

IN THE SUPREME COURT OF THE STATE OF NEVADA

Margaret Reddy, Mohan Thalamarla,  
Max Global, INC.

Supreme Court No. 83253

Appellants,

vs.

MEDAPPEAL, LLC, an Illinois  
limited liability company

Respondent.

Electronically Filed  
Feb 24 2022 07:29 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANTS' APPENDIX VOLUME 2**

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Max Global, LLC

## HIPAA PRIVACY COMPLIANCE AGREEMENT FOR BUSINESS ASSOCIATES

THIS AGREEMENT is made this 30 day of November, 2016 by and among [REDACTED] (hereinafter known as "Client") and American Medical Answering, LLC organized under the laws of the State of Michigan (hereinafter known as "Business Associate"). Principal and Business Associate shall collectively be known herein as "the Parties".

**WHEREAS**, Principal is a health care provider whose activities are general described as physician and other health care providers;

**WHEREAS**, Business Associate is in the business of providing services to the health care industry and its activities are generally described as provision of answering services to physicians and other health care providers;

**WHEREAS**, Principal wishes to commence a business relationship with Business Associate that shall be memorialized in a separate services agreement which has yet to be executed or will be executed simultaneously with this agreement;

**WHEREAS**, the nature of the prospective contractual relationship between Principal and Business Associate may involve the exchange of Protected Health Information ("PHI") as that term is defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") including all pertinent regulations issued by the Department of Health and Human Services ("HHS");

The premises having been considered and with acknowledgement of the mutual promises and of other good and valuable consideration herein contained, the Parties, intending to be legally bound, hereby agree as follows:

### A. Definitions.

1. **Individual.** "Individual" shall have the same meaning as the term "individual" in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
2. **Privacy Rule.** "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164 Subparts A and E.
3. **Protected Health Information.** "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR § 164.501, limited to the information created or received by Business Associate from or on behalf of Principal.
4. **Required by Law.** "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.501.
5. **Secretary.** "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

**B. Use or Disclosure of PHI by Business Associate.** Business Associate's use and disclose of PHI is strictly limited to those instances where it is necessary to the performance of duties contractually delegated to it by Principal in a separate services agreement. Those duties are generally described as "Messaging Services on behalf of [REDACTED] for services rendered to patients.

Furthermore, any specific listing of duties or functions to be performed by Business Associate for Principal contained in a separate contract (or addendum thereto) between the Parties is hereby incorporated by reference into this agreement for the sole purpose of further elaborating duties and functions that Business Associate is contractually undertaking on behalf of Principal.

In all instances, Business Associate shall not use or disclose PHI obtained from Principal in a manner that would violate the Privacy Rule of HIPAA or the pertinent regulations of HHS.

### C. Duties of Business Associate relative to PHI.

1. Business Associate shall not use or disclose PHI other than as permitted or required by this agreement or by law.
2. Business Associate shall use appropriate safeguards recognized under the law and HHS regulations to prevent use or disclosure of the PHI other than is allowed for by this agreement.
3. Business Associate shall immediately report to Principal any use or disclosure of PHI that is in violation of this agreement. In the event of disclosure of PHI in violation of this agreement, Business Associate shall mitigate, to the extent practicable, any harmful effects of said disclosure that are known to it.
4. Business Associate shall ensure that any agent or a subcontractor to whom it provides PHI received from Principal agrees to the same restrictions and conditions with respect to such information that apply through this agreement to Business Associate.
5. Business Associate shall, upon request with reasonable notice, provide Principal access to its premises for a review and demonstration of its internal practices and procedures for safeguarding PHI.

E. Nothing in this agreement shall be construed as an admission on the part of either Party that the relationship between Principal and Business Associate is one of "Covered Entity" and "Business Associate" as those terms are known and construed under HIPAA and pertinent regulations issued by the Secretary. However, the duties and obligations of Business Associate under this agreement remain in full force and effect regardless of whether or not the relationship between the Parties is determined to be one between a "Covered Entity" and a "Business Associate" as those terms are known and construed under HIPAA and pertinent regulations issued by the Secretary.

F. **Consideration.** Business Associate recognizes that the promises it has made in this agreement shall, in the future, be detrimentally relied upon by Principal in choosing to continue or commence a business relationship with Business Associate.

G. **Remedies in Event of Breach.** Business Associate hereby recognizes that irreparable harm will result to Principal, and to the business of Principal, in the event of a breach by Business Associate of any of the covenants and assurances contained in ¶ C of this agreement. As such, in the event of breach of any of the covenants and assurances contained in ¶ C above, Principal shall be entitled to enjoin and restrain Business Associate from any continued violation of ¶ C. Furthermore, in the event of breach of ¶ C by Business Associate, Principal be entitled to reimbursement and indemnification from Business Associate for the Principal's reasonable attorneys fees and expenses and costs that were reasonably incurred as a proximate result of the Business Associate's breach. The remedies contained in this paragraph G shall be in addition to (and not supersede) any action for damages Principal may have for breach of any part of this agreement.

H. **Modification.** This agreement may only be modified through a writing signed by the Parties and, thus, no oral modification hereof shall be permitted. The Parties agree to take such action as is necessary to amend this agreement from time to time as is necessary for Principal to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

I. **Interpretation of this contract in relation to other contracts between the Parties.** Should there be any conflict between the language of this contract and any other contract entered into between the Parties (either previous or subsequent to the date of this agreement), the language and provisions of this agreement shall control and prevail unless in a subsequent written agreement the Parties specifically refer to this agreement by its title and date and, also, specifically state that the provisions of the later written agreement shall control over this agreement.

J. **Miscellaneous.**

1. Any ambiguity in this agreement shall be resolved to permit Principal to comply with the Privacy Rule.
2. **Regulatory References.** A reference in this agreement to a section in the Privacy Rule means the sections as in effect or as amended.

IN WITNESS WHEREOF and acknowledging acceptance and agreement of the foregoing, the Parties affix their signatures hereto.

PRINCIPAL



Dated: 3/30, 2016

BUSINESS ASSOCIATE



American Medical Answering, I.I.C

Dated: March 30, 2016, 2016

## FACSIMILE TRANSMITTAL FORM

**Date/Time:** 4/14/2016 12:32:48 PM

**Pages:** 4

**Subject:** Patient Document

**To:** american med answering service

**Fax Number:** 1888-244-4313

**From:** La [REDACTED]

**Fax Number:** 847-[REDACTED]

**Business Phone:** 847-[REDACTED]

**Company:** [REDACTED] Ltd

NOTE: PLEASE CALL 847-[REDACTED] IF DOCUMENTS ARE INCOMPLETE  
OR NOT LEGIBLE.

The information contained in the facsimile message may be confidential and/or legally privileged information intended only for the use of the individual or entity named above.

If the reader of this message is not the intended recipient, you are hereby notified that any copying, dissemination, or distribution of confidential or privileged information is strictly prohibited.

If you have received this communication in error, please notify us immediately by telephone and we will arrange for return of the documents.

FILED DATE: 1/17/2019 3:59 PM 2018L010586

FILED DATE: 1/17/2019 3:59 PM 2018L010586

We will be a new client for your answering service. If you should at any time day or night have a question and/or concern please direct your staff to contact [REDACTED] **Practice Manager (773)** [REDACTED] via call or text message.

We have the following providers within our call group:

|                  |                |
|------------------|----------------|
| [REDACTED] M.D.  | 847-[REDACTED] |
| [REDACTED] M.D.  | 312-[REDACTED] |
| [REDACTED] M.D.  | 773-[REDACTED] |
| [REDACTED] M.D.  | 203-[REDACTED] |
| [REDACTED] D. O. | 773-[REDACTED] |
| [REDACTED] PA-C  | 847-[REDACTED] |
| [REDACTED] M.D.  | 847-[REDACTED] |
| [REDACTED] M.D.  | 847-[REDACTED] |

Our office is open 9-5 Monday through Thursday, 9-4 on Friday, closed Saturdays, Sundays and holidays. When we close for the night we NEED the number we will be forwarding our calls to? We would very much like to do a trial run with your service tonight if possible. Tonight is Thursday night which means Dr. [REDACTED] is on call please let us know if this is a possibility.

I read your contract to understand Dr. [REDACTED] would be \$69.00, then for each additional provider it would be 20.00 added (140.00) so our monthly rate would be in or around 209.00 per month?

FILED DATE: 1/17/2019 3:59 PM 2018L010586

**PRACTICE INTAKE INFORMATION**

**Your secure toll free fax number is (888) 244-4313**  
**Please fax all documents. Do not mail.**

|                                 |                       |
|---------------------------------|-----------------------|
| Practice Name:                  | [REDACTED] Ltd.       |
| Street Address:                 | [REDACTED] Suite 120  |
| City:                           | Park Ridge            |
| State:                          | IL                    |
| Zip:                            | 60068                 |
| Phone Number (incl. area code): | 847-[REDACTED]        |
| Fax Number (incl. area code):   | 847-[REDACTED]        |
| Email Address:                  | [REDACTED]@doctor.com |
| Website:                        | None                  |

**Please list below the names of doctors  
for whom our Operators will be taking messages.**

| Doctors Name    | Mobile Number  | Pager/Fax/Alternate Number |
|-----------------|----------------|----------------------------|
| [REDACTED] M.D. | 847-[REDACTED] |                            |
| [REDACTED] M.D. | 312-[REDACTED] |                            |
| [REDACTED] M.D. | 773-[REDACTED] |                            |
| [REDACTED] M.D. | 847-[REDACTED] |                            |
| [REDACTED] D.O. | 773-[REDACTED] |                            |
| [REDACTED] PA   | 847-[REDACTED] |                            |

**Please List Your Hours of Operations**

|            | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday | Sunday |
|------------|--------|---------|-----------|----------|--------|----------|--------|
| Open Time  | 9      | 9       | 9         | 9        | 9      | —        | —      |
| Close Time | 5      | 5       | 5         | 5        | 4      | —        | —      |

**Delivery options for NON-urgent messages: (please check at least one):**

☐ I would like to have my messages emailed (please provide email address)

email address: \_\_\_\_\_

☐ I would prefer to have my messages sent via text.

Phone # to send text message to: \_\_\_\_\_ (please include area code)

☒ Other (please specify) directly patched through to the  
doctor / PA on call

**SERVICES AGREEMENT**

This Agreement is made on the 14 day of April, 2016 between [REDACTED] (hereinafter referred to as "Client") and American Medical Answering, LLC (hereinafter known as "AMA").

**Responsibilities of Each Party:** AMA will provide to Client, the ability to forward their calls for the purpose of Answering Services. Client will be provided with any and all messages received on a daily basis in the manner requested by the Client and as provided for in the Practice Intake Worksheet. Urgent messages will be delivered and Operators will continue to attempt to deliver urgent messages until such delivery is confirmed. All other messages will be delivered and available for Client's review using the method / email requested by the client. AMA shall provide client with an itemized list of all messages received and messages shall be delivered via email if Client opts for email delivery of messages or via text if Client opts for text messaging. The Client will be responsible for providing correct information i.e. correct business address, directions, hours of operation, etc.

**FEES AND PAYMENT SCHEDULE:**

The Client shall reimburse AMA in accordance with the following schedule:

- Answering services shall be billed at the rate of \$69 per month (Additional doctors are \$20/month per doctor).
- The Client will be invoiced each month. Invoices will be sent via email. Terms are net 30 days.
- Either party may terminate this agreement so long as they provide 7-day written notice. Should Client terminate this Agreement, Client will be billed and be responsible to pay for the entire month in which the termination occurred.
- If the Client is delinquent beyond the 30-day payment deadline, Client will be assessed a re-billing fee of an additional \$10.00 per month above the monthly charges. If the Client is delinquent on payment 60 days or more, AMA, LLC reserves the right to withhold services until payment is made in full.
- The Client shall be solely responsible for any local area telephone charges/ calling plans, etc. and agrees to have the feature of call forwarding in their local phone plan.

**LIABILITY**

AMA, LLC's liability under this service agreement shall be limited solely and exclusively to the delivery of messages to the Client. The Client is responsible for the validity, and correctness of the information provided to the Operators and relayed to the Client's patients. Client agrees to provide AMA with correct contact information for emergency message delivery. If Client fails to provide correct contact information or if the method of contact instructed by Client is not functioning properly, AMA shall not be held responsible for the inability to deliver emergency messages and Client shall hold AMA harmless.

**CONFIDENTIALITY**

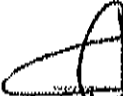
AMA, LLC agrees not to violate any confidence of the patient or their family through indiscriminate discussion pertaining to the patient, their treatment, diagnosis, or prognosis. AMA agrees that all patient information is strictly confidential and shall not make any disclosures.

**GOVERNING LAW**

Enforcement of rights and responsibilities under this contract shall be governed by the laws/venue of the State of Michigan, County of Washtenaw. This agreement is assignable in its entirety.

**MATTERS NOT INCLUDED**

This document represents the entire agreement between the parties. No other terms or conditions shall be implied or inferred from the text or otherwise. Any changes or amendments to this agreement shall be in writing and shall be agreed to by both parties.

 [REDACTED]  
Authorized Client Signature

Date: 4-13-16

  
AMA

Date: April 14, 2016

WHEREAS Revenue Asset Services (hereinafter known collectively as the "Seller") and who has agreed to sell certain systems, assets, as well as intellectual property and where Craig D. Ramsdell (hereinafter known as "Buyer") or his corporate nominee to be decided, agrees to buy certain systems, assets, and intellectual property, both parties agree to the following:

The purchase price will be \$100,000.00 US (One Hundred Thousand Dollars and 00/xx US). At Closing, Buyer will give Seller \$75,000.00 US (Seventy Five Thousand Dollars and 00/xx US) and simultaneously execute a Promissory Note in the amount of \$25,000 US (Twenty Five Thousand Dollars and 00/xx US) at the time of signing this Agreement.

**No payments on the Promissory Note will be due until all 300 client assignments have been delivered.**

The following are to be provided:

1. Answering Service: Seller will deliver 300 medical answering service contracts at a minimum charge of \$69 per office per month.

At the signing of this contract, Buyer agrees to the following performance guidelines, including but not limited to.

**Answering Service:**

1. Buyer will service clients immediately upon receipt and no more than 1 business day of receipt.
2. Buyer agrees to accept all contracts assigned to them.
3. Buyer agrees to a high standard of customer service and to promptly return calls and all correspondence and contracts that were assigned to them.
4. Seller will introduce Buyer to Back Office Call Center. Buyer has the option to enter into a contract with the Back Office. Should Buyer choose to use the back office introduced by Seller, all payments of back office charges are the sole responsibility of the Buyer for all assigned contracts.
5. Buyer will be solely responsible for the toll free number that the doctor's forward their calls to and all related charges.
6. Buyer will be solely responsible for the quality of the answering service provided by the back office. Buyer will monitor call quality as required.
7. Buyer will be responsible for monthly invoicing of clients.



**Seller hereby represents and agrees:**

- 1. Corporate Status:** Seller has been duly created, validity exists, and is in good standing.
- 2. Title to Assets:** Seller holds valid and marketable legal and beneficial title to the Assets and the Modules, which are free and clear of all liens, claims, encumbrances and security interests.
- 3.** Seller has the right and power to transfer clients to Buyer as contemplated herein. Seller's contracts with Clients permit the assignment of those contracts to Buyer.
- 4.** No restrictions will be placed on Seller to attract their own clients through their own marketing methods including, but not limited to, Request for Proposals, referrals, telesales, telemarketing, or personal sales. If any new clients are acquired and a contract is signed, Seller may inform Buyer, and Buyer will remove that clinic from active solicitation.
- 5.** Seller will not sell any other service, except Medical Billing Services, Medical Transcription Services, OR Medical Collection Services to a clinic that is assigned to Buyer. Seller may only assign one service per clinic, which can count toward the total required clients under this Agreement.

**Terms:**

Buyer will provide a wire transfer or certified check in the amount of \$75,000.00 US (Seventy Five Thousand and 00/xx Dollars US) at the time of execution of this agreement. Upon receiving a total of 300 assigned answering service contracts, Buyer will give equal monthly payments as per the Promissory Note, which calls for an amortization of 5 years with a 3-year balloon. **Debt service payments and interest on the debt service payment will begin after and only when all medical transcription contracts are assigned.** The Agreement including all exhibits, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and merges and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions. Neither of the Parties will be bound by any conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof other than as expressly provided herein. No oral explanations or oral information by either party hereto will alter the meaning or interpretation of this Agreement. The terms

and conditions of this Agreement will prevail notwithstanding any different, conflicting or additional terms and conditions that may appear on any letter, email or other communication or other writing not expressly incorporated into this Agreement.

**Training and Transition:**

At no cost to the Buyer, the Seller will train and transition for up to 5 consecutive days for up to 2 hours per day. If additional training, beyond the aforementioned time, is required or requested, Seller will provide up to 20 additional hours of training. These 20 additional hours may be spread out over the course of one year. Training shall not exceed 1 year from the signing of this agreement for any reason. Buyer will make themselves available for this training and may not refuse the training. If Buyer is not available for training or refuses training it will be considered as though they have been trained for the full period allotted.

**Confidentiality:**

At all times, the Buyer will respect the confidentiality and the extensive work put into the intellectual property, assets, and systems. Buyer will not attempt to reverse engineer the marketing methodology for personal gain or publishing purposes.

**Commercial Transaction:**

This transaction is considered a commercial transaction.

**Assignment:**

This agreement and all the contracts provided from Seller to Buyer are assignable in their entirety. All contracts with medical offices that Seller signs with medical offices will explicitly state that contracts are assignable in their entirety.

**Additional Clients:**

Buyer and Seller have the option, but not the obligation, to continue assignment of clients on a top-up basis. Buyer may buy client assignments in groups as requested. The price for every group of 10 new clients will be \$6000. The price for every group of 20 new clients will be \$10,500. The price for every group of 30 new clients will be \$13,500. The price for every group of 50 new clients will be \$18,750. The price for every group of 100 new clients will be \$30,000. The terms for each top-up will be materially similar to this Agreement, however Promissory Notes will not be used for a top-up agreement.

**Timeframe:**

Seller agrees to assign the 300 medical answering service contracts within 6 months of the date Buyer indicates they are ready to accept clients or the date of first assignment, whichever comes first. Buyer will send an email with a time stamp indicating the start date. If Buyer refuses any client then this paragraph will be void.

**Venue:**

The venue is the State of Delaware and the County of Newcastle.

**Governing Law:**

This Agreement will be governed by the laws of Delaware and the County of New Castle.

**Default:**

If the Buyer defaults with regard to any of the paragraphs above, as well as the Promissory Note, individually or collectively, the Buyer will immediately return all contracts, assets and systems and intellectual property that has been delivered and will hold harmless and indemnify the Seller.

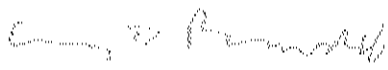
**Restrictive Covenant:**

Unless a default occurs, the Seller will be prohibited, once the contract has been transferred to Buyer, from contacting or soliciting those clients. The one exception would

be to verify the reason of loss of a client unless the Buyer directs the Seller to contact the medical office on their behalf. Buyer will void this clause if Buyer chooses to use Seller's resources in order to service Buyer's clients however, Seller will not solicit Buyer's clients. Buyer will not solicit Seller's third party resources.

**Uniform Commercial Code:**

Article 2 of the Uniform Commercial Code (UCC) will apply to the entirety of this Agreement. February 1, 2016

  
\_\_\_\_\_  
Buyer

DATE: \_\_\_\_\_

  
\_\_\_\_\_  
Seller

DATE: \_\_\_\_\_

Revenue Asset Services

**EXHIBIT A**

**ALLOCATION OF PURCHASE PRICE**

Intellectual Property and Systems \$ 40,000.00

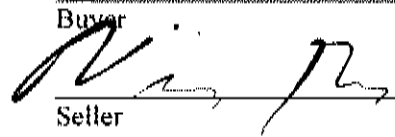
Goodwill \$ 35,000.00

Training \$ 5,000.00

Restrictive Covenant \$ 20,000.00

 DATE: February 1, 2016

Buyer

 DATE: February 1, 2016

Seller

Revenue Asset Services

**EXHIBIT B****PROMISSORY NOTE**

February \_\_, 2016

FOR VALUE RECEIVED, \_\_\_\_\_ ("Borrower") unconditionally promises to pay to the order of Revenue Asset Services ("Lender") the principal sum of \$25,000.00 (Twenty Five Thousand Dollars and 00/xx US), together with interest payable in arrears on the unpaid principal balance at the rate of 6% per annum. This Promissory Note is given in a commercial transaction, and Borrower hereby represents and warrants to Lender that the proceeds of the loan evidenced by this Promissory Note shall be used solely for business purposes.

