway Intergy EHR was completed by LCO-CHC IT Director Defendant David Franz, with assistance from third-party consultant, Defendant Mike Popp of MJP Healthcare Consulting, who served as a representative of and a liaison with the company that provided the Intergy software, Greenway.

53. As part of the implementation, Defendant Popp copied files from the Intergy system at PCHC and used these files to structure the templates and coding files for the LCO CHC even though the codes copied were out of date and inaccurate.

54. As a result of the coding files having been taken from another clinic, Ms. Mestek and the LCO CHC staff, and Consultant Walker, found over the ensuing months **that many deleted or outdated ICD diagnostic codes were used in the new LCO CHC Intergy EHR**

that should have not been used for coding or billing to Medicare, Medicaid, IHS, or related government programs.

55. This caused a lot of problems for Consultant Walker and his coding group in performing coding and performing quality review of LCO CHC coding and billings (including Medicare and Medicaid).

56. Only one medical record number should be assigned per patient so there is no opportunity for mistakes when documenting patient information. When the Greenway Intergy EHR system was implemented on January 31, 2017, the system started assigning new chart numbers each time a patient was registered. Ms. Mestek had to conduct a Continuous Quality Improvement (CQI) study to prove this was happening. She worked for many months with Mike Popp to try and resolve this issue, but it was never corrected, causing multiple patients to have multiple medical records numbers, creating a risk that when using the Greenway Intergy EHR system, LCO CHC medical care providers or nursing staff could insert documentation in the wrong patient's medical chart.

57. Ms. Mestek and Consultant Walker, via their review of the LCO CHC's new Intergy EHR, determined that **expensive medical procedures were billed using outdated diagnostic codes which did not provide documentation of a legitimate diagnosis justifying those expensive procedures.**

58. Ms. Mestek and Consultant Walker identified 20-30 pages of examples of use of such outdated codes in the LCO CHC's new Intergy EHR and brought them to the attention of Defendants LCO-CHC management, including Defendants Franz and Popp.

59. Throughout 2017, Consultant Walker and Ms. Mestek struggled with getting all the LCO CHC healthcare providers properly trained on the use of the new Greenway Intergy system.

60. During 2017, Ms. Mestek found many types of health records reports that she could not run in the new system as compared to the old RPMS Indian Health Service system. On many occasions, Ms. Mestek was forced to do a hand count of various items to obtain the statistics that she needed to report to HD Gregg Duffek.

61. Consultant Walker and his coding group, although eventually provided some training on the Greenway Intergy EHR system, were not trained for many months and this put them behind in the LCO CHC coding and billing review process.

62. In May 2017, and again in December 2017, Consultant Walker came to LCO CHC to provide one-to-one training with many health care providers at LCO CHC to teach them what was needed for documentation in the new EHR and how to choose the correct ICD diagnostic codes for billing.

63. In June 2017, Ms. Mestek conducted a CQI study of the multiple chart numbers that were assigned to LCO CHC patients as part of her ongoing efforts to stop and prevent false claims.

64. In 2017, Health Director Duffek stated that LCO CHC needed to make changes in the pain management process as the clinic was losing money with the current process on lab charges for Urine Drug Screens (UDS) for Medicare patients.

65. In October 2017, Director Duffek departed LCO CHC, apparently having resigned, reportedly due to the fact that he did not receive a favorable annual review and would have otherwise been fired.

66. Also, in or about October 2017, an audit of the LCO CHC was initiated.

67. The person who performed this audit, Ms. Sara Cornell, determined that the LCO CHC had a toxic environment and needed a lot of restructuring to make improvements.

68. During 2017, Ms. Mestek worked with recently hired Assistant Health Director Gerry Hovde, a chiropractor, and Consultant Walker to improve the LCO CHC coding and billing process.

69. Ms. Mestek's efforts were hindered because she, Mr. Walker, and Mr. Hovde were not given adequate or timely training from the IT department or Defendant David Franz, who was working with Defendant Mike Popp on the new Greenway Intergy EHR system.

70. Ms. Mestek and Consultant Walker would find a problem with the coding and billing and report it to Defendants Popp and Franz, but it would take weeks and sometimes months before they would respond to Ms. Mestek and Consultant Walker regarding the medical records coding and billing questions and problems that had been identified.

71. For example, throughout 2017 and into 2018, Ms. Mestek and Consultant Walker discovered and reported to Defendants Popp and Franz repeated instances where the new Greenway Intergy EHR system caused LCO CHC's computer system to automatically generate radiology charges that had no basis in reality. It took Mike Popp fifteen (15) months to address the issue, during which time LCO CHC was at a continuing risk of non-compliance with CMS regulations and of submitting false claims in violation of the federal False Claims Act.

72. The switch to Greenway Intergy EHR caused myriad other problems that posed compliance risks material to payment under federally funded healthcare programs.

73. For example, during 2017 and into 2018, The Greenway Intergy EHR system was not able to provide statistical reports for management, so the financial department was never able to correctly report LCO CHC's accounts receivable status.