**Repayment**

The principal sum of \$25,000 (Twenty Five Thousand Dollars and 00/xx US) will be paid under a 5 year amortization with a 3-year balloon. Therefore, principal and interest shall be payable in 36 installments of \$483.32 (Four Hundred Eighty Three and 32/100 Dollars US) each month, commencing on the first day of the month after 45 medical billing clients have been assigned to Borrower per the Commercial Transaction and continuing on the same day of each month thereafter until and including the 36th installment. Any remaining unpaid principal, together with any accrued interest, shall also be due and payable in full with the 36th installment. All payments under this Promissory Note shall be in lawful money of the United States.

Payments will be delivered to Lender at 4569 Hickory Pointe Blvd, Ypsilanti, MI 48197 or other address provided by the Lender.

All payments under this Promissory Note shall be applied first to late fees and costs, if any, second to interest then due, if any, and the balance to principal.

In no event shall the interest and other charges in the nature of interest hereunder, if any, exceed the maximum amount of interest permitted by law. Any amount collected in excess of the maximum legal rate shall be applied to reduce the principal balance.

**Prepayment**

This Promissory Note may be prepaid at any time, in whole or in part, without penalty or premium. Borrower has the option to pay the remaining balance within 90 days of receiving 300 assigned medical answering service clients. If this option is exercised, then the total settlement

price will be \$20,000.00 (Twenty Thousand Dollars and 00/100 Dollars US). No further payments will be required, if this Prepayment Option is exercised within 90 days.

#### **Late Payment Fees**

If any installment hereunder is not paid within 30 days of the date the same is due, the Borrower shall pay to the Lender a late charge equal to 10% percent of the overdue payment as liquidated damages, and not as a penalty.

#### **Additional Costs**

Borrower agrees to pay to Lender such further amount as will be sufficient to cover the cost and expenses, including, without limitation, reasonable attorney's fees, expenses, and disbursements, of the collection of sums due hereunder, whether through legal proceedings or otherwise, to the extent permitted by law. These costs will be added to the outstanding principal and will become immediately due.

After the maturity of this Promissory Note, or upon any default, this Promissory Note shall bear interest at the rate of 18% percent per annum, at the option of the Holder.

#### **Events of Acceleration**

At the sole and exclusive option of the Lender, in addition to any other rights and remedies that Lender may have, this entire Promissory Note shall become immediately due and payable, without demand or notice, upon the occurrence of any one of the following events:

- a. failure of the Borrower to pay any installment hereunder when due, which shall continue for 60 days;
- b. any misrepresentation or omission of or on behalf of Borrower made to the holder in connection with this loan;
- c. insolvency or failure of Borrower to generally pay its debts as they become due;
- d. assignment for the benefit of creditors of, or appointment of a receiver or other officer for, all or any part of Borrower;

#### **Transfer of the Promissory Note**

Borrower hereby waives any notice of the transfer of this Promissory Note by Lender or by any subsequent holder of this Promissory Note, agrees to remain bound by the terms of this Promissory Note subsequent to any transfer, and agrees that the terms of this Promissory Note may be fully enforced by any subsequent holder of this Promissory Note.

#### **Amendment; Modification; Waiver**

No amendment, modification or waiver of any provision of this Promissory Note or consent to departure therefrom shall be effective unless by written agreement signed by both Borrower and Lender. If any provision of this Promissory Note shall be invalid or unenforceable, the remaining provisions shall remain in full force and effect.

The Borrower expressly waives presentment, demand, notice, protest, and all other demands and notices in connection with this Promissory Note. No renewal or extension of this Promissory Note, nor release of any collateral or party liable hereunder, will release the liability of Borrower.







## ***Exhibit E***

**From:** Paul [REDACTED] <pau[REDACTED]@yahoo.com>  
**To:** Jay Reddy <vreddy33@yahoo.com>  
**Sent:** Wednesday, December 14, 2016 7:46 AM  
**Subject:** Re: agreement

I'm aware of the jurisdiction.

As you know, at this point, I have no proof of a legit sale.

On Dec 13, 2016, at 9:30 PM, Jay Reddy <[vreddy33@yahoo.com](mailto:vreddy33@yahoo.com)> wrote:

Actually, he has not defaulted yet.

The company belongs to Joseph, it is his responsibility to refund you or fill your contract.

Since you have settled on going the legal route, I am making a formal notice now: Our agreement states that the venue for any dispute must be the State of Michigan, County of Washtenaw. Any attempt to file a suit in any other jurisdiction will result in me asking for sanctions against you and your lawyer for filing a frivolous suit in the wrong venue. Then you'll be forced to file here anyway.

I state one final time: I sold the company. The new owner is responsible for your contract. I don't mind going through several years of litigation. I am quite confident in my legal position. I firmly believe that I can get my part in this dismissed in a matter of months.

This will be my final correspondence with you. After I receive your suit, I will forward it to my attorney.

Jay Reddy, MBA, MA, CBA  
(734) 306-1425

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**From:** Paul [REDACTED] <pau[REDACTED]@yahoo.com>  
**To:** Jay Reddy <[vreddy33@yahoo.com](mailto:vreddy33@yahoo.com)>  
**Sent:** Tuesday, December 13, 2016 3:36 PM  
**Subject:** agreement

Jay,

I assume Joseph has officially defaulted on the agreement by now. Hence, I'm making a formal request for you to share the purchase and sale agreement.

Unfortunately, we'll have to file suit later this week. Are you really so disadvantaged that you cannot refund my money? I was hoping you would do the right thing and not draw us both into a costly legal process.

Thanks, Paul

# Exhibit 8

## IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Medagood LLC

v.

No.

18-L-010586

David Weinstein, Visionary Business  
Kevin Brown, Visionary Business  
Brokers LLC & Madasset Corp.

ORDER

This matter coming before the Court on Defendants' motion to dismiss for lack of jurisdiction under 735 ILCS 2-301 ~~and~~, alternatively because Cook County is not a proper Venue under 735 ILCS 2-615 (the "Motion"), the Court having heard oral argument from all parties, and being fully advised, IT IS HEREBY ORDERED:

① The Motion is granted for the reasons stated on the record, and, accordingly, the case is dismissed as to all Defendants.

Atty. No.:

61596

Name:

John Shanker

Atty. for:

Defendants

Address:

1032 Sterling Ave

City/State/Zip:

Flossmoor IL 60422

Telephone:

708-744-0022

ENTERED:

Dated:

Judge

Brigid M. McGrath

ENTERED  
JUDGE BRIGID MARY McGRATH-1800

MAR 19 2019

CLERK OF THE CIRCUIT COURT  
OF COOK COUNTY IL

# Exhibit 9

**UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW JERSEY**

**UNITED STATES OF AMERICA,**

**CRIMINAL NUMBER:**

**v.**

**21-cr-00474(RBK)**

**VIJAY REDDY,**

**PLEA HEARING**

**Defendant.**

Mitchell H. Cohen Building & U.S. Courthouse  
4th & Cooper Streets  
Camden, New Jersey 08101  
June 9, 2021  
Commencing at 1:00 p.m.

**B E F O R E:**

**THE HONORABLE ROBERT B. KUGLER,**  
**UNITED STATES DISTRICT JUDGE**

**A P P E A R A N C E S:**

OFFICE OF THE UNITED STATES ATTORNEY  
BY: DIANA V. CARRIG, ASST. UNITED STATES ATTORNEY  
BY: DANIEL A. FRIEDMAN, ASST. UNITED STATES ATTORNEY  
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LAW OFFICES OF TERI S. LODGE  
BY: TERI S. LODGE, ESQUIRE  
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FOR THE DEFENDANT

**A L S O   P R E S E N T:**

Vijay Reddy, Defendant  
Mittie Flynn, IRS Representative  
James Webb, FBI

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Proceedings recorded by mechanical stenography; transcript  
produced by computer-aided transcription.

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VIJAY REDDY

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EXHIBITS

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1 (PROCEEDINGS held in open court before The Honorable  
2 ROBERT B. KUGLER, United States District Judge, at 1:00 p.m.)

3 THE COURTROOM DEPUTY: All rise.

4 THE COURT: Thank you. Have a seat, please. Good  
5 afternoon, Counsel. You can remove your masks.

6 Is everybody good?

7 MS. CARRIG: Yes, Your Honor.

8 THE COURT: All right. We'll start with the  
9 appearance of counsel for the Government, please.

10 MS. CARRIG: Good afternoon, Your Honor. Diana Carrig  
11 and Dan Friedman, Assistant United States Attorneys, for the  
12 Government. And we also have with us, Your Honor, the case  
13 agents, so we have Mittie Flynn from IRS and James Webb from  
14 FBI.

15 THE COURT: Thanks for coming.

16 MR. WEBB: Good afternoon.

17 THE COURT: Ms. Lodge.

18 MS. LODGE: Good afternoon, Your Honor. Teri Lodge  
19 representing Vijay Reddy. Mr. Reddy is also in court. Nice to  
20 see you, Judge.

21 THE COURT: Nice to see you.

22 All right. I understand that the defendant wants to  
23 plead to an information; is that correct?

24 MS. LODGE: Yes, Your Honor.

25 THE COURT: And have you explained to your client his

1 right to have his matter presented to the United States Grand  
2 Jury?

3 MS. LODGE: Yes, Your Honor.

4 THE COURT: Is he willing to waive or give up that  
5 right?

6 MS. LODGE: Yes, Your Honor.

7 THE COURT: And did he, in fact, sign this waiver?

8 MS. LODGE: Yes.

9 THE COURT: Did you sign this waiver?

10 MS. LODGE: Yes.

11 THE COURT: Mr. Reddy, did your lawyer explain to you  
12 your right to have this matter presented to the grand jury?

13 THE DEFENDANT: Yes.

14 THE COURT: She says you're willing to waive or give  
15 up that right and you've signed this form waiving the  
16 indictment; is that correct?

17 THE DEFENDANT: That's correct.

18 THE COURT: Thank you, sir. You can have a seat. I  
19 will be with you again in just a few minutes.

20 I will sign this and file this along with the original  
21 of the information.

22 All right. Does the Government want to put the details  
23 of the plea hearing on the record at this time, please.

24 MS. CARRIG: Yes. Yes, Your Honor. Thank you.

25 So there is a plea agreement. It's contained in two

1 letters that are both dated April 21st, 2021, and they're  
2 addressed to Ms. Lodge.

3         The plea agreement says that if Mr. Reddy pleads guilty  
4 to a two-count information, with the first count being a wire  
5 fraud conspiracy and the second count being a substantive wire  
6 fraud violation, that our office will not initiate any further  
7 criminal charges against him for his role in the scheme that's  
8 described in the information and also in a criminal complaint  
9 that's described in Page 1 of the plea agreement.

10         It explains the two different counts and all of the  
11 penalties to which he subjects himself by his guilty plea. So  
12 for each of those counts he faces a maximum term of  
13 imprisonment of up to 20 years, a maximum fine of the greater  
14 of these three things, \$250,000, twice the profits or twice the  
15 losses; he faces the payment of a special assessment, that's a  
16 hundred dollars per count so a total of \$200; and he's required  
17 to pay restitution. He may have to give notice to the victims  
18 of the offense. The Court must order forfeiture. And he could  
19 be sentenced to a term of supervised release following any term  
20 of imprisonment that the Court may impose of up to three years.  
21 Should he violate that condition of supervised release or any  
22 of those conditions, he would be subject to an additional term  
23 of imprisonment of up to two years, and that is per count, so  
24 those would stack.

25         The plea agreement basically says that, moving on to

1 Page 3, that we have the right to take any position with  
2 respect to the appropriate sentence, except as limited in the  
3 plea agreement. It talks about stipulations that are contained  
4 in Schedule A and that they're binding on the parties but not  
5 on Your Honor. It references a waiver of appeal and  
6 post-conviction rights, which are contained in Schedule A, and  
7 I'll go through that in a moment. And it talks in detail about  
8 the restitution obligations that Mr. Reddy has agreed to,  
9 including making full restitution for all of the losses from  
10 this conviction, as well as the scheme, conspiracy and pattern.  
11 And it references that there's a Schedule B that's attached to  
12 the plea agreement which has a listing of some of the  
13 restitution amounts that Mr. Reddy subjects himself to.

14 In addition, that last sentence on Page 3, he agrees  
15 that should there be any additional losses identified by those  
16 victims that are contained in Schedule B or any new victims,  
17 that he will also be responsible for that as well.

18 If you flip over to the next page, it talks about  
19 forfeiture. And so Mr. Reddy has agreed to the entry of a  
20 money judgment, a forfeiture money judgment, in the amount of  
21 \$944,125, which represents his proceeds from the offense.

22 There are many other terms here but I think the plea  
23 agreement, you know, is very clear on those terms.

24 One of the things that we've done is prepared a consent  
25 judgment and preliminary order of forfeiture for Your Honor,

1 too, which Mr. Reddy and his counsel, Ms. Lodge, have signed.  
2 So we will present that after the plea.

3 On the next Page, Page 5, we talk about immigration  
4 consequences and should Mr. Reddy not be a citizen of the  
5 United States, that this plea would likely result in him being  
6 subject to immigration proceedings.

7 And then finally at the bottom of Page 5 there is, you  
8 know, an other provisions set of paragraphs, which basically  
9 says that the promises that are made in this plea agreement are  
10 limited to our office, that we do not intend to cover any, you  
11 know, civil or administrative matters that could be possibly  
12 commenced against Mr. Reddy at some time in the future; and  
13 that regardless of his waiver of his right to appeal, Mr. Reddy  
14 is not waiving his right to collaterally attack the conviction  
15 or sentence based upon ineffective assistance of counsel. So  
16 it carves that out.

17 The last page, 6, talks about the fact that there are no  
18 other promises contained in the plea agreement.

19 And then, as I said before, it's got two different  
20 schedules. Schedule A goes through the guidelines and how the  
21 parties believe the guidelines should apply in this case and  
22 contain several detailed stipulations.

23 Does Your Honor prefer that I go through those or not?

24 THE COURT: No. I will do it.

25 MS. CARRIG: Okay. Yes, so we've got that. It

1 explains the grouping. And then at Paragraphs 11 and 12, Mr.  
2 Reddy gets three points off for his acceptance of  
3 responsibility, which leaves us at a total Offense Level of 24.

4 And then Paragraph 14 and 15 I think do require some  
5 additional conversation.

6 So 14 is the agreement between the parties that neither  
7 of us will seek any additional upward or downward departures or  
8 adjustments that are not contained in this plea agreement or  
9 the other letter that I referenced dated April 21st, 2021.

10 And Paragraph 15 talks about the waiver of appeal in  
11 detail and also the collateral attack, waiver of those motions.  
12 And they are triggered at that Level 24 and being sentenced at  
13 or below that.

14 And then finally the last several pages of the plea  
15 agreement are that Schedule B that I discussed.

16 And as I said before, there is a separate letter that's  
17 dated the same date as the plea agreement which contains  
18 additional terms which provide additional rights and  
19 responsibilities of the parties.

20 THE COURT: All right. Thank you.

21 MS. CARRIG: Thank you.

22 THE COURT: Ms. Lodge, is that your understanding of  
23 the plea agreement and did the attorney for the Government  
24 leave out any material parts of this plea agreement?

25 MS. LODGE: That is my understanding, Your Honor. I

1 would only clarify that at Paragraph 14 the plea agreement  
2 states that neither party will seek an upward or downward  
3 departure; however, Mr. Reddy does reserve the right to seek a  
4 variance.

5 THE COURT: Correct.

6 MS. CARRIG: That's correct, Your Honor. And the  
7 Government does not reserve its right to seek a variance, only  
8 Mr. Reddy. So we will not be -- there will be no upward  
9 variance request from the Government.

10 THE COURT: All right. She made reference to the plea  
11 agreement letter dated April 21st of 2021 addressed to you?

12 MS. LODGE: Yes, Your Honor.

13 THE COURT: It looks like you and your client signed  
14 this?

15 MS. LODGE: That's correct.

16 THE COURT: Your client on April 26, you on April 30,  
17 correct?

18 MS. LODGE: Yes, Your Honor.

19 THE COURT: Did you go over this with your client  
20 before he signed it?

21 MS. LODGE: Yes.

22 THE COURT: Do you believe he understood everything in  
23 here before he signed it?

24 MS. LODGE: Yes.

25 THE COURT: Similarly -- I'm going to mark that

1 document as Court Exhibit 1.

2 (COURT EXHIBIT 1 WAS MARKED FOR IDENTIFICATION.)

3 THE COURT: Similarly, we have the Application for  
4 Permission to Enter a Plea of Guilty, which will be marked as  
5 Court Exhibit 2.

6 (COURT EXHIBIT 2 WAS MARKED FOR IDENTIFICATION.)

7 THE COURT: It looks like, again, you and your client  
8 signed this both on April 30th. Did you both sign this April  
9 30th?

10 MS. LODGE: We did, Your Honor, and we reviewed it  
11 again this morning because we are in court in person so we  
12 could do that.

13 You will see a change on the first page regarding what  
14 medication Mr. Reddy has taken in the last 72 hours. It should  
15 be a handwritten change. It should be something just crossed  
16 off, actually.

17 THE COURT: Yes, I see it. Okay.

18 MS. LODGE: He was taking thyroid medication at the  
19 time we signed that; he's not taking that today.

20 THE COURT: Do you believe he understood everything on  
21 this document before he signed it?

22 MS. LODGE: Yes, Your Honor.

23 THE COURT: Is your client prepared at this time to  
24 enter a plea of guilty?

25 MS. LODGE: Yes, he is.



1 THE COURT: Mr. Reddy, would you please stand up.  
2 Would you raise your right hand.

3 (VIJAY REDDY, HAVING BEEN DULY AFFIRMED, TESTIFIED AS FOLLOWS:)

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: You can put your hand down.

6 State your full name.

7 THE DEFENDANT: Vijay Reddy.

8 THE COURT: How old are you?

9 THE DEFENDANT: Forty-five.

10 THE COURT: How far did you go in school?

11 THE DEFENDANT: I have two Master's degrees.

12 THE COURT: Do you understand you're under oath to  
13 tell the truth and if you don't tell the truth, you can be  
14 prosecuted for perjury?

15 THE DEFENDANT: I understand.

16 THE COURT: Have you had enough time to talk to your  
17 lawyer about this matter?

18 THE DEFENDANT: Yes.

19 THE COURT: Mr. Reddy, if at any point in these  
20 proceedings you want to talk to your lawyer, all you have to do  
21 is say so and we'll stop.

22 THE DEFENDANT: I understand.

23 THE COURT: You can have all the time you need to talk  
24 to your lawyer. Do you understand that?

25 THE DEFENDANT: I understand. Thank you.

1 THE COURT: If there is any confusion at all, I don't  
2 care how minor you might think the problem is, if you are  
3 having a problem, you just have to say so and we will stop and  
4 get it straightened out before we go any further. Do you  
5 understand that?

6 THE DEFENDANT: I understand. Thank you.

7 THE COURT: Are you satisfied with the services your  
8 lawyer has provided you so far in this case?

9 THE DEFENDANT: Yes.

10 THE COURT: Have you ever been treated for drug or  
11 alcohol abuse or addiction?

12 THE DEFENDANT: No.

13 THE COURT: Do you have a drug or alcohol problem?

14 THE DEFENDANT: No.

15 THE COURT: Have you taken any drugs or consumed any  
16 alcohol in, let's say, the last 48 hours?

17 THE DEFENDANT: No.

18 THE COURT: Are you being treated by a doctor for any  
19 medical condition?

20 THE DEFENDANT: High cholesterol, diabetes.

21 THE COURT: Do you take a statin?

22 THE DEFENDANT: Yes.

23 THE COURT: And you have diabetes?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you take any medication for that?