74. Similarly, the Greenway Intergy EHR system **was not set up correctly with the correct ICD and Current Procedural Terminology (CPT) codes**, and thus LCO CHC's healthcare providers were not documenting all the information needed to bill for their services.

75. Additionally, during 2017 and into 2018, required Peer Review was not happening because the LCO CHC's new medical director, Defendant Dr. Shannon Starr, did not know how to accomplish this task. LCO CHC's next accreditation survey was due in August of 2018. LCO CHC was obligated to report any issues or problems regarding Peer Review functions to AAAHC.

76. As an additional issue directly involving federal funding, the diabetes federal grant that LCO CHC received required accurate reporting to the federal government of diabetic patient care statistics, but the correct statistics showing how the diabetic patients were receiving their care could not be generated due to the inability of the Intergy EHR to capture and report these statistics that were needed to report back to the federal grant office.

77. Also, during 2017, Precision Diagnostics, the California company that processed the Urine Drug Screens, contacted LCO CHC many times because the LCO CHC healthcare providers were not using the correct diagnostic codes for billing for a Medicare patient. This was an ongoing problem into 2018 before Ms. Mestek involuntarily departed LCO CHC. Consultant Walker, before his contract termination, was trying to help fix this problem.

B. Ms. Mestek's Protected Activity Intensifies as Problems with Greenway Intergy Escalate, Culminating with a Damning July 2018 Audit Report

78. On or about January 9, 2018, LCO CHC's Greenway Intergy EHR consultant Mike Popp sent an email copied to Ms. Mestek and Consultant James Walker which indicated his intent and readiness to reopen old accounts for the purpose of submitting claims to federal agencies for adjusted off charges for medical services that were either originally rejected for billing by LCO CHC staff or not originally billed due to required information being missing.

79. Shortly after receiving Defendant Popp's email, Ms. Mestek, along with Consultant James Walker, informed Popp that they considered his plan to be a direct violation of federal CMS signature requirements and the federal False Claims Act.

80. Throughout the six months leading up to her August 24, 2018 termination, Ms. Mestek continued to work with AHD Gerry Hovde and Consultant Walker on the LCO CHC medical records coding and billing process, exchanging numerous emails with Consultant Walker and Consultant Popp between February and May 2018 regarding questions and concerns about the coding and billing issues arising from use of the new Greenway Intergy EHR system, such as (a) the fact that false and undocumented, unauthenticated charges for medical services were being generated, and (b) that the CMS healthcare provider's signature requirements were being violated.

81. Defendant Popp told Ms. Mestek, in response to her concern that required provider signatures could not be found in LCO CHC's new Intergy EHR, that the required signatures were there, it was just that no one could see them.

82. In the meantime, Ms. Mestek continued to work with Assistant Health Director Gerry Hovde and Consultant Walker regarding an increasing amount of EHR coding and billing

errors associated with use of the new Greenway Intergy EHR system and what looked like fraudulent LCO CHC billing that was being processed and sent out to the federal government via the Greenway Intergy EHR system.

83. During this time, Defendant Popp avoided Ms. Mestek and Consultant Walker and declined to help them determine why the Intergy system was causing coding errors and, correspondingly, the submission of false claims for payment to federally funded payors.

84. By April 17, 2018, LCO CHC Finance Director Glenn Hall had requested that Consultant Walker return to LCO CHC to perform the next audit/review of the coding and billing system. The dates selected for this on-site review were May 14-18, 2018, to accommodate Ms. Mestek 's participation, as she was out of town attending an HIM conference the prior week.

85. On April 27, 2018, interim Health Director Don Smith directed Assistant Health Director Gerry Hovde to no longer work on any coding or billing tasks or issues with Ms. Mestek or Consultant Walker, including any medical records coding or billing oversight or compliance matters.

86. Around the same time, in late April 2018, Don Smith directed Ms. Mestek to move all paper medical records out of her HIM department, purportedly due to remodeling construction would be taking place. This contradicted the direction of Mr. Smith's predecessor, Mr. Duffek, who had indicated that only a small part of the HIM Department would be impacted by the remodeling.

87. Smith's directive put a great deal of stress on Ms. Mestek's HIM department, but Ms. Mestek's assistant was ultimately able to move all the records to another location in the lower level of the clinic.

88. On May 3, 2018, Ms. Mestek participated in a conference call with Defendant Popp and Consultant Walker during which Mr. Walker noted he was preparing a report for the Tribal Governing Board regarding the new Intergy EHR system and the coding and billing irregularities that he, Ms. Mestek, and AHD Hovde had identified and which had not been corrected..

89. The very next day, May 4, 2018, Consultant Walker was notified by LCO CHC Interim Health Director Don Smith, via email, that his consulting contract with was being terminated in 30 days. However, Consultant Walker's access to LCO CHC's computer system was cut off shortly after this notice, which prevented Consultant Walker from completing his contractual obligations to LCO CHC in regard to working with Ms. Mestek to complete the new audit and finalize his report from the prior audit.

90. Consultant Walker brought this to the attention of LCO CHC officials. Later the same day, on May 11, 2018, the LCO CHC's May 4, 2018, 30-day notice of contract termination was superseded by a new LCO CHC notice via email of immediate termination of Consultant Walker's contract with LCO CHC.

91. This short notice termination of Consultant Walker's contract with LCO CHC effectively prevented Consultant Walker from completing his planned May 14, 2018 on-site audit and review of coding and billing, and his planned direct report to the LCO Tribal Governing Board (TGB) regarding his findings regarding improper LCO CHC medical records coding and possible fraudulent LCO CHC billings to Medicare and Medicaid.

92. When Ms. Mestek returned to LCO CHC from her HIM conference on May 14, 2018, she was told Consultant Walker no longer worked for LCO CHC and was not coding for LCO CHC.

93. Immediately thereafter, Defendant Mike Popp took control of the coding situation, and he assigned a coder, Erica Meeks, who reported directly to him, to start coding LCO CHC patient medical services and federal reimbursement claims records. Ms. Mestek was never consulted regarding this change in the workflow even though coding falls under the scope of work in her HIM department.

94. On July 5, 2018, LCO CHC consultant for the Greenway Intergy EHR system Defendant Mike Popp asked LCO CHC's Finance Director Glenn Hall, who referred the inquiry to LCO CHC billing employee Rae Baker, how LCO CHC handled and tracked "write offs" for medical services charges that could not be billed per Consultant James Walker's recommendations from his coding and audit contract work for LCO CHC, and whether Consultant Walker ever listed the charges that should be written off.

95. Defendant Popp's stated reason for this inquiry was that "I just want to take a look and review if any of those visits are recoverable."

96. Ms. Baker replied as follows:

Mr. Walker never advised what to write off. He advised what we could not bill out. Those instances were:

- * Provider did not order a lab and/or sign off on an order.
- * A nurse visit was not signed, by a provider, within a 4 day time period.
- * A lab/medical service was not linked to a documented diagnosis in the EHR.
- * A radiology service was billed on the day it was ordered, not the day it was rendered.
- * Incomplete charge screen and/or assessment.
- * Duplicate billing.
- * Expired orders.
- * An E & M visit was over-coded.

As the biller, I was always advised by Mr. Walker that it was my responsibility for what was billed out, and it was my decision to bill or not bill these services. Because Mr. Walker is also a CMS Auditor, I took his advice very seriously.

97. LCO CHC was scheduled for the AAAHC accreditation survey July 10-11, 2018.

98. On July 9, 2018, Defendant Jacqueline Bae arrived at LCO CHC, as LCO CHC's newly hired Health Director.

99. During the July 10-11, 2018, AAAHC accreditation survey, Ms. Mestek met with one of the surveyors and showed him the Greenway Intergy EHR system and answered his questions, with interim Health Director Don Smith also present.

100. During the meeting, Ms. Mestek informed the surveyor about all the deficiencies that were occurring in the Intergy EHR, including medical record numbers, coding problems, and the fact that labs were being performed without having a signed order by the provider.

101. On or about July 15, 2018, Consultant Walker's report from his 2017 audit arrived at LCO CHC's office.

102. Consultant Walker's report detailed and documented numerous LCO CHC coding and billing problems and apparent LCO CHC fraudulent billing practices.

103. This report also presented, in addition to findings from review of LCO CHC records for the 2017 audit period, substantial disclosures and documentation regarding his and Ms. Mestek's 2018 communications with Defendant Popp and LCO CHC management regarding the problems identified with the coding and billings done based on the new Greenway Intergy EHR system.

104. Among other observations made by Consultant Walker in this audit report, the report notes the following problems with the Greenway Intergy EHR system:

- 1.) Incorrectly sequenced diagnose(s);
- 2.) Incorrectly applied diagnose(s);

- 3.) Outdated diagnose(s) utilized;
- 4.) E&M's charged more than once, or linked incorrectly;
- 5.) Fees/charges (\$) applied for services not performed;
- 6.) Missing charges (\$) for procedures;
- 7.) Procedures documented, but not charged;
- 8.) Old deleted CPT codes utilized;
- 9.) Visits found incomplete or cloned;
- 10.) Orders for procedures not authorized;
- 11.) Visits missing provider assignment (incomplete), etc.

105. Consultant Walker in his audit report cautioned LCO and LCO CHC officials that “Over-coding has a higher potential compliance risk, because payers will reimburse you at a higher level than what you should get. It can result in accusations of fraud, along with [stiff] legal penalties.”

106. Consultant Walker in this audit report also warned LCO and LCO CHC officials that “While civil money penalties can be levied against a provider by OIG in an administrative action, for larger, more egregious cases, up coding also is punishable under the False Claims Act.” Consultant Walker also, in his report, advises LCO and LCO CHC officials that “Government investigators and auditors, play an important role in identifying allegedly fraudulent billing schemes and other abusive practices. Health care providers can be found liable for submitting claims for reimbursement in reckless disregard or deliberate ignorance of the truth, as well as for intentional fraud.”