1 THE DEFENDANT: I don't currently. I'm trying to  
2 treat it with exercise and good diet.

3 THE COURT: Have you ever consulted with or been  
4 treated by a psychiatrist, psychologist or counselor or any  
5 kind of mental health professional at any time?

6 THE DEFENDANT: Yes, when I was a teenager.

7 THE COURT: And why?

8 THE DEFENDANT: Depression.

9 THE COURT: And did you take any medication for that?

10 THE DEFENDANT: No.

11 THE COURT: How long a period of time do you believe  
12 you treated for that?

13 THE DEFENDANT: Two years.

14 THE COURT: And did it help you?

15 THE DEFENDANT: Oh, tremendously.

16 THE COURT: Do you still feel the need to seek some  
17 kind of professional help?

18 THE DEFENDANT: No.

19 THE COURT: Do you have depression, do you think?

20 THE DEFENDANT: I mean, under the circumstances, I  
21 think I'm handling this pretty well.

22 THE COURT: Okay. Has anybody promised you what your  
23 sentence is going to be?

24 THE DEFENDANT: No.

25 THE COURT: Has anybody forced you or threatened you

1 in any way to make you come in here and plead guilty?

2 THE DEFENDANT: No.

3 THE COURT: Are you pleading guilty of your own free  
4 will?

5 THE DEFENDANT: Yes.

6 THE COURT: And are you doing this because you are, in  
7 fact, guilty?

8 THE DEFENDANT: Correct, yes.

9 THE COURT: Do you know that as of this moment I have  
10 no idea what your sentence is going to be?

11 THE DEFENDANT: I understand.

12 THE COURT: And have you talked to your lawyer about  
13 the United States Sentencing Guidelines?

14 THE DEFENDANT: Yes.

15 THE COURT: And do you think you understand how that  
16 works?

17 THE DEFENDANT: I feel good about it, yes.

18 THE COURT: Well, let me go over it with you because  
19 it is so important.

20 THE DEFENDANT: Yes.

21 THE COURT: If I accept your plea and find you guilty  
22 today, U.S. Probation will do a presentence investigation about  
23 you. It's a booklet that they prepare for me and for you and  
24 they go over your life, but they go over the crime. And I know  
25 you have some stipulations and we'll get to those in just a

1 minute. But they make a calculation, probation does, of your  
2 offense level and your criminal history category.

3 Now, you, your lawyer and the Government will see that  
4 before I do and you have a right to challenge that. If you  
5 think it's wrong, you can say to the probation officer, I think  
6 that's wrong, I want you to recalculate that. Ultimately, if  
7 you still disagree with it, I'll have a hearing and I'll make a  
8 determination of what your offense level and criminal history  
9 category are. And that's important because there is a chart in  
10 the guidelines book and you go down the offense level, across  
11 to the criminal history category and it comes up with a range  
12 of months that it recommends I sentence you to. Do you  
13 understand that?

14 THE DEFENDANT: I understand.

15 THE COURT: It's only a recommendation and it's  
16 non-binding on me. Do you understand that?

17 THE DEFENDANT: I understand.

18 THE COURT: But you need to understand that if you  
19 disagree with my finding of what your offense level is and your  
20 criminal history category, you may have a right to appeal those  
21 matters, but you're not going to be able to take back your  
22 guilty plea; you're still going to be guilty. Do you  
23 understand that?

24 THE DEFENDANT: I understand.

25 THE COURT: Now, there's this plea agreement letter I

1 asked your lawyer about dated April 21st, Court Exhibit 1, and  
2 she told me you signed this. Do you remember signing this  
3 letter?

4 THE DEFENDANT: Yes.

5 THE COURT: And it looks like you signed it on April  
6 26th.

7 THE DEFENDANT: Correct.

8 THE COURT: And did you sign this after you went over  
9 it with your lawyer?

10 THE DEFENDANT: Yes, we discussed it extensively.

11 THE COURT: And did she answer your questions?

12 THE DEFENDANT: All of them.

13 THE COURT: Do you understand that by signing this,  
14 you are stating that you agree with everything in this letter?

15 THE DEFENDANT: I understand.

16 THE COURT: And the Application for Permission to  
17 Enter a Plea of Guilty, Court Exhibit 2, it looks like you  
18 signed that on April 30th with your lawyer. She said she went  
19 over this with you. Did she go over this document with you?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you understand that by signing this  
22 you're swearing that you understood everything on here and you  
23 agree with it?

24 THE DEFENDANT: I understand.

25 THE COURT: Now, going back to the plea agreement

1 letter, there are certain stipulations in Schedule A and we'll  
2 go over those now.

3 Paragraph 1 says what I just said, that the sentencing  
4 guidelines are not binding on me. Do you understand that?

5 THE DEFENDANT: I understand.

6 THE COURT: Paragraph 2, you're asking that we use the  
7 November 1st, 2018, guidelines, which happen to be the most  
8 recent copy, believe it or not. Do you understand that?

9 THE DEFENDANT: I understand.

10 THE COURT: All right. So Paragraph 3 starts at Count  
11 One, which is the wire fraud conspiracy, we start with a Base  
12 Offense Level of 7 because the maximum prison sentence for this  
13 offense is 20 years. Do you understand that?

14 THE DEFENDANT: I understand.

15 THE COURT: Paragraph 4, we add a specific offense  
16 characteristic because the loss amount is greater than three  
17 and a half million but less than nine and a half million, so we  
18 increase 18 levels. Do you understand and agree with that?

19 THE DEFENDANT: I understand.

20 THE COURT: Paragraph 5, we have another specific  
21 offense characteristic because this crime involved ten or more  
22 victims so we increase another two levels. Do you understand  
23 and agree with that?

24 THE DEFENDANT: I understand.

25 THE COURT: Paragraph 6, we get into the wire fraud,

1 again we start with a Base Offense Level of 7. Do you  
2 understand and agree with that?

3 THE DEFENDANT: I understand.

4 THE COURT: Paragraph 7, again, that specific offense  
5 characteristic because the amount of the loss was greater than  
6 three and a half million but less than nine and a half million,  
7 we increase 18 levels. Do you understand and agree with that?

8 THE DEFENDANT: I understand.

9 THE COURT: Paragraph 8, again because ten or more  
10 victims were involved, we increase another two levels. Do you  
11 understand and agree with that?

12 THE DEFENDANT: I understand.

13 THE COURT: Now, Paragraphs 9 and 10, since there's  
14 two separate counts we have to group them together and figure  
15 out where that leaves us with the offense level, but where that  
16 leaves us is still a 27. Do you understand and agree with  
17 that?

18 THE DEFENDANT: I understand.

19 THE COURT: All right. Paragraph 11, because as of  
20 the date of this letter you clearly demonstrate a recognition  
21 and affirmative acceptance of personal responsibility, you are  
22 going to ask I go down two levels. Do you understand and agree  
23 with that?

24 THE DEFENDANT: I understand.

25 THE COURT: Paragraph 12, because the Government no



1 longer has to prepare for a prosecution or a trial of you, if I  
2 give you that two-level reduction, they're going to ask that I  
3 go down a third level. Do you understand and agree with that?

4 THE DEFENDANT: I understand.

5 THE COURT: So under Paragraph 13, under your  
6 agreement with the Government, we're at a level of 24. Do you  
7 understand that?

8 THE DEFENDANT: I understand.

9 THE COURT: You also understand that that's not  
10 binding on me again. The probation office will do an  
11 independent calculation of the offense level and you may have a  
12 right to appeal that, and you certainly can disagree with it,  
13 but you cannot take back your guilty plea. Do you understand  
14 that?

15 THE DEFENDANT: I understand and agree.

16 THE COURT: Paragraph 14, you've heard them discuss  
17 this but neither side's going to seek an upward or downward  
18 departure. You have the right to argue for a downward variance  
19 in the third step of the process under the statutory factors.  
20 The Government does not have the right to ask for an upward  
21 variance but they do have a right to oppose any request you  
22 make for a downward variance. Do you understand that?

23 THE DEFENDANT: I understand.

24 THE COURT: Now, Paragraph 15, you give up some very  
25 important rights.

1           Ordinarily, Mr. Reddy, you have the right to appeal any  
2 sentence or file a motion or a writ of *Habeas Corpus* as to any  
3 sentence I impose upon you. Do you understand that?

4           THE DEFENDANT: I understand.

5           THE COURT: The Government has certain rights to file  
6 an appeal or file a motion as to any sentence that gets  
7 imposed. Do you understand that?

8           THE DEFENDANT: I understand that.

9           THE COURT: But under this provision you're willing to  
10 waive or give up that right, under a certain condition, and  
11 that condition is this: If I sentence you at or below the  
12 guideline range at an offense level of 24, you're saying and  
13 you're agreeing that if I do that, you're going to give up and  
14 waive any right you have to file an appeal or a motion or a  
15 writ. Do you understand that?

16          THE DEFENDANT: I understand.

17          THE COURT: In other words, if I agree and I sentence  
18 you at a 24 or below, you're going to be forever stuck with  
19 that sentence and you're not going to be able to get it  
20 changed. Do you understand that?

21          THE DEFENDANT: I understand.

22          THE COURT: Did you talk to your lawyer specifically  
23 about giving up this right to appeal?

24          THE DEFENDANT: I did.

25          THE COURT: Are you satisfied with the advice that she

1 gave you about this?

2 THE DEFENDANT: Completely satisfied.

3 THE COURT: The Government has also promised that it  
4 will not appeal or file a motion if I sentence you to 24 or  
5 above. Do you understand that?

6 THE DEFENDANT: I understand.

7 THE COURT: You have the right to appeal any  
8 determination I make as to a criminal history category. Do you  
9 understand that?

10 THE DEFENDANT: I understand.

11 THE COURT: Also, if I accept any of these other  
12 stipulations we just went over, you cannot file an appeal or a  
13 motion saying I was wrong to do that because this is what  
14 you've agreed to do. Do you understand that?

15 THE DEFENDANT: I understand.

16 THE COURT: In Paragraph 16, if either side violates  
17 15, that is, they make a motion or they file an appeal or a  
18 writ, when they've promised not to, the other side gets to ask  
19 the Court to dismiss that because it violates the promise that  
20 you made. Do you understand that?

21 THE DEFENDANT: It makes sense. Yes, I understand  
22 that.

23 THE COURT: Schedule B is a list of victims, and  
24 there's 77 I think I counted. Did you go over that with your  
25 lawyer?

1 THE DEFENDANT: I did.

2 THE COURT: And do you understand this is a listing,  
3 as of now, of all the people entitled to restitution?

4 THE DEFENDANT: Yes, I understand.

5 THE COURT: Apparently, under your plea agreement, if  
6 there is more that come forward or if these people who are  
7 already listed actually show that they suffered a greater loss,  
8 you'll be responsible for those, too.

9 THE DEFENDANT: I understand.

10 THE COURT: You also understand as part of this plea  
11 agreement there is going to be a forfeiture order entered  
12 against you, it's a judgment, just like a civil court judgment,  
13 of \$944,125 which you will owe. Do you understand that?

14 THE DEFENDANT: I understand.

15 THE COURT: You are facing a maximum term of  
16 imprisonment of 20 years on each count. Do you understand  
17 that?

18 THE DEFENDANT: I understand.

19 THE COURT: So, technically, you could get 40 years in  
20 prison and there is no parole. Do you understand that?

21 THE DEFENDANT: I understand.

22 THE COURT: I mean, I know you don't want me to do  
23 that and you probably have some expectation that I won't, but  
24 you need to understand that I can.

25 THE DEFENDANT: I understand.

1           THE COURT: The fine that you're facing is kind of  
2 dependent on how much of a gain or a loss there was because the  
3 maximum fine will be twice whatever the gross amount of any  
4 gain that the conspirators had or twice the gross amount of any  
5 loss that all the victims suffered. Do you understand that?

6           THE DEFENDANT: I understand.

7           THE COURT: I have to order restitution. Do you  
8 understand that?

9           THE DEFENDANT: I understand.

10          THE COURT: Of course, we just went over the  
11 forfeiture. You understand that?

12          THE DEFENDANT: Yes, I understand.

13          THE COURT: I can require you give notice to any  
14 victims of the crime. Do you understand that?

15          THE DEFENDANT: I understand.

16          THE COURT: I can put you on supervised release for up  
17 to three years after any prison sentence on each count which  
18 would start at the end of any term of imprisonment; and if you  
19 violate any terms and conditions of the supervised release, I  
20 can put you back in prison for another two years on each count  
21 and require you serve further time on supervised release. Do  
22 you understand that?

23          THE DEFENDANT: I understand.

24          THE COURT: Now, by pleading guilty, you give up  
25 certain rights. First is you have an absolute right to have a

1 jury trial and have a jury determine if, in fact, you are  
2 guilty; but by pleading guilty, you give that up. Do you  
3 understand that?

4 THE DEFENDANT: I understand.

5 THE COURT: At the trial, you or, more appropriately,  
6 your lawyer would have the right to cross-examine the  
7 Government's witnesses against you; but by pleading guilty, you  
8 give that up. Do you understand that?

9 THE DEFENDANT: I understand.

10 THE COURT: At the trial you would have the right to  
11 call witnesses to testify on your behalf. If they fail to come  
12 to court or if they refuse to come to court, you can get an  
13 order from the Court requiring that they testify. But by  
14 pleading guilty, you give up that right, too. Do you  
15 understand that?

16 THE DEFENDANT: I understand.

17 THE COURT: You also have the absolute right to  
18 testify on your own behalf. Regardless of what your lawyer  
19 tells you to do, you can testify if you want or you can  
20 maintain your Fifth Amendment right to remain silent and not  
21 testify. If you choose to not testify, that could not be held  
22 against you in court. By pleading guilty, you give up those  
23 rights also. Do you understand that?

24 THE DEFENDANT: I understand.

25 THE COURT: You also have the absolute right to make

1 the Government prove its case beyond a reasonable doubt. And  
2 they would do that by proving the material elements of the  
3 crime. And there's two crimes here: First is the conspiracy  
4 to commit wire fraud, and that would require they prove that  
5 two or more people, in some way or manner, came to a mutual  
6 understanding to try to accomplish a common and unlawful plan  
7 to violate the law as charged in this information, and that  
8 you, knowing that this plan and the purpose of the plan was  
9 unlawful, willfully joined in it. And the other count, wire  
10 fraud, says that you have to be proven to have knowingly  
11 devised a scheme to defraud or to obtain money or property by  
12 materially false or fraudulent pretenses, representations or  
13 promises, that you acted with the intent to defraud, and that  
14 in advancing, furthering or carrying out this scheme, you  
15 transmitted any writing, signal or sound by means of a wire,  
16 radio, television communication in interstate commerce or  
17 caused the transmission of any writing, signal or sound of some  
18 kind by means of a wire, radio or television communication in  
19 interstate commerce. Do you understand that the Government has  
20 to prove those beyond a reasonable doubt; but by pleading  
21 guilty, you give up your right to make them do that?

22 THE DEFENDANT: I understand.

23 THE COURT: So just so we're clear, Mr. Reddy, if I  
24 accept your guilty plea, today will be your day in court and  
25 you will not have any trial. Do you understand that?

1 THE DEFENDANT: I understand.

2 THE COURT: Has your attorney also advised you that if  
3 you are not a citizen of the United States, this conviction or  
4 these convictions could cause you to be deported to whatever  
5 country you are a citizen of?

6 THE DEFENDANT: I understand.

7 THE COURT: In order for me to accept your guilty  
8 plea, I need to be satisfied that you, in fact, committed these  
9 crimes. So I need to ask you a series of questions.

10 From in or about December 2015 through November 2020,  
11 did you conspire and agree with David Weinstein and Kevin Brown  
12 to devise and execute a scheme to obtain money by selling  
13 business opportunities to unsuspecting buyers based upon false  
14 and fraudulent representations and promises to these buyers?

15 THE DEFENDANT: Yes.

16 THE COURT: Was Weinstein the architect of the scheme  
17 and primarily responsible for drafting the various fraudulent  
18 documents, including the advertising materials, prospectuses  
19 and contracts?

20 THE DEFENDANT: Yes.

21 THE COURT: Did Weinstein also communicate with the  
22 victim buyers, act as the seller of business opportunities by  
23 entering into contracts with victim buyers, serve as fake  
24 references using aliases and recruit others to serve as fake  
25 references?



1 THE DEFENDANT: Yes.

2 THE COURT: Were you a partner to Weinstein in  
3 executing the fraudulent scheme and primarily responsible for  
4 providing training to the victim buyers on how to run their  
5 businesses?

6 THE DEFENDANT: Yes.

7 THE COURT: And did you also communicate with the  
8 victim buyers, act as the seller of business opportunities by  
9 entering into contracts with victim buyers, serve as a fake  
10 reference, recruit others to serve as fake references, and edit  
11 marketing materials and contracts?

12 THE DEFENDANT: Yes.

13 THE COURT: Was Brown the business broker primarily  
14 responsible for handling initial communications with  
15 prospective buyers, encouraging those buyers through the  
16 process, and brokering these sales?

17 THE DEFENDANT: Yes.

18 THE COURT: Did you and your co-conspirators, David  
19 Weinstein and Kevin Brown, use and operate several companies in  
20 furtherance of this fraudulent scheme?

21 THE DEFENDANT: Yes.

22 THE COURT: And did the companies controlled by you  
23 and used in furtherance of this scheme include American Medical  
24 Answering Services, LLC, and Revenue Asset Services, LLC?

25 THE DEFENDANT: Yes.

1           THE COURT: And did the companies controlled by  
2 Weinstein and used in furtherance of this scheme include  
3 American MD Companies, JV MedAsset Corporation, MedAsset  
4 Management, LLC, and Tannenbaum and Milask, Inc.?

5           THE DEFENDANT: Yes.

6           THE COURT: Was a company called Visionary Business  
7 Brokers, LLC, controlled by Brown and used in furtherance of  
8 this scheme?

9           THE DEFENDANT: Yes.

10          THE COURT: In furtherance of the scheme, did you and  
11 your co-conspirators, David Weinstein and Kevin Brown,  
12 advertise business opportunities for sale on various websites?

13          THE DEFENDANT: Yes.

14          THE COURT: Did such business opportunities offer for  
15 sale blocks of contracts with medical providers who allegedly  
16 had agreed to outsource their medical billing, collections,  
17 appeals, answering, credentialing and/or transcription  
18 functions?

19          THE DEFENDANT: Yes.

20          THE COURT: For example, did you offer to sell a  
21 specified number of contracts with medical providers to a  
22 prospective buyer so that the prospective buyer could then  
23 operate their own business by providing the contracted service,  
24 that is, for example, medical billing, collections, appeals,  
25 answering, credentialing, transcription, to the medical

1 providers to earn a profit?

2 THE DEFENDANT: Yes.

3 THE COURT: Was the essence of your advertisements to  
4 provide prospective buyers with a turnkey business, meaning  
5 that the prospective buyers would not have to recruit any  
6 medical offices or doctors as clients but could set up a  
7 medical billing business, for example, and then profit based  
8 upon the medical providers or doctors you and Weinstein  
9 provided to them?

10 THE DEFENDANT: Yes.

11 THE COURT: In furtherance of this fraudulent scheme,  
12 did you, David Weinstein and -- did you and David Weinstein  
13 make representations which you knew to be materially false and  
14 fraudulent in both written materials provided to the  
15 prospective buyers, including in business prospectuses,  
16 contracts and emails, and also verbally?

17 THE DEFENDANT: Yes.

18 THE COURT: For example, did you, David Weinstein and  
19 Kevin Brown provide business prospectuses to the victim buyers  
20 and other potential buyers which included representations that  
21 you knew to be materially false and fraudulent, including  
22 falsely representing that the buyer of the business opportunity  
23 would be provided with a guaranteed client base with no  
24 marketing effort required of the buyer, falsely representing  
25 that the buyer would be provided with a client base capable of

1 achieving cash flow figures included in the prospectus, and  
2 projecting inflated profit figures that no buyer had achieved  
3 and which you knew were unachievable?

4 THE DEFENDANT: Yes.

5 THE COURT: In furtherance of the scheme, did you,  
6 Weinstein and Brown provide fake references to prospective  
7 buyers?

8 THE DEFENDANT: Yes.

9 THE COURT: Specifically, did you, David Weinstein and  
10 Kevin Brown tell and/or imply to prospective buyers that the  
11 references were past buyers who had been successful after  
12 purchasing similar business opportunities?