107. Consultant Walker's report disclosed to LCO and LCO CHC officials that the federal False Claims Act authorizes the imposition of damages of up to three times the amount of

the fraud and civil monetary penalties of \$11,000 per false claim, and that record level fines and penalties have been imposed against individuals and healthcare organizations that have violated the law.

108. Consultant Walker's report also expressly identified Ms. Mestek and her role in assisting him in identifying and investigating the false claims.

109. On information and belief, Defendants Starr and Bae became aware of the content of Consultant Walker's report shortly before Ms. Mestek's termination.

C. Ms. Mestek is Terminated for Efforts to Stop Fraudulent Claims and then Subjected to Retaliatory Blackballing and Interference with Prospective Employment

110. In late July 2018, after the accreditation survey, Ms. Mestek was summoned to the Human Resources (HR) office where she met Defendant Jacqueline Bae, the newly hired Medical Director.

111. The first thing Defendant Bae said to Ms. Mestek at the meeting was to ask Ms. Mestek if she was "loyal" to LCO CHC. Ms. Mestek answered "yes."

112. Next Ms. Mestek proceeded to inform Defendant Bae of the serious compliance problems created by the Intergy EHR system as caused, enabled, and ignored by Defendant Michael Popp and LCO CHC management; and her efforts to assist Consultant James Walker in identifying and addressing those problems.

113. In response, Defendant Bae requested, and Ms. Mestek provided, Consultant Walker's contact information.

114. In the days and weeks following Ms. Mestek's late July meeting with Defendant Bae, Ms. Mestek continued to review all LCO CHC health care provider documentation for accuracy and for coding compliance issues.

115. On or about August 21, 2018, a follow-up letter from Consultant Walker to LCO CHC regarding his audit report arrived at LCO and LCO CHC offices.

116. In this follow-up letter, Consultant Walker notified LCO-CHC and the LCO Tribal Governing Board that he had sent a printed copy of his audit report to LCO CHC's Health Director, certified mail with tracking, and reminded the Board that he had previously, on or about July 15, 2018, sent a copy of his audit report to the Board itself because he felt legally and ethically compelled to report LCO CHC's apparent non-compliance with the federal False Claims Act and with CMS (the federal government's Medicare and Medicaid office) billing and medical records coding requirements.

117. On August 24, 2018, Ms. Mestek received a phone call from LCO CHC Human Resources (HR) requesting that she come down to the HR office during her scheduled lunch time.

118. When Ms. Mestek arrived at the HR office, she was met by Defendant Dr. Shannon Starr seated in a chair alongside HR Director Klecan.

119. Defendant Director Klecan was well aware of Ms. Mestek's protected activity, including her role in assisting Consultant Walker in identifying and stopping false claims, as Defendant Klecan, like Defendant Franz, had participated in multiple, regular meetings in which Ms. Mestek discussed her concerns about the false claims caused by the Intergy system.

120. Defendant Starr handed Ms. Mestek a typed letter signed by Defendant Starr and stated that Ms. Mestek was to clean out her office and take all personal belongings home as soon

as possible, because LCH CHC had determined that they no longer needed Ms. Mestek's services at the LCO CHC.

121. The letter stated that Ms. Mestek was terminated because her duties overlapped with duties other staff members were performing, and that her position has therefore been eliminated.

122. No conduct or performance issues were identified in this termination notice letter. The letter was signed by Dr. Starr over Jacqueline Bae's typed name with no indication that Dr. Starr had Ms. Bae's approval to sign for her.

123. Dr. Starr then opined that Ms. Mestek should not have a problem finding another job and that someone with Ms. Mestek's education should not be working in a tribal clinic.

124. Ms. Mestek asked Defendant Staff who would be performing the chart reviews for proper documentation and coding, and Dr. Starr replied only by asserting, falsely, that that was not Ms. Mestek's job to be reviewing his documentation and coding for program integrity to which Ms. Mestek replied that it was her job as an HIM manager to review his documentation and coding to ensure the integrity of LCO CHC's medical records.

125. Dr. Starr then indicated that an additional reason for Ms Mestek's termination, omitted from the letter, was that she had not obtained certification as a coder. Ms. Mestek pointed out that such certification was never mentioned in her prior performance appraisals and is not a requirement for an HIM director.

126. Ms. Mestek then asked Defendant Sara Klecan, HR Director to place a phone call to Defendant Jacqueline Bae, the new Health Director, to discuss this termination notice letter.

127. In response, Defendant Klecan told Ms. Mestek that Ms. Bae was not at LCO but in a meeting somewhere in another state. Nonetheless, Defendant Klecan called and spoke to

Defendant Bae, and then relayed to Ms. Mestek that Defendant Bae did not want to speak with her.

128. Ms. Mestek was then asked to remove herself from the HR office and to start cleaning out her office.

129. Ms. Mestek was escorted by Sara Klecan and Seth Doyan from the IT department and was watched constantly as she cleaned out her office. Ms. Mestek was told that she could only take her personal things and to surrender her keys and badge. Then Mr. Doyan helped Ms. Mestek's husband load everything into their truck, in the pouring rain.

130. LCO CHC did not prepare Ms. Mestek's final check correctly and did not calculate her leave time correctly.

131. Ms. Mestek called Ms. Bae and Ms. Bae stated she did not make the decision to terminate Ms. Mestek, that it was Dr. Starr who wanted Ms. Mestek gone.

132. After her termination, an LCO CHC employee informed Ms. Mestek that the real reason Ms. Mestek was terminated was that Ms. Mestek was considered a threat by LCO CHC and Defendant Starr because of Ms. Mestek's knowledge of and prior efforts to stop the coding and billing fraud that LCO CHC engaged in.

133. The same employee explained how Defendant Starr had screamed at her for reviewing the documentation on diabetic patients to ensure they received their lab work and foot exams and appointments, threatened her and directed her to "stay out of" the medical records alluding directly to what he called "trouble" caused by Ms. Mestek's review of such records.

134. After Ms. Mestek's termination on August 24, 2018, LCO CHC did not immediately hire an HIM Director but either moved another long-time employee, Mary Hanlon, into that position or assigned Ms. Hanlon Ms. Mestek's former duties (or a subset thereof). Ms.

Hanlon did not have any formal HIM training, and had previously been working as a referral clerk.

135. Months later, in May 2019, LCO CHC advertised for a new HIM director/manager – *i.e.* sought to fill the position that LCO CHC HR Director Klecan and Dr. Starr had told Ms. Mestek at the time of her termination was being eliminated as unneeded.

136. Since her termination, Ms. Mestek has applied for hundreds of jobs, including more than 30 jobs announced over the period of time after Ms. Mestek’s departure from LCO CHC by one or more medical facilities in her community, for which she is well-qualified, but received only a couple interviews and no offers.

137. Two LCO CHC employees told Ms. Mestek she was being blacklisted by LCO CHC officials. For example, Assistant Director Hovde informed Ms. Mestek that Defendants Klecan and Franz told the interim Health Director not to rehire Ms. Mestek.

138. In February of 2019, the Department of Justice announced a False Claims Act settlement with Greenway Health, LLC relating to another Greenway EHR system called Prime Suite, use of which, according to the DOJ, caused medical facilities using the software to submit false claims to the federal government relating to a federal EHR incentive program created pursuant to the American Recovery and Reinvestment Act of 2009.

139. In the Fall of 2019, Indian Health Services (IHS) performed a site inspection of LCO CHC.

140. In the Fall of 2020, IHS issued a report on the results of its inspection of LCO CHC.

141. One of IHS’ findings was that LCO CHC was “continuing to bill for the services of providers who are not privileged, which is potentially fraudulent.” The IHS BAO report also

concluded that “There were instances identified when the Clinic billed for MD visits in the absence of a face to- face encounter with the physician. There have also been questionable billing instances regarding the chiropractor. In several instances it appears the Clinic used a medical provider to bill for a chiropractor visit. This type of practice is potentially fraudulent.”

142. During its inquiry, the IHS inspectors “interacted with numerous clinic employees and during these interactions there were a number of staff members that voiced concern for the clinic and dissatisfaction with the current leadership situation.” The IHS report notes, significantly, that “Many of the employees that voiced concerns also requested not to be named fearing retaliation from the TGB [of LCO CHC].”

VI. COUNTS

COUNT I

FALSE CLAIMS ACT, 31 U.S.C. § 3730(h)

RETALIATORY TERMINATION

(Against Defendant LCO CHC and individual Defendants Taylor, Starr, Bae, Franz, and Klecan, in their respective personal and official capacities)

143. All of the foregoing and subsequent paragraphs are incorporated herein by reference.

144. This is an action pursuant to 31 U.S.C. § 3730(h), to remedy Defendants’ retaliation against Ms. Mestek because of her whistleblowing and other activities protected under the FCA.

145. Ms. Mestek was discharged by LCO CHC because of lawful acts done by her and associated others in furtherance of an action under this section and in other efforts to stop violations of the FCA.

146. Ms. Mestek engaged in numerous activities protected under the FCA including reporting to Dr. Starr, Mr. Popp, and Mr. Franz that false, unauthorized, and otherwise improper charges for medical services were being generated by the LCO CHC's newly adopted Intergy EHR computer program that had been implemented by Mr. Popp and Mr. Franz, which caused, or risked causing, the submission of false claims to Medicare and Medicaid.

147. The activities that Ms. Mestek engaged in that were protected under FCA included the reporting of actual and potential Medicare/Medicaid fraud, and her refusal to go along with LCO CHC management's fraudulent schemes that caused false claims to be submitted, or risked the submission of such false claims, to Medicare/Medicaid.

148. Ms. Mestek worked with Consultant Walker and Mr. Hovde over the period of several months prior to her termination to identify, document, prevent, stop, and correct the submission by LCO CHC of false claims to the federal government for medical services. Consultant Walker's report documents his efforts, and the efforts of Ms. Mestek and Mr. Hovde, to prevent, stop, and correct the submission by LCO CHC of false claims to Medicare and Medicaid, which false claims would constitute violations of the FCA.