13 THE DEFENDANT: Yes.

14 THE COURT: And these statements were false, correct?

15 THE DEFENDANT: Yes.

16 THE COURT: In actuality, were the references that you  
17 and David Weinstein and family members of both you and David  
18 Weinstein and others you had recruited to serve as references?

19 THE DEFENDANT: Yes.

20 THE COURT: By the way, did you pay these family  
21 members to serve as references?

22 THE DEFENDANT: (Shakes head).

23 THE COURT: They just agreed to do it?

24 THE DEFENDANT: Yes.

25 THE COURT: Did you and the other references use

1 aliases and altered telephone numbers to obscure your true  
2 identities from the prospective buyers?

3 THE DEFENDANT: Yes.

4 THE COURT: In furtherance of the scheme, did you and  
5 the other fake references give positive reviews to prospective  
6 buyers which were false and misleading?

7 THE DEFENDANT: Yes.

8 THE COURT: In furtherance of the scheme, did you,  
9 David Weinstein and Kevin Brown cause victim buyers to execute  
10 contracts with a company operated by you or David Weinstein?

11 THE DEFENDANT: Yes.

12 THE COURT: In each of these contracts, did you and/or  
13 David Weinstein promise to deliver a specified number of  
14 medical providers who had contracted to outsource certain  
15 medical back-office functions, for example, medical billing,  
16 collections, appeals, answering, credentialing or transcription  
17 services?

18 THE DEFENDANT: Yes.

19 THE COURT: At the time those contracts were signed,  
20 did you know that you would be unable to deliver the specified  
21 number of medical provider contracts and/or that the contracts  
22 provided would not produce the income stream represented to the  
23 victim buyers?

24 THE DEFENDANT: Yes.

25 THE COURT: And in furtherance of the scheme, did you,

1 Weinstein and Brown cause the victim buyers to wire down  
2 payments into bank accounts controlled by you, Weinstein and  
3 Brown?

4 THE DEFENDANT: Yes.

5 THE COURT: And do you agree that during the period  
6 from December 2015 through November 2020 the victim buyers sent  
7 millions of dollars in monies via wire transfers to bank  
8 accounts controlled by you, Weinstein and Brown?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you agree that such wires were  
11 transmitted in interstate commerce?

12 THE DEFENDANT: Yes.

13 THE COURT: Did you profit from the scheme to defraud  
14 by personally receiving approximately \$944,125 in monies from  
15 the victim buyers?

16 THE DEFENDANT: Yes.

17 THE COURT: In furtherance of the scheme, and after  
18 the contracts were signed and down payments received from the  
19 victim buyers, did you and Weinstein deliver only a small  
20 fraction of the promised medical provider contracts to the vast  
21 majority of the victim buyers?

22 THE DEFENDANT: Yes.

23 THE COURT: In response to complaints from the victim  
24 buyers and requests for refunds, did you and Weinstein refuse  
25 to refund the victim buyers' down payments?

1 THE DEFENDANT: Yes.

2 THE COURT: And in response to complaints by the  
3 victim buyers, did you and Weinstein employ a blame-the-victim  
4 strategy and tell the victim buyers it was their fault that  
5 their businesses were unsuccessful?

6 THE DEFENDANT: Yes.

7 THE COURT: And during the time period charged in this  
8 information, which was December 2015 through November 2020, did  
9 you and Weinstein sell business opportunities to numerous  
10 victim buyers?

11 THE DEFENDANT: Yes.

12 THE COURT: And during this period charged, were  
13 victim buyers unable to succeed with your business model?

14 THE DEFENDANT: Yes, that's correct.

15 THE COURT: And, indeed, for the vast majority of  
16 these victim buyers, did you and Weinstein fail to deliver the  
17 required number of medical provider contracts?

18 THE DEFENDANT: Yes.

19 THE COURT: Did you know, in any event, that the  
20 contracts that you did provide would not produce the income  
21 stream promised to the victim buyers?

22 THE DEFENDANT: Yes.

23 THE COURT: In furtherance of the scheme, did you and  
24 Weinstein periodically sell or assign bundles of unfulfilled  
25 previously signed contracts with victim buyers to others in

1 order to attempt to insulate yourselves from complaints and  
2 legal action from the unhappy victim buyers?

3 THE DEFENDANT: Yes.

4 THE COURT: In response to complaints about the  
5 failure to deliver the contractually promised clients, did you,  
6 Weinstein and Brown tell victim buyers that a new owner was now  
7 responsible for fulfilling these contracts?

8 THE DEFENDANT: Yes.

9 THE COURT: In furtherance of the scheme, did you,  
10 Weinstein and Brown repeatedly sell new business opportunities  
11 and collect new down payments from new victim buyers even  
12 though you had not satisfied your contractual obligations with  
13 the previously signed victim buyers?

14 THE DEFENDANT: Yes.

15 THE COURT: And for a portion of the time period  
16 relevant to this information, was Brown employed by Tannenbaum  
17 and Milask, Inc., a company controlled by Weinstein?

18 THE DEFENDANT: Yes.

19 THE COURT: And during the time period that Brown was  
20 employed by Tannenbaum and Milask, did Brown direct victim  
21 buyers to send down payments to a bank account controlled by  
22 Weinstein?

23 THE DEFENDANT: Yes.

24 THE COURT: Did Kevin Brown serve as a broker for a  
25 vast majority of the sales of business opportunities that you



1 were involved in during the period charged?

2 THE DEFENDANT: Yes.

3 THE COURT: And did Brown take the following actions,  
4 amongst others, in furtherance of this scheme: Communicate  
5 directly with prospective buyers, including making false  
6 representations pertaining to the scheme?

7 THE DEFENDANT: Yes.

8 THE COURT: And facilitate -- I'm sorry, provide sales  
9 information to such buyers, including the prospectuses, which  
10 included false representations?

11 THE DEFENDANT: Yes.

12 THE COURT: And facilitate communications between the  
13 victim buyers and you and Weinstein?

14 THE DEFENDANT: Yes.

15 THE COURT: And accept down payments from victim  
16 buyers via wire transfers into bank accounts that he  
17 controlled?

18 THE DEFENDANT: Yes.

19 THE COURT: And after keeping a commission for  
20 himself, distribute profits from such sales to Weinstein, who,  
21 in turn, distributed some profits to you?

22 THE DEFENDANT: Yes, correct.

23 THE COURT: During the time period charged in the  
24 information, was Brown copied on numerous email communications  
25 which were also sent to you from dissatisfied victim buyers who

1 complained about your and Weinstein's failure to provide the  
2 promised medical provider contracts and who also had demanded  
3 refunds?

4 THE DEFENDANT: Yes.

5 THE COURT: And after receiving such communications  
6 and complaints, did Brown continue to sell these business  
7 opportunities to new victim buyers?

8 THE DEFENDANT: Yes.

9 THE COURT: In furtherance of the fraudulent scheme,  
10 did you, Weinstein and Brown cause Victim 17 to wire a \$75,000  
11 payment into one of the bank accounts controlled by David  
12 Weinstein, that is, the Tannenbaum account, as described in  
13 Paragraph 1(D)(2) of the information, on December 14th, 2016?

14 THE DEFENDANT: Yes.

15 THE COURT: And do you agree that the \$75,000 wire  
16 transfer from Victim 17 was processed through federal reserve  
17 facilities and, therefore, moved in interstate commerce?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you agree to make full restitution for  
20 the losses to the victim buyers as agreed in your plea  
21 agreement?

22 THE DEFENDANT: Yes.

23 THE COURT: And we have this consent order of  
24 forfeiture judgment. So do you agree to forfeit money and  
25 property worth \$944,125 which represents your proceeds from the

1 scheme, as you agreed to?

2 THE DEFENDANT: Yes.

3 THE COURT: And you signed this consent of forfeiture  
4 judgment; is that correct?

5 THE DEFENDANT: Yes.

6 THE COURT: And did you sign this after going over  
7 this with your lawyer?

8 THE DEFENDANT: Yes.

9 THE COURT: And she signed it also?

10 I will enter that judgment.

11 MS. LODGE: Your Honor?

12 THE COURT: Yes.

13 MS. LODGE: Did you mean to skip Number 44?

14 THE COURT: I'm getting there.

15 MS. LODGE: Okay.

16 THE COURT: I'm getting there. I'm just taking it out  
17 of turn.

18 MS. LODGE: Sorry to interrupt you.

19 THE COURT: Now, all these things we just went  
20 through, you knew what you were doing, right?

21 THE DEFENDANT: Correct. Yes.

22 THE COURT: So you are doing it willfully and  
23 knowingly, correct?

24 THE DEFENDANT: Correct.

25 THE COURT: And you knew it was wrong, didn't you?

1 THE DEFENDANT: Yes.

2 THE COURT: So how do you plead to Count One of this  
3 information, guilty or not guilty?

4 THE DEFENDANT: Guilty.

5 THE COURT: How do you plead to Count Two of the  
6 information, guilty or not guilty?

7 THE DEFENDANT: Guilty.

8 THE COURT: Is the Government satisfied there's a  
9 factual legal basis for entry of the guilty plea and are there  
10 any other representations you would like to make at this time?

11 MS. CARRIG: Yes, Your Honor, the Government is  
12 satisfied, and, yes, with respect to additional  
13 representations.

14 If the case had gone to trial, the Government would have  
15 been able to prove all of the elements of the two offenses  
16 charged beyond a reasonable doubt, and we would have done that  
17 by calling numerous witnesses and presenting, you know, various  
18 documents. We had subpoenaed a lot of bank records, we've done  
19 several search warrants in this case, we have many of the  
20 contracts, the prospectuses, we've interviewed, you know,  
21 dozens, if not all, of these 77 victims that are referenced in  
22 this particular plea agreement, and, you know, and the beat  
23 goes on. So there would have been a lot of evidence at this  
24 trial.

25 THE COURT: Ms. Lodge, are you satisfied there is a

1 factual legal basis for entry of this guilty plea?

2 MS. LODGE: Yes, Your Honor.

3 THE COURT: Thank you.

4 Having heard the testimony of the defendant and having  
5 observed him, I find that he is competent and capable of  
6 entering a knowing and intelligent plea. He has been  
7 represented by counsel at all stages of this proceeding. His  
8 answers to my questions established each of the material  
9 elements the Government needed to prove beyond a reasonable  
10 doubt.

11 Therefore, I am satisfied he is, in fact, guilty and I  
12 judge him guilty on both counts at this time.

13 We will set sentencing for October 20th at 9:30 a.m. I  
14 fully realize that it may be necessary to move that date but we  
15 need to keep it on schedule.

16 Any need to revisit the bail status?

17 MS. CARRIG: No, Your Honor.

18 THE COURT: Bail will be continued in this matter.

19 Does he need to see the marshal? He needs to see  
20 probation to start that process, right? You need to go to  
21 probation to fill out the form to start the presentence  
22 process.

23 MS. LODGE: Thank you, Your Honor.

24 THE COURT: Anything further?

25 MS. CARRIG: Just the consent judgment. Did Your

1 Honor sign that already?

2 THE COURT: I did.

3 MS. CARRIG: Thank you very much. Nothing further.

4 THE COURT: Thank you everybody. Stay well.

5 MS. LODGE: Your Honor, before we leave, may Ms.

6 Carrig and I conference with you on another matter briefly?

7 Thank you.

8 (The proceedings concluded at 1:56 p.m.)

9 - - - - -

10

11 I certify that the foregoing is a correct transcript  
12 from the record of proceedings in the above-entitled matter.

13

14 /s/ Camille Pedano, CCR, RMR, CRR, CRC, RPR  
15 Court Reporter/Transcriber

16

16 July 16, 2021  
17 Date

18

19

20

21

22

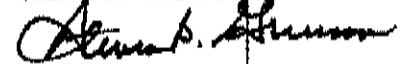
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26

# Exhibit 10



1 COMP



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4 Las Vegas, NV 89135  
5 702-342-5425  
6 702-475-6455 (fax)  
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8 Attorney for Plaintiff

CASE NO: A-19-792836-C  
Department 14

9 EIGHTH JUDICIAL DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 MEDAPPEAL, LLC, An Illinois Limited  
12 Liability Company,

13 Plaintiff,

14 vs.

15 DAVID WEINSTEIN, VIJAY REDDY,  
16 MARGARET REDDY, MOHAN  
17 THALMARLA, KEVIN BROWN, MAX  
18 GLOBAL, INC., VISIONARY BUSINESS  
19 BROKERS LLC, MEDASSET  
20 CORPORATION, and DOES 1-50

21 Defendants

Case No.:

COMPLAINT

22 Plaintiff Medappeal, LLC, by and through its attorney Jay Freedman, asserts the  
23 following causes of action against defendants David Weinstein, Vijay Reddy, Margaret Reddy,  
24 Mohan Thalmarla, Kevin Brown, Max Global, Inc., Visionary Business Brokers LLC and  
25 Medasset Corporation (collectively "Defendants").

26 1. Plaintiff Medappeal, LLC is an Illinois Limited Liability Company.

27 2. The contract at issue in this action was signed by "Liberty Consulting & Management  
28 Services, LLC (on behalf of a company to be formed later)." Plaintiff is the "company to be  
formed later" and is the successor in interest and/or assignee of Liberty Consulting &  
Management Services, LLC.

COMPLAINT - I



1 3. Plaintiff is informed and believes, and based thereon alleges, that defendant David  
2 Weinstein is an individual who, at all times relevant to this action, resided in Clark County,  
3 Nevada.

4 4. Plaintiff is informed and believes, and based thereon alleges, that defendant Vijay Reddy  
5 ("V. Reddy") is an individual residing in Michigan.

6 5. Plaintiff is informed and believes, and based thereon alleges, that defendant Margaret  
7 Reddy ("M. Reddy") is an individual residing in Michigan.

8 6. Plaintiff is informed and believes, and based thereon alleges, that defendant Mohan  
9 Thalmarla ("M. Thalmarla") is an individual residing in Illinois.

10 7. Plaintiff is informed and believes, and based thereon alleges, that defendant Kevin Brown  
11 ("Brown") is a resident of New Jersey.

12 8. Plaintiff is informed and believes, and based thereon alleges, that defendant Max Global,  
13 Inc. ("Max Global") is an Illinois corporation owned by M. Thalmarla.

14 9. Plaintiff is informed and believes, and based thereon alleges, that defendant Medasset  
15 Corporation ("Medasset") is a Nevada corporation owned by Weinstein.

16 10. Plaintiff is informed and believes, and based thereon alleges that defendant Visionary  
17 Business Brokers, LLC ("Visionary") is a New Jersey limited liability company.

18 11. Venue is proper in Clark County pursuant to NRS 13.040 as defendants Weinstein and  
19 Medasset Corporation reside in this county while the other defendants reside out of state.

20 12. Venue is also proper in Clark County pursuant to the Forum Selection Clause contained  
21 in the parties' contract. The parties' contract provides that "[t]he venue is the State of Nevada  
22 and the County of Clark" and that the "Agreement will be governed by the laws of Nevada and  
23 the County of Clark."

24 13. Plaintiff filed a similar action against defendants Weinstein, V. Reddy, Brown, Visionary  
25 and Medasset in Illinois (the "Illinois Defendants"). The Illinois Defendants filed a Motion to  
26 Dismiss the complaint and argued that the Forum Selection Clause required that the action be  
27

1 maintained in Clark County, Nevada. In particular, the Illinois Defendants argued that “the  
2 forum selection clauses are enforceable and result in the dismissal of this case” and that “the  
3 forum selection clauses are controlling and dispositive.”

4 14. The Illinois Trial Court agreed with the Illinois Defendants’ argument and dismissed the  
5 action because of the Forum Selection Clause. As such, the Illinois Defendants are now  
6 judicially estopped from contesting venue or personal jurisdiction.  
7

#### 8 **GENERAL ALLEGATIONS**

9 15. In 2018 Defendant Brown, through Visionary, posted a listing on the website  
10 BizQuest.com offering for sale an opportunity to purchase a Medical Billing Appeal and  
11 Credentialing business (the “Accounts”). The listing is attached hereto as Exhibit 1.

12 16. Plaintiff’s ownership contacted Brown and sought additional information about  
13 Brown/Visionary’s listing in or around March 2018.

14 17. Brown had Plaintiff sign and return Confidentiality Agreements. Brown then sent  
15 Plaintiff a copy of the “Executive Summary” of Medasset Management Corporation (“Seller”).  
16 A copy is attached hereto as Exhibit 2.

17 18. The Executive Summary details the business opportunity being offered by Defendants.  
18 In their own words, Defendants were selling a start-up business.

19 19. Defendants promised to provide “all the tools, training, support and clients necessary for  
20 positive cash flow.” Defendants also promised to provide Plaintiff with sixty (60) clients for  
21 Medical Claims Appeal work and thirty (30) clients for Medical Insurance Credentialing work.

22 20. The provision of the clients (the Accounts) was at the core of Defendants’ business  
23 opportunity.

24 21. The Executive Summary boasts that the Accounts provided by Defendants will generate  
25 an estimated monthly profit of \$13,048 for medical appeals and an annual profit of \$15,000 for  
26 insurance credentialing work.  
27  
28

1 22. The Executive Summary details in pertinent part that Visionary believes the executive  
2 summary "to be accurate."

3 23. After reviewing the Executive Summary, a series of due diligence calls ("Calls") took  
4 place with Weinstein, Brown, and the Principals associated with Plaintiff. On the Calls,  
5 Weinstein, with the assistance of Brown, detailed the business structure and terms of the  
6 opportunity. Weinstein and Brown discussed the high degree of success and customer  
7 satisfaction with the business model being sold to prior purchasers.  
8

9 24. Defendants made no mention of their past failure to fulfill agreements, the lawsuits  
10 brought against them, or Weinstein's status as a convicted felon for fraud.

11 25. When asked by Plaintiff about Plaintiff's priority in receiving client accounts, Weinstein  
12 indicated that there were no other sales agreements he had to fulfill, though Plaintiff has learned  
13 that Defendants had multiple unfulfilled agreements going back years.

14 26. When asked for a reference for a prior purchaser of a similar system, Weinstein provided  
15 the contact information of Defendant V. Reddy.

16 27. On or about the end of April 2018, V. Reddy was contacted regarding his experience with  
17 Weinstein, Brown, and Medasset. He informed Plaintiff that he had purchased blocks of  
18 Accounts from Weinstein on multiple occasions, going back many years, and that he has been  
19 very successful. He also stated that each year he buys business packages from Weinstein,  
20 manages and builds them up with the help of his wife and family member(s), and then sells them  
21 at a profit.

22 28. Plaintiff is informed and believes, and based thereon alleges, that V. Reddy was aware of  
23 numerous failed attempts, lawsuits, and the criminal background of Weinstein. However, he did  
24 not disclose this information when asked about the opportunity.

25 29. V. Reddy also did not mention the past and pending lawsuits against himself relating to  
26 the same/similar business operations, nor did he mention all of the complaints he personally  
27 received from his involvement in these transactions.  
28

1 30. Additionally, V. Reddy did not disclose the vested interest and financial relationship he  
2 and his wife, M. Reddy, had with Weinstein. At all times, V. Reddy passed himself off as a  
3 business reference and longtime satisfied customer.

4 31. On or about May 3, 2018, Plaintiff, through its parent company, Liberty Consulting &  
5 Management Services, LLC - with the right to assign to a newly formed entity (written as  
6 directed by Weinstein), entered into a contract for the purchase of the business opportunity. A  
7 copy of the purchase and sale agreement are attached hereto as Exhibit 3.

8 32. In part, the Purchase and Sale agreement provides for a purchase price of \$125,000 with  
9 \$75,000 as a down payment.

10 33. On or about May 3, 2018, Plaintiff, through its parent company, sent a wire to Visionary  
11 for the sum of \$75,0000. A copy of the wire transfer with the Federal Wire Confirmation  
12 number is attached hereto as Exhibit 4.

13 34. As part of the Purchase and Sale agreement, a Promissory Note ("Note") was tendered  
14 for the payment of the balance of the purchase price upon completion of the contract.

15 35. In early May 2018, Plaintiff was reintroduced to V. Reddy, but this time as the "training  
16 coordinator" for Medasset.

17 36. Plaintiff purchased the suggested office equipment and completed all training sessions as  
18 suggested by V. Reddy consisting of a series of remote web-based training sessions.