149. Ms. Mestek's FCA whistleblowing and other FCA protected activities were intended to avoid (or correct) violations of the False Claims Act caused by LCO CHC's own managers' and I.T. staff's actions as well as violations of the FCA caused by actions of LCO CHC's consultant Mr. Popp and the Intergy EHR program he had marketed to LCO CHC, violations LCO CHC has concealed from the federal Center for Medicaid and Medicare Services (CMS), Indian Health Service (IHS) and Bureau of Indian Affairs (BIA).

150. Ms. Mestek's employer, the LCO CHC, and its managers, knew that Ms. Mestek had engaged in numerous protected activities under the FCA because Ms. Mestek reported her

concerns about the false, unauthorized, and otherwise improper charges for medical services directly to LCO CHC Medical Director Starr, Assistant Health Director Hovde, Health Director Bae, Interim Health Director Don Smith, Consultant Popp and I.T. Director Franz. Ms Mestek's protected FCA whistleblowing and reports were submitted both directly to such managers and indirectly through LCO CHC Consultant James Walker and LCO CHC Assistant Health Director Gerry Hovde who relayed Ms. Mestek's protected concerns and reports to LCO CHC managers including Dr. Starr.

151. By her insistence, through her numerous instances of FCA protected activities, on all LCO CHC medical charges being properly verified (as real), documented (as medically necessary), and authorized (by a proper and licensed health care provider), Ms. Mestek made clear to LCO CHC managers and to Mr. Popp and Mr. Franz, that she refused to take part in any fraudulent scheme that would result in false claims for payment for medical services being submitted to the government.

152. In the audit report of Consultant James Walker, of Manning & Walkers' Consulting Services, LLC, to the LCO CHC management and to the LCO Tribal Governing Board, Mr. Walker explicitly referenced the FCA and the fact that he, Ms. Mestek, and Mr. Hovde had been investigating and documenting apparent fraud and false claims for payment for medical services that were being generated by the LCO CHC Intergy computer program and which had resulted, or threatened to result, in the submission to the federal government of false claims for payment under Medicare and Medicaid.

153. Ms. Mestek's whistleblowing protected activities also became known to LCO CHC officials indirectly by way of the reports submitted to LCO CHC managers by its Greenway Intergy EHR Consultant Michael Popp to whom Ms. Mestek had reported her

concerns and to whom Ms. Mestek had complained of failures to make timely corrective actions to prevent or correct fraud or false claims.

154. LCO CHC Consultant James Walker noted many of Ms. Mestek's FCA protected concerns and reports in his own audit report which was delivered to the LCO CHC management and the LCO Tribal Governing Board including Tribal Chairman Louis Taylor only weeks before Ms. Mestek's employment was terminated.

155. LCO CHC managers including Dr. Starr had a reasonable expectation that Ms. Mestek might be called to testify or might volunteer to testify to a federal agency regarding LCO CHC's submission of false claims for payment to the federal government. One of the circumstances that supports this conclusion is that Don Smith, who had been serving as Interim Health Director just prior to the LCO CHC's accreditation visit in July of 2018, was present when Ms. Mestek testified openly and candidly to the accreditation agency investigator about the LCO CHC billing and coding problems related to the recently adopted Intergy EHR program that she and Consultant Walker and Mr. Hovde had been finding and documenting which had resulted or could result in the submission of false claims.

156. Ms. Mestek, based on her own investigations, and based on her collaboration with Consultant Walker and Mr. Hovde in their collaborative investigations, believed, and had a good faith basis for believing, that LCO CHC was possibly committing fraud against the government or was about to do so.

157. Based on all of the facts stated *supra*, a reasonable LCO CHC employee in the same or similar circumstances might believe that the LCO CHC was possibly committing fraud against the government.

158. LCO CHC took adverse employment actions against Ms. Mestek when LCO CHC terminated her employment and then refused to consider her for re-employment. These adverse actions by LCO CHC, as noted *supra*, followed close in time to Ms. Mestek's protected whistleblowing activities.

159. Defendants Taylor, Starr, Bae, Franz, and Klecan each had knowledge, prior to Ms. Mestek's termination, of Ms. Mestek's efforts to stop the submission of false claims.

160. As noted in the discussion of the facts *supra*, there was a very close proximity in time (weeks and in some instances days) between the FCA protected whistleblowing activities of Ms. Mestek and her colleagues Consultant Walker and AHD Hovde, and the retaliatory actions of LCO CHC management to terminate Ms. Mestek's employment, reassign Assistant Health Director Hovde, and terminate Consultant Walker's contract.

161. LCO CHC managers' expressed hostility towards Ms. Mestek's protected activity including in the August 24, 2018 termination meeting.

162. LCO CHC management's articulated reason for terminating Ms. Mestek's employment was a transparent pretext given that LCO CHC asserted that Ms. Mestek was terminated only because her position was no longer needed, and then LCO CHC proceeded to advertise that position and when Ms. Mestek applied LCO CHC refused to hire her.