19 37. From the period of May 3, 2018 to today, a *de minimis* number of Medical Appeal  
20 Contracts (approximately 3) were assigned to Plaintiff. No Insurance Credentialing contracts  
21 were ever provided to Plaintiff.

22 38. Only one of these contracts has generated any revenue to date, totaling a mere few  
23 hundred dollars.

24 39. Weinstein was called numerous times to discuss the deficiency, however Weinstein fails  
25 to maintain a properly functioning voicemail system and has failed to speak directly with  
26 Plaintiff after he received his payment.

1 40. Weinstein has received numerous emails to discuss the deficiency, however he has  
2 refused to call Plaintiff even one time to discuss the matter, or provide a sufficient explanation as  
3 to the lack of performance.

4 41. Brown was called numerous times and received multiple voicemails requesting he  
5 discuss the deficiency; however, Brown has failed to call Plaintiff even one time after payment  
6 was received.

7 42. Brown has received numerous emails to discuss the deficiency, however Brown has  
8 failed to reply to even one email to discuss the matter after payment was received.

9 43. V. Reddy was contacted by Plaintiff by phone and email numerous times to discuss the  
10 lack of performance. V. Reddy has continuously provided false statements as to his knowledge  
11 of the deficiency and his experience with Weinstein and Brown.

12 44. It has since been discovered that Defendants' fraudulent actions follow a clear and  
13 ongoing pattern, and were not unique to Plaintiff.

14 45. Plaintiff is informed and believes, and based thereon alleges, that Defendants have been  
15 offering the same "business opportunity" in various forms for years. Defendants take their  
16 victims' money based on a promise to provide a specific number of client Accounts, which  
17 Defendants have absolutely no intention and/or ability to deliver.

18 46. Plaintiff is informed and believes, and based thereon alleges, that when the victims  
19 complain, Defendants first make excuses and then cut off all communications.

20 47. Plaintiff is informed and believes, and based thereon alleges, that Defendants have also  
21 been reported to intimidate their victims through baseless countercomplaints, profanity-laced  
22 voicemails, contacting a victim's employer, and other aggressive tactics.

23 48. A summary of Defendants' fraudulent scheme was published on June 1, 2018 by ABC  
24 News 6 Philadelphia, and also ran on their television station. A copy of the news article is  
25 attached hereto as Exhibit 5.  
26  
27  
28

**DEFENDANT V. REDDY'S SWORN TESTIMONY**

49. On or about March 8, 2018, defendant V. Reddy filed a Chapter 7 Bankruptcy Petition in the United States Bankruptcy Court for the Eastern District of Michigan. The petition listed one significant creditor, which was from a Michigan judgment related to a similar scam.

50. In this petition, V. Reddy did not disclose any of the numerous other individuals and/or business entities that have since been included in a revised listing on his Schedule E/F of unsecured creditors. These unsecured creditors lost money to V. Reddy, Weinstein, and/or Brown through a scam similar to that perpetrated against Plaintiff. (US Trustee Complaint, p. 16.)

51. On June 27, 2018, V. Reddy was examined under oath by attorney David Miller, of Clayson, Schneider & Miller, PC, on behalf of the Bankruptcy Trustee. During his examination, V. Reddy admits to working "in conjunction with David (Weinstein)" and having a business relationship with Weinstein. (Exam at p. 18.) V. Reddy also states in his examination that Weinstein and himself would "split that (the money) equally" from the sale of medical billing packages. (Exam at pp. 20-21.)

52. V. Reddy described how in prior business deals, buyers would purchase the medical-related businesses through Tannenbaum & Milask, which is a New Jersey corporation with David Weinstein listed as the sole registered agent, "first board of directors," and sole incorporator.

53. Plaintiffs are informed and believe, and based thereon allege, that defendant Brown has worked for and/or held himself out as a broker/agent/employee of the same Tannenbaum & Milask before claiming to work for Visionary.

54. While working as a broker of Tannenbaum & Milask, Brown sold business packages similar to the one sold to Plaintiff, and had received numerous complaints from the investors who purchased these packages.

1 55. In his sworn examination, V. Reddy stated that his wife, Defendant M. Reddy, was also  
2 working for David (Weinstein) on his "projects." According to V. Reddy "the same way David  
3 (Weinstein) was a silent partner for me, she (M. Reddy) was a silent partner for him in doing  
4 things." (Exam p. 63.)

5 56. V. Reddy also stated that Weinstein would write a single check to V. Reddy and M.  
6 Reddy, which M. Reddy would deposit in her personal bank account. V. Reddy testified that he  
7 cannot differentiate the payments made by Weinstein to himself versus those made to M. Reddy.

8 57. V. Reddy also stated under oath that Weinstein advised M. Reddy to "go get a real job"  
9 since "the market changed so there's not as many doctors coming in to do the things we used to  
10 do." This contradicts the statements Weinstein, Brown, and V. Reddy made to Plaintiff.

11 58. In his examination, V. Reddy disclosed that Defendant M. Thalmarla holds notes  
12 securing his current residence and that Max Global, an Illinois corporation, had been receiving  
13 money from M. Reddy.

14 59. While calculating the value of the bankruptcy estate, The Trustee's office, through  
15 Attorney David Miller, determined that M. Thalmarla and Max Global received \$325,000 in  
16 "fraudulent transfers" of funds from M. Reddy's bank account. In return, M. Thalmarla wired  
17 \$330,000 to M. Reddy's bank account, as a purported loan.

18 60. On November 15, 2018, Daniel M. McDermott, United States Trustee (Region 9),  
19 Department of Justice, filed a Complaint for Revocation of Discharge with the US Bankruptcy  
20 Court of the Eastern District of Michigan against V. Reddy.

21 61. In the Complaint, US Trustee McDermott alleged that Weinstein, Brown, and V. Reddy  
22 conspired in an ongoing "fraud scheme to sell worthless corporate opportunities."

23 62. In particular, the Complaint alleges that:  
24

25 After consummating the deal, the Co-Conspirators (Weinstein,  
26 Brown, V. Reddy, Visionary) would send only minimal medical  
27 office leads to the victims to be serviced, and when the victims  
28 complained about the lack of such medical offices being sent to  
them, the Co-Conspirators would generally blame the victims and  
accuse them of somehow breaching their agreement. The Co-

COMPLAINT - 8

1           Conspirators would eventually cease communication with the  
2           victims, and abscond with the funds received from the victims.

3       63.     The US Trustee's Complaint details eight separate transactions, not including Plaintiff's,  
4           in which, "Mr. Reddy, Mr. Weinstein and Mr. Brown...fraudulently induced...victims to give  
5           them significant sums in exchange for business opportunities the Co-Conspirators had no  
6           intention of ever making good on."

7                           **DEFENDANT WEINSTEIN'S RECENT ACTIONS**

8       64.     On or about September 18, 2018, Plaintiff sent an email to Defendants Weinstein, V.  
9           Reddy and Brown, stating that Plaintiff would take legal action if Defendants did not respond  
10          and/or fulfill the terms of the agreement. Plaintiff never received a response from Weinstein or  
11          any of the other Defendants.

12       65.     Weinstein only resumed communication, via email, after being served with Plaintiff's  
13          Illinois Complaint on or about November 8, 2018. Weinstein's emails did not address his failure  
14          to fulfill the terms of the Agreement nor did they indicate in any way an intent to fulfill the  
15          Agreement or return Plaintiff's money. Instead, Weinstein's emails followed a pattern of  
16          behavior exhibited whenever he is faced with a lawsuit or complaint for failure to perform.  
17          Emails received by Plaintiff from Weinstein contained subject lines such as "Let's Dance," and  
18          content stating "Kindly notify me which E/O carriers you have. Or shall I call Mr. Slim esquire  
19          who I have a history of suing attorneys."

20       66.     In a February 15, 2019 email, Weinstein discusses suing Plaintiff's parent company,  
21          Liberty Consulting & Management, LLC for using his "trade secrets." This is nearly identical to  
22          allegations Weinstein made when being sued in a substantially similar case, *Puller v. General*  
23          *MD Group*, 12-CV-04063, United States District Court For the Northern District of Georgia .

24       67.     According to that Complaint:

25                       Following the filing of Plaintiffs' original Complaint in this matter,  
26                       Defendant David Weinstein began contacting Plaintiff Pullar's  
27                       employer, Craneware, Inc. ("Craneware"), alleging that both  
28                       Plaintiff Pullar and Craneware had misappropriated Defendant  
                      David Weinstein's confidential and proprietary information.



1 68. Defendant David Weinstein then sent letters to Plaintiff Pullar, Plaintiff Campagna and  
2 Craneware threatening to sue them for their alleged use of his confidential marketing systems,  
3 manuals, clearinghouses, and other proprietary systems and methods.

4 69. To be clear, Plaintiff in this action is unaware of any trade secrets or marketing methods,  
5 if they actually exist, used by Weinstein or any of the Defendants. Nor is Plaintiff aware of a  
6 single contract in which Defendants even remotely performed as promised.

7 70. The clearinghouse used by Defendants, "Office Ally" is a free software open to public  
8 use. Office Ally offers its own training and resource center for any user. Defendants do not  
9 have any proprietary rights to this clearinghouse.

10 71. As to Weinstein's marketing secrets or methodology, V. Reddy stated under oath that  
11 there are "no patents, no trademarks, no copyrights, anything along those lines" as it pertains to  
12 his and Weinstein's medical marketing and billing related businesses. (Exam at p. 11.)

#### 13 **ALTER EGO ALLEGATIONS**

14 72. Plaintiff is informed and believes, and based thereon alleges, that the individual  
15 defendants formed and then used their various business entities for the sole and express purpose  
16 of perpetuating the fraud and other misconduct discussed in this Complaint.

17 73. Two of the individual defendants have been sued in other jurisdictions for the same or  
18 similar misconduct discussed in this Complaint.

19 74. Weinstein was sued in Georgia, case number 1:12-cv-04063-TWT.

20 75. V. Reddy was sued in Michigan, case number 10-218-CK.

21 76. Plaintiff is informed and believes, and based thereon alleges, that Weinstein was also  
22 convicted of two felony counts of communications fraud in connection with the fraudulent  
23 selling of health insurance to thousands of people in Florida. Plaintiff is further informed and  
24 believes, and based thereon alleges, that Weinstein committed the fraud through a corporation  
25 that he formed.  
26  
27  
28

1 77. Plaintiff is informed and believes, and based thereon alleges, that allowing any of the  
2 individual defendants to maintain a distinction between themselves and their business entities  
3 would promote injustice and result in an abuse of the corporate form.

4 **FIRST CAUSE OF ACTION**

5 **FOR BREACH OF CONTRACT**

6 (Against Defendants Medasset, Weinstein and Does 1-10)

7 78. Plaintiff repeats the prior allegations of this Complaint and incorporates them herein by  
8 reference as if set forth in full.

9 79. Defendants Medasset and Weinstein entered into a contract with Plaintiff, by which  
10 Medasset and Weinstein agreed to provide Plaintiff with 60 client accounts for medical appeals  
11 and 30 client accounts for insurance credentialing. Plaintiff paid Medasset and Weinstein  
12 \$75,000 pursuant to the parties' contract.

13 80. Plaintiff has performed all of its obligations under the parties' contract, except for those  
14 obligations which it was prevented from performing.

15 81. Defendants Medasset and Weinstein breached the parties' contract by failing to provide  
16 to Plaintiff the number of client accounts it promised to provide.

17 82. As a direct and proximate result of Medasset's and Weinstein's breach of contract,  
18 Plaintiff has been damaged in an amount to be determined at trial but at least \$75,000 plus  
19 interest.  
20

21 **SECOND CAUSE OF ACTION**

22 **FOR FRAUD**

23 (Against Defendant Medasset, Weinstein, Brown, V. Reddy and Does 1-20)

24 83. Plaintiff repeats the prior allegations of this Complaint and incorporates them herein by  
25 reference as if set forth in full.

26 84. In connection with their advertisement and promotion of the "business opportunity,"  
27  
28

1 Defendants made certain representations regarding the value of the Accounts, the number of  
2 Accounts that they would provide to Plaintiff and specifically, the monies Plaintiff would collect  
3 from such accounts should they purchase the business system.

4 85. In further connection with their advertisement and promotion of the business opportunity,  
5 Defendants made certain representations regarding their record of success and their previous  
6 buyers.

7 86. In the Agreement, Defendants represented that Defendants owned "valid and marketable  
8 legal and beneficial title to the Assets and the Modules, which are free and clear of all liens,  
9 claims, encumbrances and security interests."

10 87. In the Agreement, Defendants also represented, "Litigation: There is no action, suit,  
11 proceedings."

12 88. Defendants knew or should have known that such representations were false when they  
13 made them. Weinstein was sued in Georgia in 2012 or 2013 and V. Reddy was sued in Michigan  
14 in 2010 for the same or similar misconduct alleged in this Complaint. Because they were sued at  
15 least twice before entering into the Agreement with Plaintiff, Defendants knew that their  
16 representations were false.

17 89. Plaintiffs are informed and believe, and based thereon allege, that the relationship  
18 between and among Weinstein, V. Reddy and Brown caused them all to know that all of the  
19 representations they made to Plaintiff were false.

20 90. Defendants made such representations in order to induce Plaintiff to pay to Defendants  
21 \$75,000.00 as a down payment. Plaintiff would not have entered into its contract with Medasset  
22 and it would not have paid \$75,000 if not for Defendants' misrepresentations.

23 91. Plaintiff justifiably relied upon such representations to its detriment. Plaintiff's reliance  
24 was justified due to the marketing materials provided to them by Defendants and due to the  
25 purported but fraudulent reference provided by V. Reddy.  
26  
27  
28

1 92. Plaintiff has been directly and proximately damaged in relying on such representations in  
2 an amount to be proven at trial but at least \$75,000.

3 93. Defendants conduct was fraudulent as defined by NRS 42.001, thereby entitling Plaintiff  
4 to recover punitive damages.

5  
6 **THIRD CAUSE OF ACTION**  
7 **FOR CONSPIRACY TO COMMIT FRAUD**

8 (Against All Defendants and Does 1-30)

9 94. Plaintiff repeats the prior allegations of this Complaint and incorporates them herein by  
10 reference as if set forth in full.

11 95. Plaintiff is informed and believes, and based thereon alleges, that Defendants agreed  
12 among themselves to form the corporate defendants and to use the corporate defendants to  
13 engage in the misconduct discussed in this Complaint. Plaintiffs are further informed and  
14 believe, and based thereon allege, that Defendants agreed among themselves that, to further and  
15 facilitate their scheme, that they would use different corporate parties in different locations and  
16 that the individual defendants would switch roles in different locations and with different targets.

17 96. Plaintiff's belief concerning the conspiracy is based on their review of the lawsuits filed  
18 against Weinstein and V. Reddy, the ABC News 6 article, the testimony provided by V. Reddy  
19 and the complaint filed by the Bankruptcy Trustee against V. Reddy. Plaintiff also relies on its  
20 own experience with Defendants, when V. Reddy was first introduced as an outside, independent  
21 reference and then reintroduced as Defendants' trainer.

22 97. Plaintiff is informed and believes, and based thereon alleges, that defendant M. Reddy  
23 participated in the conspiracy. V. Reddy testified under oath that M. Reddy was also working  
24 for Weinstein and was Weinstein's "silent partner."

25 98. Plaintiff is informed and believes, and based thereon alleges, that defendant Brown  
26 participated in the conspiracy. Brown has worked for and/or held himself out as working for  
27 Tannenbaum & Milask (owned by Weinstein) and also claimed to have worked for Visionary.

28 COMPLAINT - 13

1 Furthermore, Brown posted the initial listing for the new business and was the first person that  
2 Plaintiff spoke to concerning the Accounts and the new business.

3 99. Plaintiff is informed and believes, and based thereon alleges, that defendants M.  
4 Thalmarla and Max Global participated in the conspiracy. These defendants helped conceal  
5 proceeds Defendants obtained from their illegal activities and assisted V. Reddy in attempting to  
6 perpetrate a fraud on the Bankruptcy Court.

7 100. Plaintiffs have been harmed by the conspiracy and suffered damages in an amount to be  
8 determined at trial but at least \$75,000.

9 101. Defendants conduct was fraudulent as defined by NRS 42.001, thereby entitling Plaintiff  
10 to recover punitive damages.

11  
12 **FOURTH CAUSE OF ACTION**  
13 **FOR DECEPTIVE TRADE PRACTICES**

14 (Against All Defendants and Does 1-40)

15 102. Plaintiff repeats the prior allegations of this Complaint and incorporates them herein by  
16 reference as if set forth in full.

17 103. NRS 598.0915 defines conduct that is considered to be a deceptive trade practice.

18 104. NRS 598.0915(3) provides that a person engages in a deceptive trade practice when the  
19 person "[k]nowingly makes a false representation as to affiliation, connection, association with  
20 or certification by another person."

21 105. NRS 598.0915(15) provides that a person engages in a deceptive trade practice when the  
22 person "[k]nowingly makes any other false representation in a transaction."

23 106. Plaintiffs are informed and believe, and based thereon allege, that Defendants'  
24 misconduct as alleged in this Complaint is a deceptive trade practice as defined by NRS  
25 598.0915.

1 107. Plaintiffs are informed and believe, and based thereon allege, that they have suffered  
2 harm as a direct result of Defendants' deceptive trade practices and they are entitled to restitution  
3 of all money they paid to Defendants.

4 **FIFTH CAUSE OF ACTION**  
5 **FOR VIOLATION OF THE NEVADA CIVIL RICO STATUTE**

6 (Against All Defendants and Does 1-50)

7 108. Plaintiff repeats the prior allegations of this Complaint and incorporates them herein by  
8 reference as if set forth in full.

9 109. Plaintiff is informed and believes, and based thereon alleges, that Defendants' conduct as  
10 discussed in this Complaint constitutes racketeering activities as defined in NRS 207.390 and a  
11 racketeering enterprise as defined in NRS 207.380.

12 110. Plaintiff is informed and believes, and based thereon alleges, that Defendants directly  
13 participated in a conspiracy with one another to commit at least two crimes related to  
14 racketeering.

15 111. Plaintiff is informed and believes, and based thereon alleges, that Defendants' activities  
16 have the same or similar pattern, intent, results, victims and methods of commission so that they  
17 are not isolated events.

18 112. Plaintiff is informed and believes, and based thereon alleges, that Defendants acquired or  
19 maintained an interest in and/or control over the racketeering enterprise discussed in this  
20 Complaint.

21 113. Plaintiff is informed and believes, and based thereon allege, that the damage they  
22 suffered directly results from, and was proximately caused by, Defendants' violation of NRS  
23 207.400.

24 114. As a result of Defendants' misconduct, Plaintiff is entitled to treble damages pursuant to  
25 NRS 207.470(1).

26 WHEREFORE PLAINTIFF PRAYS FOR RELIEF AS FOLLOWS:

27 COMPLAINT - 15  
28

1. For compensatory damages in an amount to be determined at trial but at least \$75,000;
2. For restitution of all monies paid to Defendants;
3. For punitive damages in an amount to be determined at trial;
4. For pre-judgment interest;
5. For treble damages;
6. For costs of suit; and
7. For such other relief as the Court deems just and proper.

Dated this 12<sup>th</sup> day of April, 2019.

---

Jay Freedman  
Nevada Bar No. 12214  
11700 W. Charleston Blvd. Ste. 170-357  
Las Vegas, NV 89135  
702-342-5425  
Attorney for





# BizQuest

## Medical Credentialing / Medical Appeals

*Nationwide Relocatable Niche Business*

**\$ Seller Financing**

United States | Business Services Businesses for Sale - Other Business Services Businesses for Sale  
| Find More Business with Asking Prices Between \$100k and \$150k



Asking Price:

**\$135,000**

Gross Revenue:

**\$300,000**

Cash Flow:

**\$155,000**

(Seller's Discretionary  
Earnings)

EBITDA:

Not Disclosed

Inventory:

Not Disclosed

FF&E:

Not Disclosed

Real Estate:

Not Disclosed

### Business Description

This company has two departments:

First : This company negotiates contracts on behalf of medical offices between insurance companies and government payers to get the medical offices in the payers networks. (Credentialing)

Second: This company also handles denied claims from insurance companies and resubmits and/ appeals the denied claims.