163. Another example of LCO CHC management's pretextual reasons for Ms. Mestek's termination in this case is the assertion verbally in the August 24, 2018, termination meeting that Ms. Mestek had never obtained certification as a medical records coder. Such certification was not required of HIM managers (at LCO CHC or elsewhere), and such a certification requirement had never been referenced in any of Ms. Mestek's (positive)

performance evaluations and Ms. Mestek had never been provided any notice or deadline to obtain such certification.

164. LCO CHC's managers had a motive to retaliate against Ms. Mestek because these managers could have liability for the actual violations of the FCA that were the subject of Ms. Mestek's protected whistleblowing reports, and were motivated to conceal such violations and their liability.

165. LCO CHC management used irregular procedure in its treatment of Ms. Mestek. LCO CHC's managers' assertion in the August 24, 2018, meeting of reasons for Ms. Mestek's termination that were not stated in the LCO CHC notice of termination letter clearly reflects use of irregular procedure. The failure of LCO CHC managers to authorize training on the new Intergy EHR system for Ms. Mestek as the HIM Director is also irregular.

166. The aforementioned shift by LCO CHC managers in the August 24, 2018, termination meeting with Ms. Mestek, giving verbally reasons for terminating Ms. Mestek that were not stated in the LCO CHC's termination letter, reflects a changing rationale indicative of pretext and retaliatory motive.

167. LCO CHC management's actions responding to Ms. Mestek's protected whistleblowing also reflected direct evidence of retaliation. In the August 24, 2018, meeting in which LCO CHC Medical Director Starr and HR Director Klecan handed Ms. Mestek the LCO CHC notice of termination letter, Manager Starr told Ms. Mestek directly that it was not her job to conduct oversight of the integrity of LCO CHC's and Director Starr's medical records including the coding of those records for billing purposes (even though the LCO CHC termination letter mentioned only that her position was no longer needed because it was purportedly redundant).

168. LCO CHC's articulated reason for Ms. Mestek's termination was a transparent pretext for whistleblower retaliation. Although the reason stated in the LCO CHC notice of termination letter given to Ms. Mestek on August 24, 2018, stated that Ms. Mestek was being terminated only because her position was redundant and unneeded (and not for any conduct or performance reason), some months after Ms. Mestek's termination, in May 2019, LCO CHC did advertise for a new HIM director/manager – i.e. sought to fill the position that LCO CHC HR and Dr. Starr had told Ms. Mestek at the time of her termination on August 24, 2018 was being eliminated as unneeded. Ms. Mestek then applied for the position but was not hired. This HIM director/manager position announcement was posted again by LCO CHC in December 2019 and Ms. Mestek again applied and was not hired. This job posting was later withdrawn/taken down from the LCO CHC website.

169. All of the above facts reflect circumstantial or direct evidence supporting the conclusion that Ms. Mestek's employment was terminated by LCO CHC managers including Dr. Starr in retaliation for Ms. Mestek having engaged in FCA protected activities.

170. For all the reasons stated herein, Plaintiff Mestek is entitled to damages and injunctive relief pursuant to the FCA, 31 U.S.C. § 3730(h), including reinstatement and two times the amount of back pay plus interest, to remedy Defendants' illegal retaliation in response to Plaintiff's activities protected by the FCA.

171. In the alternative, should LCO CHC be deemed an arm of the LCO Tribe protected by tribal sovereign immunity that has not been waived, then this claim seeks injunctive relief against LCO CHC, including all applicable equitable remedies, through its officials, Defendants Taylor, Starr, Bae, Franz, and Klecan.

COUNT II.
INTENTIONAL INTERFERENCE WITH CURRENT AND PROSPECTIVE
CONTRACTUAL RELATIONS - CLAIM FOR DAMAGES AND
INJUNCTIVE RELIEF
(Against individual Defendants Taylor, Starr, Bae, Popp, Franz, and Klecan, in their
respective personal and official capacities)

172. All of the foregoing and subsequent paragraphs are incorporated herein by reference.

173. This is an action pursuant to Wisconsin common law providing for the recovery of damages and injunctive relief on a claim of interference with Ms. Mestek's at-will employment contract with LCO CHC.

174. This is also an action for tortious interference with Ms. Mestek's prospective employment, including Ms. Mestek's continued at-will employment with LCO CHC and Ms. Mestek's prospective employment with third parties following her August 24, 2018 termination from LCO CHC.

175. LCO CHC, acting through Defendants **Taylor, Starr, Bae, and Klecan** in their capacity as LCO CHC officials, intentionally interfered with Ms. Mestek's LCO CHC's employment as well as Ms. Mestek's attempts to secure re-employment in the weeks, months, and years following her August 24, 2018, via retaliatory blacklisting and other communications with prospective employers of Ms. Mestek.