**EXHIBIT 1**

330

Over 30 separate offices Medical Credentialing-

Over 60 separate offices for Medical Appeals

## About the Business

**Year Established:** 2014

**Number of Employees:** 3

**Relocatable:** Yes

**Home Based:** Yes

**Facilities:** completely turn key, all systems in place

**Market Outlook/  
Competition:** growing health care services field

## About the Sale

**Reason For Selling:** contact owner

**Training/Support:** seller will train for a smooth transition.

**Seller Financing:** 78K required.

## Listing Info

**ID:** 1374944

**Ad Detail Views:** 24

The information on this listing has been provided by either the seller or a business broker representing the seller. BizQuest has no interest or stake in the sale of this business and has not verified any of the information and assumes no responsibility for its accuracy, veracity, or completeness. See our full Terms & Conditions.

## Exhibit 2

# **MEDASSET MANAGEMENT CORPORATION**

**A Complete Medical Solution**

## **Medical Appeals Management & Medical Credentialing**

Business Brokers  
**VISIONARY**

1401-L Route 130 S. Suite 343  
Cinnaminson, NJ 08077

### **Disclaimer**

The information, material, and judgments have been prepared by **Medasset Management Corporation**. While **Medasset Management Corporation** believes this document to be accurate, no warranty is implied, expressed or provided. Recast statements, comments of future potential, and financial projections are based on the assumptions that must be reasonably verified by the reader.

The use of this report, including the identity of **Medasset Management Corporation**, or the verbal or written reproduction of any part, is strictly controlled by execution of the Confidential Disclosure Agreement prior to access.

## **Executive Summary**

# **MEDASSET MANAGEMENT CORPORATION**

**A Complete Medical Solution**

**Medical Appeals Management  
&  
Medical Credentialing**

Category: Medical Services

Business Brokers  
**VISIONARY**

1401-L Route 130 S. Suite 343  
Cinnaminson, NJ 08077

Medasset Management Corporation is presenting this business start-up opportunity in conjunction with expanding their national network. The opportunity arises from the Seller's extensive experience in the medical administrative services industry. From a virtual office template, the unit buyer will operate a medical appeals service business. No medical experience is necessary and all the tools, training, support and clients necessary for positive cash flow are provided by Medasset Management Corporation.

### **Limited Units Available**

This business opportunity for sale is a book of business contracts with Health Care Providers to support their Practices. This company supports health care providers' offices by performing their medical appeals and credentialing. Included with your purchase of this business are the necessary software and training. In addition, Medasset Management Corporation will introduce you to supporting vendors if you choose to use them.

## **Background and Overview**

Medasset Management Corporation was established to offer medical debt collection, medical billing, medical transcriptions, and medical appeals management to clients/health care providers. All clients/health care providers are under 100% transferable service agreements. Business owners are offered the opportunity to affiliate with Medasset Management Corporation and to purchase access to the proven state-of-the-art, industry-leading software and training in a system that uses a proprietary streamlined approach. As you are being trained in your new business and becoming familiar with the systems for a discipline, Medasset Management Corporation provides the clients/health care providers to you under their transferable service agreement to fill your "books of business" in the discipline you purchase. Once these service agreements are transferred, the client/health care provider relationship is yours to 'own' and manage indefinitely.

Get a clear and direct approach to profitability with the ability to grow and expand in the health care field. Pairing this with the successful training methods and backup resources makes you uniquely prepared and qualified to enter the health care industry and become a profitable service provider in your own business. Each discipline has its own unique and proprietary system for you to follow with support provided by Medasset Management Corporation.

Never before has there been a package that encompasses so much with no marketing or sales activity required from the owner to reach profitability.



No need for health industry background.

All training is received via standard web-based systems . . . no travel expenses.

Access to industry leading software and systems is supplied with your purchase.

You bill and get paid directly by your clients/health care providers.

Medasset Management Corporation provides the buyer with all the tools, software, training and equipment to allow the buyer to succeed in the exploding field of health care.

The business owner has total flexibility as they design their business enterprise. In addition, the business owner may elect to add additional units at a later date. The initial 'book of business' for each unit is provided by Medasset Management Corporation from the continuing flow of new clients generated by its medical client level sales and marketing efforts. The new business owner is provided a guaranteed client base with no marketing effort of their own. As each purchased unit matures, additional units can be acquired from the company's resources on a fee based arrangement, or the owner may develop their own client generating referral programs.

This business model success is based on delivering the absolute highest level of customer satisfaction. Therefore, it is important for the new business owner to grow the business as quickly as possible to provide cash flow and to fully comprehend any and all nuances of satisfying the clients/health care providers to be serviced in any discipline. This is very much a relationship business managed primarily electronically via data or voice without face-to-face contact

between the business owner and his/hers geographically disbursed clients/health care providers. Each unit will be filled with a diverse group of clients so the business owner will have a broad scope, not only geographically – but in range of types of practices as well.

By utilizing Medasset Management Corporation, you can take advantage of the benefits that were once only available to multi-million dollar companies. Small and large unit buyers alike can benefit from our streamline approach. Below are just some of the benefits:

Have a clear and direct approach to profitability.

Medasset Management Corporation will hold seller financing (if approved) for a vested interest in your success.

All client/doctor contracts are 100% transferable and once transferred to you, you own the contracts outright.

Medical practice cancellation guarantee\*  
(see contract provisions).

### **Medical Appeals Management**

With new health insurance guidelines and policies implemented, there are a growing number of claims that are being denied for various reasons, and claims in need of appeal. These processes can be time consuming to the medical practice making it a premium service in order to maximize a medical practice's revenue. Increasing numbers of claims are coming back as either denied or requiring more information and due to all the changes in the industry, many practices simply do not have the time or resources to devote to claim fixes. This is an opportunity for the Unit Buyer to not only help

these practices increase their profit and success with their claims submission, but an opportunity also for the Unit Buyer to generate a sound income while also creating the opportunity to cross sell other available disciplines.

Medasset Management will introduce the buyer to industry specific software to maximize your profit. The buyer can then enter into contracts with that company. The client/doctor will forward the office's denied claims or claims appeals to the Buyer. The Buyer will then follow-up on each claim provided and liaison with the insurance companies, TPA, Self-Funded plans, etc. in order to get the claim paid.

Under the units' contract, Medasset Management will provide the business owner over a reasonable time period a client/doctor base capable of providing the estimated annualized cash flow as noted in the attached documents. The business owner will be solely responsible for the ongoing customer service relationship with his/her clients/doctors.

**Medical Claim Resubmission & Denial Management,**  
**once your contract is fulfilled \***

Number of clinics per your contract: 60

Average # of claims per client/doctor: 30

Average claim amount: \$450

Average contingency: 9.9%

Average success rate: 25%

Average Revenue Monthly: \$ 20,048

Average Overhead Monthly: \$7,000

Average Profit Monthly: \$13,048

After all contracts are fulfilled\*

## **Medical Credentialing**

In addition to medical appeals work, Medasset Management Corporation also provides 30 clinics who request credentialing services. Credentialing is a service provided to a clinic, where the doctor is currently out-of-network with an insurance carrier and would like to become part of the network. Clinics generally receive more patients when they are part of an insurance company's network, hence more income.

Medasset Management Corporation will attract clinics who are seeking this service. It should be noted that insurance credentialing is typically a one-time activity that results in the clinic A) becoming part of the network, or B) the clinic being placed on a waiting list for potential inclusion in the future, or C) the clinic's application being denied. Regardless of the outcome, payment will be required by the clinic for the work completed. Any referrals, cross-selling, or other services sold to the clinic is also part of the value package the Unit Buyer will enjoy.

**Medical Credentialing, once your  
contract is fulfilled \*** Number of clinics  
per your contract: 30 Average # of  
insurance panels requested: 3  
Average charge per panel credentialing: \$200  
Average Revenue: \$18,000  
Average Overhead per clinic: \$100  
Total Projected Profit: \$15,000  
After all contracts are fulfilled\*

## **SELLING MEMORANDUM**

### **MEDICAL CLAIMS RESUBMISSION & DENIAL SOLUTIONS**

60 Doctors / Practices under contract for  
medical appeals work

30 Doctors / Practices requesting credentialing  
services

Relocatable

Seller provides two weeks training

Access to software provided at no charge

The information, material and judgments have been prepared by the Seller. While Visionary Business Brokers believes this document to be accurate, no warranty is implied, expressed or provided. Recast statements, comments of future potential, and financial projections are based on the assumptions that must be reasonably verified by the reader.

## Exhibit 3



WHEREAS Medasset Corporation (hereinafter known collectively as the "Seller"), and who has agreed to sell certain systems, assets, as well as intellectual property and where Liberty Consulting & Management Services, LLC (on behalf of a company to be formed later) (hereinafter known as "Buyer") agrees to buy certain systems, assets, as well as intellectual property, both parties agree to the following:

The purchase price will be \$125,000.00 US (One Hundred Twenty Five Thousand Dollars and 00/xx US). Buyer will give Seller \$75,000.00 US (Seventy Five Thousand Dollars and 00/xx US) and simultaneously execute a Promissory Note in the amount of \$50,000 US (Fifty Thousand Dollars and 00/xx US) at the time of signing this Agreement. **The Promissory Note will not be due until 60 medical appeals clinics have been assigned and 30 medical credentialing applications have been requested..**

The following are to be provided:

**Medical Appeals:** Seller will deliver, over the course of nine months from the date of signing this Agreement, 60 medical practices, whose total annual uncollected receivables will average a goal of \$5 million dollars annually.

**Medical Credentialing:** Seller will deliver, over the course of nine months from the date of signing this Agreement, 30 medical offices who are seeking credentialing services. Credentialing is defined as a service provided to a clinic, where the doctor is currently out-of-network with an insurance carrier and would like to become part of the network.

If Buyer does not reach \$5 million dollars in annual uncollected receivables or 30 medical offices who request credentialing services, after all other contract terms are satisfied, then the Sole Remedy will be as follows: Seller will provide a refund, not to exceed \$45,000 for any reason under the following formulas:

**Medical appeals refund:**

***[1 - ((total uncollected revenue from the past 30 days \* 12) / \$5,000,000)] \* 45,000 = refund.***

*For clarity, if the total uncollected revenue for the past 30 days, 9 months from the date the Agreement is dually signed, is \$250,000, then the refund would be calculated as follows:*

$$[1 - ((\$250,000 * 12) / \$5,000,000)] * 45,000 = \text{an } \$18,000 \text{ refund.}$$

**Medical credentialing refund:**

$$[1 - (\text{Number of clients delivered} / 30)] * 45,000 = \text{refund}$$

*For clarity, if the number of clients delivered is 20, then the refund would be calculated as follows:*

$$[1 - (20/30)] * 45,000 = \text{a } \$15,00 \text{ refund.}$$

**At the signing of this contract, Buyer agrees to the following performance guidelines including but not limited to:**

**Billing:**

1. Buyer agrees to begin servicing all clients within 1 business day of receipt and assignment of any transferred contract.
2. Buyer agrees to abide by all contract provisions of the assigned contracts and the medical practices.
3. Buyer agrees not to illegally defer any money.
4. Buyer agrees to a high standard of customer service and to promptly return calls and all correspondence and contracts that were assigned to them.
5. Buyer agrees to accept all contracts assigned to them.
6. Buyer agrees to be trained for all systems, intellectual property and assets.
7. Buyer agrees to do all requisite follow-up and keep in touch with the client on a minimum of a weekly basis to continue to generate new claims to appeal and/or bill.

**Credentialing:**

1. Buyer agrees to begin servicing all clients within 1 business day of receipt and assignment of any transferred request for credentialing.

2. Buyer agrees to abide by all contract provisions of the assigned contracts/work and the medical practices.
3. Buyer agrees to promptly contact insurance carriers to begin the credentialing process. Buyer will conduct all requisite work and only ask the doctor to perform work that Buyer cannot legally do.
4. Buyer agrees to a high standard of customer service and to promptly return calls and all correspondence and contracts that were assigned to them.
5. Buyer agrees to accept all credentialing work assigned to them.

**Seller hereby represents and agrees:**

1. **Corporate Status:** Seller has been duly created, validity exists, and is in good standing.
2. **Title to Assets:** Seller holds valid and marketable legal and beneficial title to the Assets and the Modules, which are free and clear of all liens, claims, encumbrances and security interests.
3. **Litigation:** There is no action, suit, proceedings.
4. Seller has the right and power to transfer clients to Buyer as contemplated herein. Seller's contracts with Clients permit the assignment of those contracts to Buyer.
5. Medical billing software and a clearinghouse to process claims will be made available at no charge to the Buyer with a minimum of 10 simultaneous users allowed to access the system. The software will have a User ID that is transferrable to Buyer. The User ID will allow for Buyer to file medical billing claims electronically at no charge.
6. No restrictions will be placed on Buyer to attract their own clients through their own marketing methods including, but not limited to, Request for Proposals, referrals, telesales, telemarketing, or personal sales. If any new clients are acquired and a contract is signed, Buyer may inform Seller, and Seller will remove that clinic from active solicitation.
7. Seller will not sell any other service to a clinic that is assigned to Buyer (exclusive). This restriction includes, but is not limited to, medical transcription, medical collection, medical billing, and answering services.

**Terms:**

Buyer will provide a wire transfer or certified check in the amount of \$75,000.00 US (Seventy Five Thousand Dollars and 00/xx US) at the time of execution of this agreement. Buyer will give equal monthly payments as per the Promissory Note, which calls for an amortization of 5 years with a 3-year balloon. **Debt service payments and interest on the debt service will begin after and only when 60 medical appeals clinics have been assigned and 30 medical credentialing applications have been requested.** The Agreement including all exhibits, constitutes the entire agreement between the Parties with respect to the subject matter hereof, and merges and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions. Neither of the Parties will be bound by any conditions, definitions, warranties,

understandings, or representations with respect to the subject matter hereof other than as expressly provided herein. No oral explanations or oral information by either party hereto will alter the meaning or interpretation of this Agreement. The terms and conditions of this Agreement will prevail notwithstanding any different, conflicting or additional terms and conditions that may appear on any letter, email or other communication or other writing not expressly incorporated into this Agreement.

**Training and Transition:**

At no cost to the Buyer, the Seller will train and transition up to 2 consecutive weeks for medical billing. If additional training beyond the 2 weeks is required, or requested, Seller will provide up to 20 additional hours of training at no cost to the Buyer. These 20 additional hours may be spread out over the course of one year. Training shall not exceed 1 year from the signing of this agreement for any reason. Buyer will make themselves available for this training and may not refuse the training. If Buyer is not available for training or refuses training it will be considered as though they have been trained for the full period allotted.

**Confidentiality:**

At all times, the Buyer will respect the confidentiality and the extensive work put into the intellectual property, assets, and systems. Buyer will not attempt to reverse engineer the marketing methodology for personal gain or publishing purposes.

**Commercial Transaction:**

This transaction is considered a commercial transaction.

**Venue:**

The venue is the State of Nevada and the County of Clark.

**Governing Law:**

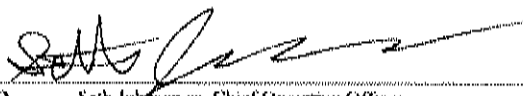
This Agreement will be governed by the laws of Nevada and the County of Clark.

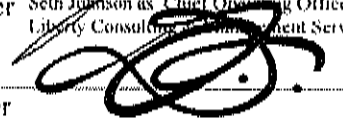
**Default:**

If the Buyer defaults with regard to any of the paragraphs above, as well as the Promissory Note, individually or collectively, the Buyer will immediately return all contracts, assets and systems and intellectual property that has been delivered and will release, hold harmless, and indemnify the Seller.

**Restrictive Covenant:**

Unless a default occurs, the Seller will be prohibited, once the contract has been transferred to Buyer, from contacting or soliciting those clients. The one exception would be to verify the reason of loss. Buyer will void this clause if Buyer chooses to use Seller's resources in order to service Buyer's clients however, Seller will not solicit Buyer's clients. Buyer will not solicit Seller's third party resources.

 DATE: May 3, 2018  
Buyer Seth Johnson as Chief Operating Officer,  
Liberty Consulting & Management Services, LLC (on behalf of an entity to be formed later)

 DATE: May 3, 2018  
Seller  
Medasset Corporation



**OUTGOING WIRE TRANSFER Bank Name: WINTRUST BANK**

Wire Created by UserID: LDICKMAN2 Date: 5/3/2018 Time: 13:27:14  
 Branch: 001 Name: DEFAULT BRANCH 380 Phone #: \_\_\_\_\_  
 Amount: 75,000.00 USD WIRE FEE AMOUNT: (Refer to Fee Schedule)  
 Ins Amount: \_\_\_\_\_ Ins Currency: \_\_\_\_\_ Exchange Rate: \_\_\_\_\_  
 Account #: Redacted  
 Customer Name: LIBERTY CONSULTING & MANAGEMENT SER Phone #: \_\_\_\_\_  
 Address 1: 1000 SKOKIE BLVD SUITE 225 Address 2: WILMETTE, IL 60091-1176  
 Address 3: \_\_\_\_\_

**BANK INFORMATION**

Destination Bank Name: BENEFICIAL BANK Bank ABA: 236075689  
 Destination Bank Address 1: \_\_\_\_\_  
 Destination Bank Address 2: \_\_\_\_\_  
 Destination Bank Address 3: \_\_\_\_\_  
 Beneficiary Bank Name: \_\_\_\_\_ Bank ID: \_\_\_\_\_  
 Beneficiary Bank Address 1: \_\_\_\_\_  
 Beneficiary Bank Address 2: \_\_\_\_\_  
 Intermediary Bank Name: \_\_\_\_\_ Bank ID: \_\_\_\_\_

**CUSTOMER (BENEFICIARY) INFORMATION**

Beneficiary Name to Credit: VISIONARY BUSINESS BROKERS  
 Account Number to Credit: Redacted  
 Beneficiary Address 1: 141-I ROUTE 130 SOUTH #343  
 Beneficiary Address 2: CINNAMINSON NJ 08077  
 Beneficiary Address 3: \_\_\_\_\_  
 Other Information: 180503132411LDIC  
 Bank to Bank Info: \_\_\_\_\_  
 ORG to BNF Info: \_\_\_\_\_  
 Purpose of Wire: \_\_\_\_\_

Customer Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\*\*\*CUSTOMER AUTHORIZATION \*\*\* BANK IS HEREBY AUTHORIZED TO SEND THE ABOVE REFERENCED WIRE TRANSFER AND DEBIT THE ACCOUNT INDICATED ABOVE FOR THE AMOUNT OF THE WIRE TRANSFER PLUS WIRE TRANSFER FEES PURSUANT TO THE ACCOUNT AGREEMENT AND DISCLOSURE STATEMENT AND FEE SCHEDULE, AS PREVIOUSLY PROVIDED OR MAY BE REQUESTED FROM BANK AT ANY TIME AND MAY BE CHANGED BY BANK FROM TIME TO TIME. Wire Transfer Disclosure Information (International Wires) Due to the nature and complexity of international banking and unless otherwise separately disclosed in writing: (1) it is impossible for the Bank to make any delivery time or fee charge guarantees on any foreign wire transfers and (2) the Bank is not responsible for variances in foreign exchange rates. Our fees only cover our costs for sending funds. Additional fees can be (and often are) incurred by necessary tracing, recall of funds, rate changes and verifications required by foreign banks. It should be understood any additional costs or fees are passed on to the customer. As the originating Bank, we rely on the customer for accurate and complete instructions for the receiver/beneficiary bank specifications. Erroneous information can (and often does) result in nonpayment or delay of funds and significant monetary impact to the originator.

**EXHIBIT 4**

352

## Exhibit 5



BREAKING NEWS Boy dies after being struck by SEPTA bus in Wissinoming

6abc

WATCH LIVE

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Philadelphia, PA  
19101

67°

Log In



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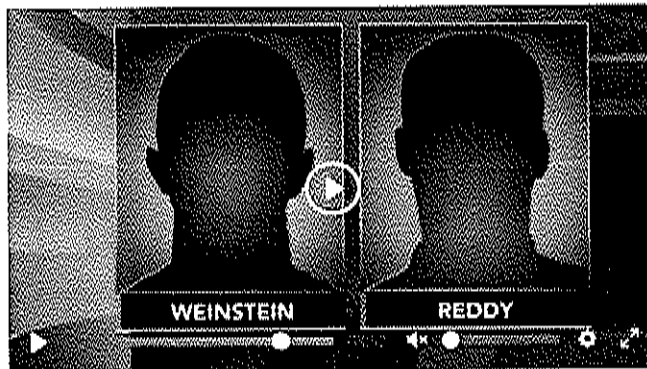
TWEET

SHARE

EMAIL

BUSINESS

## Investigation: Men accused of selling bogus businesses



EMBED [x/](#) MORE VIDEOS

Investigation: Men accused of selling bogus businesses, Chad Pradelli reports during Action News at 11pm on June 1, 2018.