176. Defendants' interference was not privileged.

177. On information and belief, outside consultant Defendant Michael Popp and LCO CHC I.T. Director David Franz, after becoming aware of Consultant Walker's plan to imminently make a report to the LCO CHC Health Director and Tribal Governing Board that Consultant Walker, Ms. Mestek, and Mr. Hovde had found numerous problems with the Intergy

EHR program that Mr. Popp had marketed to the LCO CHC and that Mr. Franz had installed, including that it was generating false, undocumented, and unauthorized charges for medical services that could lead to submission of false claims to the federal government, reported this development to Medical Director Starr and recommended and encouraged that Dr. Starr terminate Ms. Mestek's employment, terminate Consultant Walker's contract, and reassign/demote Assistant Health Director Hovde in order to attempt to cover up the problems reported by Ms. Mestek and her colleagues.

178. Mr. Popp's and Mr. Franz' retaliatory actions led to Dr. Starr terminating Ms. Mestek's employment for illegal reasons, under the name and authority of Ms. Bae.

179. Similarly, Defendant Franz and Klecan, because of their knowledge of Ms. Mestek's efforts to stop false claims, told the interim LCO CHC Health Director not to rehire Ms. Mestek.

180. For all the reasons stated herein, Plaintiff Mestek is entitled to damages and injunctive relief pursuant to Wisconsin common law, to remedy these Defendants' unjustified interference with Plaintiff's business.

COUNT III.
FALSE CLAIMS ACT, 31 U.S.C. § 3730(h)
RETALIATORY BLACKLISTING
Against Defendant LCO CHC and individual Defendants Taylor, Starr, Bae, Franz, and Klecan, in their respective personal and official capacities)

181. All of the foregoing and subsequent paragraphs are incorporated herein by reference.

182. This is an action pursuant to the FCA, 31 U.S.C. § 3730(h) for the recovery of damages and injunctive relief on a claim of Blacklisting.

183. Ms. Mestek, since the termination of her employment at LCO CHC, has applied for hundreds of jobs, including more than 30 jobs announced by one or more medical facilities in her community over the period of time after Ms. Mestek's departure from LCO CHC.

184. Ms. Mestek was well qualified for these jobs for which she applied and she was capable of performing those jobs.

185. Ms. Mestek has only received a couple of interviews and no offers in response to her job applications.

186. The totality of these circumstances, in light of the facts indicating retaliatory discharge stated *supra*, support the conclusion that Ms. Mestek has been the victim of blacklisting by Defendant LCO CHC, Defendant LCO CHC officials, and Defendant POP, because of her FCA whistleblowing.

187. Ms. Mestek was told by LCO CHC employees that she was being blacklisted by LCO CHC officials.

188. For all the reasons stated herein, Plaintiff Mestek is entitled to damages and injunctive relief pursuant to the FCA, 31 U.S.C. § 3730(h), and pursuant to Wisconsin common law, to remedy Defendants' Blacklisting of Plaintiff.

189. In the alternative, should LCO CHC be deemed an arm of the LCO Tribe protected by tribal sovereign immunity that has not been waived, then this claim seeks injunctive relief against LCO CHC, including all applicable equitable remedies, through its officials, Defendants Taylor, Starr, Bae, Franz, and Klecan.

VII. PRAYER FOR RELIEF

168. WHEREFORE, Plaintiff respectfully requests this Court to:

- A. Award Plaintiff reinstatement, or in the alternative five years of front pay on her FCA retaliation claim;
- B. Award Plaintiff two times the amount of back pay, plus the value of her lost benefits for the back pay period, plus interest on her FCA retaliation claim pursuant to 31 U.S.C. § 3730(h);
- C. Award Ms. Mestek special and compensatory damages for non-economic harm including but not necessarily limited to emotional distress, pain, and suffering in an amount to be determined by a Jury;
- D. Award Plaintiff damages in an amount equal to three years of back pay and benefits and five years of front pay on her Interference with Business claim;
- E. Award Plaintiff damages in an amount equal to three years of back pay and five years of front pay on her Blacklisting claim;
- F. Award Plaintiff injunctive relief prohibiting Defendants from engaging in any future retaliation, blacklisting, or interference with business in regard to Plaintiff Mestek;
- G. Award to Plaintiff and against Defendants Plaintiff's costs and reasonable attorneys' fees in this action; and
- H. Grant such other and further relief as the Court may deem just and proper.

PLEASE TAKE NOTICE THAT THE PLAINTIFF DEMANDS THE ABOVE ENTITLED ACTION TO BE TRIED TO A 12-PERSON JURY.

Respectfully submitted 3rd day of January 2022 by:

/s/ Mick G. Harrison

Mick G. Harrison, Esq. (Admitted *Pro Hac Vice*)

Pennsylvania Bar # 65002

520 S. Walnut Street, #1147

Bloomington, IN 47402

Tel. 812.361.6220

Fax: 812.233.3135

E-mail: mickharrisesq@gmail.com

/s/ Paul Schinner

Paul Schinner, Esq.

Wisconsin Bar # 1093983

Cross Law Firm, S.C.

Lawyer's Building, 845 North 11th Street

Milwaukee, WI 53233

Phone: (414) 224-0000

Fax: (414) 273-7055

Email: schinner@crosslawfirm.com

Counsel for Plaintiff