By Chad Pradelli

Friday, June 01, 2018

CHERRY HILL, N.J. (WPVI) -- Two men are accused of selling fraudulent businesses, and Action News identified more than a dozen alleged victims around the country during a year-long investigation.

As it turns out, one of the alleged con artists has been operating out of Cherry Hill, New Jersey.

Steve Sami is an alleged victim out of Florida.

"They will take your money, they will string you along. They have no morals and conscience and you will lose every penny you have."

David Weinstein of Cherry Hill, New Jersey and Jay Reddy of Michigan say they sign medical practices up for billing, transcription, and/or collection services and then sell those contracts to investors who want to manage the businesses.

But some investors tell Action News those companies are bogus, and that they've lost more than \$1.3 million with one or both of these men since 2010.

Sami says, "I've made probably, in the whole process, a couple hundred dollars."

Your business  
can save  
money by  
saving energy.

TAKE SURVEY

PECO  
Power & Light

### RECOMMENDED



I Gave HelloFresh A Taste. Here's Why I'm Never Going Back.  
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[Gallery] Shaq's Yacht Makes the Titanic Look Like a Dinghy  
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2019 Mazda MX-5 Miata Has the Engine It Deserves  
Sponsored | Mazda



Republican Sen. Flake pushes delay on full Kavanaugh vote after...



Father of missing 6-year-old boy: 'I thought they'

EXHIBIT 5  
354

Weinstein's marketing materials say, "We do the hard part. We get the doctors under contract for you." Buyers get what's called a Triple Play of all three businesses for \$125,000.

According to a sales brochure, buyers get "a clear and direct approach to profitability." Steve Sami says his contract with Jay Reddy promised 300 medical answering service contracts.

But in the two years since, he says he's received just a few. Sami and others have filed complaints with their state attorneys general.

"Within a month I texted him and said something feels strange and the contracts aren't coming, and he basically said he had a death in the family and it's the holidays. He told me it will pick up."

But he says it never did and that when he threatened to expose Reddy after learning of other alleged victims, a man claiming to be David Weinstein called out of the blue and left a profanity-laced voicemail.

Action News has learned at least three alleged victims have sued Weinstein and or Reddy over the years. Attorney John Perrin represented an alleged victim out of Michigan who sued Reddy in 2010.

"It was really just an empty shell and there was nothing to it," Perrin said.

He says Reddy was constantly reselling the business but never delivering contracts with physicians, "There were literally dozens of these entities and when you looked at who created them, it was coming back to either Vijay Reddy or David Weinstein."

Perrin won \$200,000 in court but says he's never been able to collect and just last month Reddy filed for bankruptcy.

Two Georgia men sued Weinstein in Federal court in 2012. In court papers, Weinstein denied any wrongdoing. He and other defendants later agreed to a confidential settlement. Action News has also learned Weinstein was convicted of health insurance fraud in 2002.

Sami says he wants his money back and justice for himself and other victims.

"I believe the FBI should be involved, the IRS. Money should be recouped and given back to the people who lost it," Sami said.

Both Reddy and Weinstein refused our request for comment. We tracked down Weinstein to a Cherry Hill condo and he actually called police on us, accusing us of harassment.

Officially, the FBI says it cannot confirm or deny they're investigating. But since our investigation began, several alleged victims tell us they've been interviewed by agents.

Weinstein is still selling the business model and living in Las Vegas.

Recommended by

1

## TRENDING



Teenager shot and killed in West Oak Lane



Bartender shot and killed in West Philadelphia



New Jersey man charged with pretending to be a dentist, botched teen's braces



Child rape suspect may be in stolen car, Solebury Twp. police say

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## TOP STORIES



Body found in Maryland believed to be man kidnapped in Philly



Boy dies after being struck by SEPTA bus in Wisconsin  
Updated 2 mins ago



Child rape suspect David Hamilton Jr. captured in Aston, Pa.  
Updated 1 hr 54 mins ago



Committee sends Kavanaugh nomination to full Senate  
Updated 1 hr 22 mins ago

Delco man accused of shooting parents, killing father

Facebook says 50M user accounts affected by breach

Police: Shot fired in road rage incident, suspects sought

84-year-old NJ Crossing Guard Retires

Chris Long pledging portion of salary to start early-literacy program

AccuWeather: Flooding Rain Gives Way To A Nice Afternoon  
Updated 3 mins ago

Man, 25 critically injured in Kensington hit-and-run

VIDEO: Protesters confront Sen. Flake in elevator

LAX will allow passengers to carry marijuana

MORE NEWS

# Exhibit 11

## AFFIDAVIT OF SERVICE

Electronically Filed  
4/25/2019 8:13 AM  
Steven D. Grierson  
CLERK OF THE COURT

|                                                                                  |                                          |                                                                                                                                                                                              |                 |
|----------------------------------------------------------------------------------|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| Case:<br>A-19-792836-C                                                           | Court:<br>Eighth Judicial District Court | County:<br>Clark, NV                                                                                                                                                                         | Job:<br>3267914 |
| Plaintiff / Petitioner:<br>Medappeal, LLC, An Illinois Limited Liability Company |                                          | Defendant / Respondent:<br>David Weinstein, Vijay Reddy, Margaret Reddy, Mohan Thaimarla, Kevin Brown, Max Global, Inc., Visionary Business Brokers LLC, Medasset Corporation, and Does 1-50 |                 |
| Received by:<br>Armorbearer Investigations, LLC                                  |                                          | For:<br>Johnson, Johnson & Associates                                                                                                                                                        |                 |
| To be served upon:<br>Margaret Reddy                                             |                                          |                                                                                                                                                                                              |                 |

I, Miguel Bruce, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

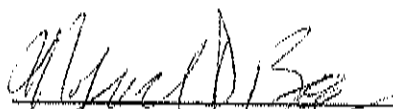
Recipient Name / Address: Margaret Reddy, Home: 4269 Kingston Dr, Milan, MI 48160

Manner of Service: Personal/Individual, Apr 16, 2019, 8:47 am EDT

Documents: Summons - Civil (Received Apr 15, 2019 at 2:32pm EDT), Complaint (Received Apr 15, 2019 at 2:32pm EDT)

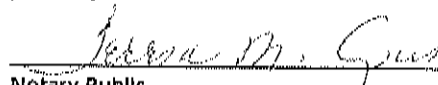
## Additional Comments:

1) Successful Attempt: Apr 16, 2019, 8:47 am EDT at Home: 4269 Kingston Dr, Milan, MI 48160 received by Margaret Reddy. Gender: Female; Ms. Reddy accepted service at the front door.

 4/16/19  
Miguel Bruce Date

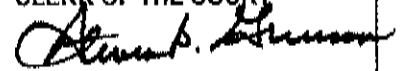
Armorbearer Investigations, LLC  
P.O. Box 539  
Belleville, MI 48112-0539  
313 347-3341

Subscribed and sworn to before me by the affiant who is personally known to me.

  
Notary Public  
4/16/19 Date  
July 7, 2020 Commission Expires

TERESA M. GUESZ  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF WAYNE  
MY COMMISSION EXPIRES JUL 7, 2020  
ACTING IN COUNTY OF Wayne

# Exhibit 12



**IAFD**

Leah A. Martin, Esq.  
Nevada Bar No. 7982  
Amber D. Scott, Esq.  
Nevada Bar No. 14612  
LEAH MARTIN LAW  
3100 W. Sahara Ave., Suite 202  
Las Vegas, Nevada 89102  
lmartin@leahmartinlv.com  
ascott@leahmartinlv.com  
Phone: (702) 420-2733  
Facsimile: (702) 330-3235  
*Attorneys for Defendants*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MEDAPPEAL, LLC, An Illinois Limited Liability  
Company,

Plaintiff,

vs.

DAVID WEINSTIEN, VIJAY REDDY,  
MARGARET REDDY, MOHAN THALMARLA,  
KEVIN BROWN, MAX GLOBAL, INC.,  
VISIONARY BUSINESS BROKERS LLC,  
MEDASSET CORPORATION, AND DOES 1-50,

Defendants;

CASE NO.: A-19-792836-C

DEPT. NO.: XIV

**INITIAL APPEARANCE FEE DISCLOSURE**

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for parties  
appearing in the above entitled action as indicated below:

///

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///

///

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///

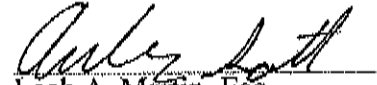
///

1 VIJAY REDDY \$223.00  
2 MARGARET REDDY \$30.00  
3 MOHAN THALMARLA \$30.00  
4 MAX GLOBAL, INC. \$30.00

5 **Total** **\$313.00**

6 DATED this 16<sup>th</sup> day of May, 2019.

7 LEAH MARTIN LAW

8   
9 Leah A. Martin, Esq.

10 Amber D. Scott, Esq.

11 3100 W. Sahara Ave., Ste. 202

12 Las Vegas, NV 89102

13 *Attorneys for Defendants Reddy,*  
14 *Thalmarla, and Max Global Inc.*

# Exhibit 13



AOS

Electronically Filed  
5/14/2019 5:07 PM  
Steven D. Grierson  
CLERK OF THE COURT

EIGHT JUDICIAL DISTRICT COURT, CLARK COUNTY, NEVADA

Medappeal, LLC.,

Case No.: A-19-792836-C

Plaintiff(s),

vs.

David Weinstein, Vijay Reddy, Margaret Reddy, Mohan  
Thalmarla, Kevin Brown, Max Global, Inc., Visionary  
Business Brokers, LLC., Medasset Corporation and DOES  
1-50,

Defendant(s).

**AFFIDAVIT OF SPECIAL PROCESS SERVER**

I, **Joseph Wachowski**, being first duly sworn on oath, depose and say the following:

I am over the age of 18, not a party to this action, and an agent/employee of All County Investigations and Process  
Serving, Inc., a licensed private detective agency, license number 117-001697.

DEFENDANT TO BE SERVED: **Max Global, Inc.**

I. Served the within named defendant on **April 26, 2019 @ 7:29 PM**

**CORPORATE SERVICE:** by leaving a copy of this process with **Mohan Thalmarla**. (Title): **Registered Agent**,  
a person authorized to accept service I informed that person of the contents thereof.

**TYPE OF PROCESS: Summons and Complaint**

**ADDRESS WHERE ATTEMPTED OR SERVED: 15W599 89th St., Burr Ridge, IL 60527**

Description of person process was left with:

**Sex: Male - Race: Middle Eastern - Hair: Black - Approx. Age: 60 - Height: 5ft 08in - Weight: 161-200 lbs**

Under penalties as provided by laws pursuant to Section 1-109 of Code of Civil Procedure, the undersigned  
certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be  
on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes  
the same to be true.

FURTHER AFFIANT SAYETH NOT.

State of IL

County of COOK

Subscribed and Sworn to before me on this

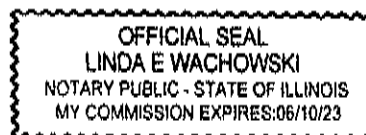
13 day of MAY, 2019  
Linda E Wachowski  
Signature of Notary Public

Job: 2356

File:

Joseph Wachowski

Joseph Wachowski



# Exhibit 14

## EIGHT JUDICIAL DISTRICT COURT, CLARK COUNTY, NEVADA

Medappeal, LLC.,

Case No.: A-19-792836-C

Plaintiff(s),

vs.

David Weinstein, Vijay Reddy, Margaret Reddy, Mohan  
Thalmarla, Kevin Brown, Max Global, Inc., Visionary  
Business Brokers, LLC., Medasset Corporation and DOES  
1-50,

Defendant(s).

**AFFIDAVIT OF SPECIAL PROCESS SERVER**

I, Joseph Wachowski, being first duly sworn on oath, depose and say the following:

I am over the age of 18, not a party to this action, and an agent/employee of All County Investigations and Process  
Serving, Inc., a licensed private detective agency, license number 117-001697.

DEFENDANT TO BE SERVED: Mohan Thalmarla

I, Served the within named defendant on April 26, 2019 @ 7:29 PM

INDIVIDUAL SERVICE: By delivering to the within named defendant a copy of this process personally

TYPE OF PROCESS: Summons and Complaint

ADDRESS WHERE ATTEMPTED OR SERVED: 15W599 89th St., Burr Ridge, IL 60527

Description of person process was left with:

Sex: Male - Race: Middle Eastern - Hair: Black - Approx. Age: 60 - Height: 5ft 08in - Weight: 161-200 lbs

Under penalties as provided by laws pursuant to Section 1-109 of Code of Civil Procedure, the undersigned  
certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be  
on information and belief and as to such matters the undersigned certifies as aforesaid that he/she verily believes  
the same to be true.

FURTHER AFFIANT SAYETH NOT.

State of ILCounty of COOK

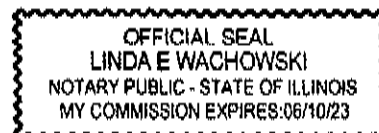
Subscribed and Sworn to before me on this

11 day of MAY, 2019Signature of Notary Public Linda E Wachowski

Job: 2355

File:

Joseph Wachowski  
Joseph Wachowski



# Exhibit 15



**MDSM**

Leah A. Martin, Esq.  
Nevada Bar No. 7982  
Amber D. Scott, Esq.  
Nevada Bar No. 14612  
LEAH MARTIN LAW  
3100 W. Sahara Ave., Suite 202  
Las Vegas, Nevada 89102  
lmartin@leahmartinlv.com  
ascott@leahmartinlv.com  
Phone: (702) 420-2733  
Facsimile: (702) 330-3235  
*Attorneys for Defendants*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

MEDAPPEAL, LLC, An Illinois Limited Liability  
Company,

Plaintiff,

vs.

DAVID WEINSTIEN, VIJAY REDDY,  
MARGARET REDDY, MOHAN THALMARLA,  
KEVIN BROWN, MAX GLOBAL, INC.,  
VISIONARY BUSINESS BROKERS LLC,  
MEDASSET CORPORATION, AND DOES 1-50,

Defendants;

CASE NO.: A-19-792836-C

DEPT. NO.: XIV

**DEFENDANTS' MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION**

Defendants, Vijay Reddy ("V. Reddy"), Margaret Reddy ("M. Reddy"), Mohan Thalmarla ("Thalmarla"), and Max Global Inc. ("Max Global"), (collectively "Defendants") by and through their counsel of record, Leah A. Martin, Esq. of Leah Martin Law hereby moves this Court to dismiss the claims against them under NRCP 12(b)(2) for lack of personal jurisdiction.

///

///

///

///

///

1 This motion is based on the following memorandum, points of authorities, and the pleadings and papers  
2 on file, and any argument heard by this Court.

3 DATED this \_\_\_\_ day of May, 2019.

4 LEAH MARTIN LAW

5  
6 Leah A. Martin, Esq.  
7 Amber D. Scott, Esq.  
8 3100 W. Sahara Ave., Ste. 202  
9 Las Vegas, NV 89102  
10 Attorneys for Defendants Reddy,  
Thalmarla, and Max Global Inc.

11 **NOTICE OF MOTION**

12 TO: ALL PARTIES AND COUNSEL OF RECORD:

13 PLEASE TAKE NOTICE that the undersigned will bring the following **DEFENDANTS'**  
14 **MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION** on for hearing before the  
15 above-titled Court on the \_\_\_\_ day of \_\_\_\_, 2019 at \_\_\_\_ in  
16 Department 14, or as soon thereafter as counsel may be heard.

17 DATED this \_\_\_\_ day of May, 2019.

18 LEAH MARTIN LAW

19  
20 Leah A. Martin, Esq.  
21 Amber D. Scott, Esq.  
22 3100 W. Sahara Ave., Ste. 202  
Las Vegas, NV 89102  
Attorneys for Defendants Reddy,  
Thalmarla, and Max Global Inc.

23  
24 **MEMORANDUM OF POINTS AND AUTHORITIES**

25 **I. INTRODUCTION**

26 Plaintiff's claims against Defendants must be dismissed for lack of personal jurisdiction. Plaintiff  
27 lacks standing to bring this action against Defendants because it failed to establish jurisdiction over  
28 Defendants in Nevada. Defendants M. Reddy and V. Reddy are residents of Michigan while Defendant

1 Thalmarla is an Illinois resident and his company, Defendant Max Global Inc. is an Illinois corporation.  
2 This action stems from breach of contract and fraud claims related to a contract entered into between  
3 Plaintiff and Medasset Corporation. At no time were Defendants parties to the contract. At no time were  
4 Defendants employees of Medasset. Defendants do not reside in Clark County, Nevada do not conduct  
5 business in Nevada related to the claims and have not personally availed themselves to personal  
6 jurisdiction in Nevada.

7 Consequently, Plaintiff lacks personal jurisdiction to bring the instant lawsuit against Defendants  
8 V. Reddy, M. Reddy, Thalmarla, and Max Global Inc in Nevada. For this reason, this Court should dismiss  
9 the Complaint against the Defendants.

## 10 II. LEGAL ARGUMENT

11 Personal jurisdiction is a constitutional prerequisite to the adjudication of any claim. A plaintiff  
12 submits to the jurisdiction of a forum by filing suit there. However, when a defendant asserts lack of  
13 personal jurisdiction as an affirmative defense pursuant to Federal Rule of Civil Procedure 12(b)(2), a  
14 court must satisfy itself of jurisdiction before proceeding to the merits of the case. The court may find that  
15 it has general personal jurisdiction, specific personal jurisdiction, or no personal jurisdiction at all.  
16 *Boschetto v. Hansing*, 539 F.3d 1011, 1016 (9th Cir. 2008) cert. den. 129 S. Ct. 1318 (2009). Personal  
17 jurisdiction exists only if exercise of personal jurisdiction complies with Nevada's long-arm statute and  
18 federal due process standards. Nevada's long-arm statute provides for personal jurisdiction to the full  
19 extent of federal due process. Therefore, the Court need only apply federal due process standards to  
20 determine personal jurisdiction. If the court concludes that it lacks jurisdiction over the defendant, it has  
21 no discretion to proceed to the merits of the case.

### 22 A. The Court Lacks General Personal Jurisdiction Over Defendants M. Reddy, V. Reddy, 23 Thalmarla, and Max Global Inc.

24 The Complaint states and confirms that the Reddys are residents of Michigan, Thalmarla is a  
25 resident of Illinois, and Max Global Inc. is an Illinois corporation. It also lacks allegations establishing  
26 general jurisdiction over Defendants. General jurisdiction exists over a defendant who has "substantial"  
27 or "continuous and systematic" contacts with the forum State such that the assertion of personal  
28 jurisdiction over him is constitutionally fair even where the claims are unrelated to those contacts.

1 *Corbello v. DeVito*, 844 F. Supp. 2d 1136, 1148-49 (D. Nev. 2012). The standard for general jurisdiction  
2 is high: "the . . . commercial activity must be of a substantial enough nature that it 'approximate[s] physical  
3 presence.'" See *Gator.com Corp. v. L.L. Bean, Inc.*, 341 F.3d 1072, 1079 quoting *Bancroft & Masters,*  
4 *Inc. v. Augusta Nat. Inc.*, 223 F.3d 1082, 1086 (9th Cir. 2000). Accordingly, the Ninth Circuit has drawn  
5 a distinction between "doing business in" the forum state and "doing business with" the forum state.  
6 *Bancroft*, 223 F.3d at 1086. "Factors to be taken into consideration are whether the defendant makes sales,  
7 solicits or engages in business in the state, serves the state's markets, designates an agent for service of  
8 process, holds a license, or is incorporated there." *Id.*

9 Here, the Defendants are not physically present in Nevada, have no businesses in Nevada related  
10 to this dispute, cannot vote in Nevada, have no bank accounts in Nevada, and do not have Nevada driver  
11 licenses or identification. Defendants have had little to no interaction with the state of Nevada and Plaintiff  
12 does not claim that Defendants have had substantial or "continuous and systematic" contacts with the  
13 forum state. Defendant V. Reddy used to have a business in Nevada that closed approximately ten years  
14 ago. He has an additional non-operating business that he is in the process of dissolving. Defendant Max  
15 Global Inc. does not sell, solicit, or engage in business in the state, nor does it serve this state's market. In  
16 fact, it mostly does business in Illinois, where it is incorporated, and Wyoming. These factors weigh in  
17 favor of a determination that this Court lacks general personal jurisdiction over the Defendants.

#### 18 **B. This Court Lacks Specific Personal Jurisdiction Over the Defendants.**

19 In the absence of general personal jurisdiction, a court may avail itself of specific personal  
20 jurisdiction. Specific jurisdiction exists when there are sufficient minimal contacts with the forum such  
21 that the assertion of personal jurisdiction "does not offend 'traditional notions of fair play and substantial  
22 justice.'" . . . See *Hanson v. Denckla*, 357 U.S. 235, 253, 78 S.Ct. 1228, 2 L.Ed.2d 1283 (1958) ("[I]t is  
23 essential in each case that there be some act by which the defendant purposefully avails itself of the  
24 privilege of conducting activities within the forum State, thus invoking the benefits and protections of its  
25 laws." (citing *Int'l Shoe Co.*, 326 U.S. at 319, 66 S.Ct. 154) (emphasis added)). Ninth Circuit has  
26 developed a three-part test for specific jurisdiction:

- 27  
28 (1) The non-resident defendant must purposefully direct his activities or  
consummate some transaction with the forum or resident thereof; or perform some



1 act by which he purposefully avails himself of the privilege of conducting activities  
2 in the forum, thereby invoking the benefits and protections of its laws;

3 (2) the claim must be one which arises out of or relates to the defendant's forum-  
4 related activities; and

5 (3) the exercise of jurisdiction must comport with fair play and substantial justice, i.e. it must  
6 be reasonable.

7 *Boschetto*, 539 F.3d at 1016 (quoting *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 802 (9th  
8 Cir. 2004)). The plaintiff bears the burden on the first two prongs. If the plaintiff establishes both prongs  
9 one and two, the defendant must come forward with a "compelling case" that the exercise of jurisdiction  
10 would not be reasonable.

11 Plaintiff has failed to establish the first two prongs. The Complaint here fails to make any  
12 allegations suggesting Plaintiff's claims arise from or are connected to any acts purposefully committed  
13 by Defendants in Nevada. What it does claim is that venue is proper in Clark County pursuant to the  
14 Forum Selection Clause contained in the parties' contract. While this may be true, the Defendants were  
15 not parties to the contract and cannot be bound by its terms. Plaintiff fails to state what roles or actions  
16 Defendants took that would subject them to jurisdiction as set forth in the contract. At no time did any  
17 actions take place in Nevada and there are no claims that relate to Defendants' forum related activities  
18 because there are no forum-related activities.

19 Based on the Complaint's failure to present any allegations regarding residency of Defendants or  
20 demonstrating any basis for general or specific jurisdiction over Defendants, this Court should dismiss  
21 Plaintiff's claims against Defendants.

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DATED this 10<sup>TH</sup> day of May, 2019.

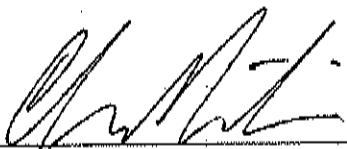
  
Leah A. Martin, Esq.  
Amber D. Scott, Esq.  
3100 W. Sahara Ave., Ste. 202  
Las Vegas, NV 89102  
*Attorneys for Defendants Reddy,  
Thalmarla, and Max Global Inc.*

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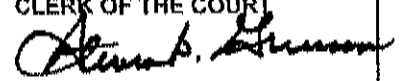
**CERTIFICATE OF MAILING**

I HEREBY CERTIFY on the 16 day of May, 2019, I caused service of the foregoing  
**DEFENDANTS' MOTION TO DISMISS FOR LACK OF JURISDICTION** to be made via electronic  
mail through the Eighth Judicial District Court's E-Filing System to the following at the e-mail address  
provided in the e-service list:

Jay Freedman, Esq.  
11700 W. Charleston Blvd. Ste. 170-357  
Las Vegas, NV 89135  
jay@jayfreedmanlaw.com

  
On behalf of LEAH MARTIN LAW

# Exhibit 16



1 **SUPP**

2 Leah A. Martin, Esq.  
3 Nevada Bar No. 7982  
4 Amber D. Scott, Esq.  
5 Nevada Bar No. 14612  
6 LEAH MARTIN LAW  
7 3100 W. Sahara Ave., Suite 202  
8 Las Vegas, Nevada 89102  
9 lmartin@leahmartinlv.com  
10 ascott@leahmartinlv.com  
11 Phone: (702) 420-2733  
12 Facsimile: (702) 330-3235  
13 *Attorneys for Defendants*

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

11 MEDAPPEAL, LLC, An Illinois Limited Liability )  
12 Company, ) CASE NO.: A-19-792836-C  
13 Plaintiff, ) DEPT. NO.: XIV  
14 vs. )  
15 )  
16 DAVID WEINSTIEN, VIJAY REDDY, )  
17 MARGARET REDDY, MOHAN THALMARLA, )  
18 KEVIN BROWN, MAX GLOBAL, INC., )  
19 VISIONARY BUSINESS BROKERS LLC, )  
20 MEDASSET CORPORATION, AND DOES 1-50, )  
21 Defendants; )  
22 )  
23 )  
24 )  
25 )  
26 )  
27 )  
28 )

20 **SUPPLEMENT TO DEFENDANTS' MOTION TO DISMISS FOR LACK OF PERSONAL**

21 **JURISDICTION**

22 Defendants, Vijay Reddy ("V. Reddy"), Margaret Reddy ("M. Reddy"), Mohan Thalmarla  
23 ("Thalmarla"), and Max Global Inc. ("Max Global"), (collectively "Defendants") by and through their  
24 counsel of record, Leah A. Martin, Esq. of Leah Martin Law

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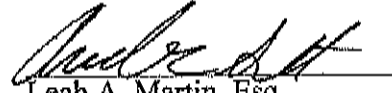
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1 hereby submit their supplement to Defendants' Motion to Dismiss for Lack of Personal Jurisdiction.

2 DATED this 10<sup>th</sup> day of May, 2019.

3 LEAH MARTIN LAW

4 

5 Leah A. Martin, Esq.

6 Amber D. Scott, Esq.

7 3100 W. Sahara Ave., Ste. 202

8 Las Vegas, NV 89102

9 *Attorneys for Defendants Reddy,*

10 *Thalmarla, and Max Global Inc.*

1 **DECLARATION OF MOHAN THALMARLA IN SUPPORT OF DEFENDANTS' MOTION TO**  
2 **DISMISS FOR LACK OF PERSONAL JURISDICTION**

3 I, Mohan Thalmarla, declare that I am a Defendant in this action. I make this statement of my own  
4 personal knowledge and if called to testify, could and would testify truthfully thereto.

- 5 1. I am a resident of the state of Illinois; I have an Illinois driver's license; I vote in Illinois; and I  
6 maintain my bank accounts in Illinois.  
7 2. My company Max Global Inc. was incorporated in Illinois.  
8 3. I submit this Declaration in support of Defendant Max Global Inc. and my Motion to Dismiss for  
9 Lack of Personal Jurisdiction.  
10 4. I was never personally a party to the contract at issue in this case nor was Max Global Inc. a party  
11 to the contract at issue.  
12 5. I have never had any communication with any of the parties regarding the contract.  
13 6. I never conducted any work for Plaintiff, nor did Max Global Inc.  
14 7. I do not have any significant contacts with the State of Nevada.  
15 8. Max Global Inc. does not have any significant contacts with the State of Nevada.  
16 9. I do not have any bank accounts or any licenses in the State of Nevada.  
17 10. Max Global Inc. does not have any bank accounts or licenses in the State of Nevada.  
18 11. I do not own any property or businesses in the State of Nevada.  
19 12. Max Global does not own any property or conduct business in the State of Nevada.  
20 13. Max Global Inc. conducts all of its business in Illinois and Wyoming.  
21 14. I never had any agreement with Plaintiff and was never obligated to perform or be bound by the  
22 terms of the contract at issue in this case.

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1 15. Max Global Inc. never had any agreement with Plaintiff and was never obligated to perform or  
2 be bound by the terms of the contract at issue in this case.

3 I declare under penalty of perjury under the laws of the State of Michigan that the foregoing is true  
4 and correct.

5 DATED May 10, 2019 day of May, 2019.



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7 MOHAN THALMARLA  
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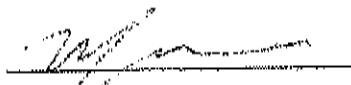
1 **DECLARATION OF MARGARET REDDY IN SUPPORT OF DEFENDANTS' MOTION TO**  
2 **DISMISS FOR LACK OF PERSONAL JURISDICTION**

3 I, Margaret Reddy, declare that I am a Defendant in this action. I make this statement of my own  
4 personal knowledge and if called to testify, could and would testify truthfully thereto.

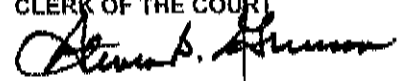
- 5 1. I am a resident of the state of Michigan; I have a Michigan driver's license; I vote in Michigan;  
6 and I maintain my bank accounts in Michigan.  
7 2. I was never a party to the contract at issue in this case.  
8 3. Any work that was done for Mr. Weinstein was as an independent contractor.  
9 4. Any work that was done by me was completed in the State of Michigan.  
10 5. I do not have any significant contacts with the State of Nevada.  
11 6. I do not have any bank accounts or any licenses in the State of Nevada.  
12 7. I do not own any property or businesses in the State of Nevada.  
13 8. I never had any agreement with Plaintiff and was never obligated to perform or be bound by the  
14 terms of the contract at issue in this case.

15 I declare under penalty of perjury under the laws of the State of Michigan that the foregoing is true  
16 and correct.

17 DATED this 10 day of May, 2019.

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20 MARGARET REDDY  
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# Exhibit 17



OPPM



Jay Freedman  
11700 W. Charleston Blvd, Ste. 170-357  
Las Vegas, NV 89135

702-342-5425

702-475-6455 (fax)

jay@jayfreedmanlaw.com

Attorney for Plaintiff

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

MEDAPPEAL, LLC, An Illinois Limited  
Liability Company,

Plaintiff,

vs.

DAVID WEINSTEIN, VIJAY REDDY,  
MARGARET REDDY, MOHAN  
THALMARLA, KEVIN BROWN, MAX  
GLOBAL, INC., VISIONARY BUSINESS  
BROKERS LLC, MEDASSET  
CORPORATION, and DOES 1-50

Defendants

Case No.: A-19-792836-C

Dept: 14

PLAINTIFF'S OPPOSITION TO MOTION  
TO DISMISS

Plaintiff, MEDAPPEAL, LLC, by and through its attorney Jay Freedman, submits the following Opposition to the Motion to Dismiss for lack of personal jurisdiction filed by defendants Vijay Reddy ("V. Reddy"), Margaret Reddy ("M. Reddy"), Mohan Thalmarla ("Thalmarla"), and Max Global Inc. ("Max Global") (collectively "Defendants") as follows:

**1. INTRODUCTION.**

This is an action for fraud committed on a wholesale scale by a group of defendants who mastered their craft. Defendants conspired to sell plaintiff Medappeal, LLC ("Plaintiff") a worthless medical appeals and credentialing business package which Defendants did not, could not, and had no intention of delivering. Defendants' actions were part of an ongoing and

OPPOSITION TO MOTION TO DISMISS - 1

1 deliberate scheme, from which they have taken and laundered an amount estimated to be in the  
2 millions of dollars from unsuspecting victims. (See Exhibit 5 to Plaintiff's Complaint).

3 Defendants now seek to evade their liability by arguing that they are not subject to  
4 personal jurisdiction in Nevada. However, Defendants not only misunderstand the applicable  
5 law they ignore the fact that they are judicially estopped from contesting the existence of  
6 personal jurisdiction. As Defendants know, they successfully dismissed a complaint filed by  
7 Plaintiff against them in Illinois specifically because Nevada was the proper forum. Defendants  
8 cannot now contend that they should not be sued in Nevada after successfully arguing that they  
9 should be and their Motion to Dismiss should be denied.  
10

11 **2. DEFENDANTS ARE SUBJECT TO PERSONAL JURISDICTION AND THEIR**  
12 **MOTION TO DISMISS SHOULD BE DENIED.**

13 While the authorities on which Defendants rely are generally correct, they are also  
14 incomplete. When all of the relevant authority is considered, Plaintiff's Complaint clearly  
15 establishes that Defendants are subject to personal jurisdiction in Nevada. As such, Defendants'  
16 Motion to Dismiss should be denied.

17 A. Legal Standard.

18 Where, as here, the lack of personal jurisdiction is raised on a motion to dismiss,  
19 Plaintiff need only make a "prima facie showing of personal jurisdiction." (*Trump v. Eighth*  
20 *Judicial Dist. Court*, 109 Nev. 687, 692, 857 P.2d 740, 743 (1993) (internal quotation marks  
21 omitted).) According to the Nevada Supreme Court, Plaintiffs do not have a high burden to  
22 meet. The high court held that "[i]n determining whether a prima facie showing has been made,  
23 the district court is not acting as a fact finder. It accepts properly supported proffers of evidence  
24 by a plaintiff as true." (*Id.* at 693 [citing *Boit v. Gar-Tech Products, Inc.*, 967 F.2d 671, 675 (1<sup>st</sup>  
25 Cir. 1992).])

26 NRS 14.065(1), the Nevada long-arm statute, sets forth the grounds for when Nevada  
27 courts can exercise personal jurisdiction over a non-resident defendant. This section states that  
28

1 “[a] court of this state may exercise jurisdiction over a party to a civil action on any basis not  
2 inconsistent with the constitution of this state or the Constitution of the United States.” (*Id.*)  
3 Notably, the Nevada Supreme Court very recently construed the scope of Nevada’s long-arm  
4 statute and held that its reach is quite broad. In *Tricarichi v. Cooperatieve Rabobank*, the  
5 Nevada Supreme Court held that, among other things, “Nevada’s long-arm statute encompasses a  
6 conspiracy theory of personal jurisdiction.” (135 Nev., Advance Opinion 11 No. 73175, pg. 15.)  
7 Pursuant to the Supreme Court, “[a] conspiracy theory of personal jurisdiction provides that a  
8 nonresident defendant who lacks sufficient minimum contacts with the forum may be subject to  
9 personal jurisdiction based on a co-conspirator’s contacts with the forum.” (*Id.*)  
10

11 In this case, Plaintiff’s Complaint clearly alleges that Defendants conspired with co-  
12 defendants David Weinstein and MedAsset Corporation (collectively “Weinstein”). Weinstein’s  
13 contacts with the state of Nevada more than establish the minimum contacts necessary to  
14 establish personal jurisdiction over all the named Defendants.

15 B. Defendants Are Subject To Personal Jurisdiction In Nevada.

16 To support jurisdiction based on conspiracy theory and satisfy due process, Plaintiff must  
17 show: (1) the existence of a conspiracy, (2) the acts of co-conspirators meet minimum contacts  
18 with the forum, and (3) the co-conspirators reasonably expected at the time of entering into the  
19 conspiracy that they would be subject to jurisdiction in the forum state. (*Tricarichi, supra*, at p.  
20 15.) Plaintiff’s Complaint satisfies all three *Tricarichi* prongs and establishes the existence of  
21 personal jurisdiction over Defendants. As a result, Defendants’ Motion to Dismiss should be  
22 denied.

23 Plaintiff’s Complaint details how all Defendants named in this suit worked together to  
24 defraud Plaintiff and other victims of significant sums of money. A complaint filed by the  
25 Office of the U.S. Trustee, Department of Justice in no uncertain terms describes an ongoing  
26 “fraud scheme to sell worthless corporate opportunities” led by Defendants V. Reddy, Weinstein,  
27 and Brown. (*See also*, ABC News Investigative Report, exhibit 5 to Plaintiff’s Complaint.) To  
28

1 further their scheme, V. Reddy, Weinstein, and Brown relied on other individuals to shield their  
2 assets and abscond with money that was wrongfully taken. Co-conspirator M. Reddy's  
3 involvement in the scheme was made clear in V. Reddy's own sworn testimony. (Complaint, ¶¶  
4 55-57.) V. Reddy states, in pertinent part, that Defendant M. Reddy had an ongoing business  
5 relationship with Weinstein involving the same or similar sales of worthless corporate  
6 opportunities and that M. Reddy was Weinstein's "silent partner." (Complaint, ¶ 55.) M. Reddy  
7 and V. Reddy received single checks from Weinstein in payment for their "services" for him, in  
8 excess of hundreds of thousands of dollars. According to V. Reddy, he was unable to  
9 differentiate the payments made by Weinstein to him versus those made to M. Reddy, and that  
10 the money was deposited in an account owned by M. Reddy. (Complaint, ¶ 56.) When  
11 subpoenaed by the Bankruptcy Court, M. Reddy did not appear for her deposition, improperly  
12 claiming spousal immunity and fifth amendment privileges. M. Reddy was later found in  
13 contempt of court for doing so.  
14

15 Defendant M. Reddy, along with defendants Thalmarla and Max Global, are further  
16 involved in the conspiracy through their fraudulent transfers of money in an effort to hide the  
17 proceeds of the ongoing scheme. These fraudulent transfers are detailed in a motion filed by the  
18 bankruptcy trustee. (See Exhibit "Trustees Motion for Authority to Compromise" attached  
19 hereto as Exhibit 6.)

20 It is well-established "that "[t]he underlying rationale for exercising personal jurisdiction  
21 on the basis of conspiracy is that, because co-conspirators are deemed to be each other's agents,  
22 the contacts that one co-conspirator made with a forum while acting in furtherance of the  
23 conspiracy may be attributed for jurisdictional purposes to the other co-conspirators."  
24 (*Tricarichi, supra*, at p. 15 [citing to *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11  
25 MDL 2262 NRB, 2015 WL 6243526, at \*29 (S.D.N.Y. Oct. 20, 2015) and *Mackey v. Compass*  
26 *Mktg., Inc.*, 892 A.2d 479, 483-84 (Md. 2006) (noting that courts have routinely drawn on the  
27  
28

1 substantive law of agency as justification for exercising jurisdiction over nonresident defendants  
2 and that conspiracy theory jurisdiction is an analogous concept)].)

3 In the present lawsuit, the connections defendants Weinstein and MedAsset have with  
4 Nevada establish the minimum contacts necessary to grant this court jurisdiction over all  
5 Defendants who acted in furtherance of the conspiracy. (See Affidavit of David Weinstein,  
6 Motion to Dismiss and Reply in Support of Motion to Dismiss, attached hereto as Exhibit 7.)  
7 Weinstein states in his sworn affidavit, "I have been in Las Vegas, Nevada every time I have had  
8 contact with [Plaintiff]." In their *Reply in Support of their Motion to Dismiss* which they filed in  
9 Illinois, Defendants argued in a unified voice that "the Agreement (between Defendants and  
10 Plaintiff) is deemed formed in Nevada. (*Id.* at 5.)

11 As Defendants argued in their Illinois Motion to Dismiss, the governing law and venue  
12 clauses in their Agreement with Plaintiff require this case to be heard in Clark County, Nevada  
13 and decided pursuant to Nevada law. Defendants, in their own words, argue that principles of  
14 jurisdiction "apply *with particular force* in this case where it is undisputed that: (i) the Purchase-  
15 Sale Agreement was formed in Nevada and contains two Nevada choice-of-law and venue  
16 provisions." (*Id.* at 7.) Due to these clauses, at the time of entering into the conspiracy,  
17 Defendants could reasonably expect that they would be subject to Nevada jurisdiction.

18  
19 **3. DEFENDANTS ARE JUDICIALLY ESTOPPED FROM CONTESTING**  
20 **PERSONAL JURISDICTION.**

21 Judicial estoppel is an equitable doctrine that precludes a party from gaining an  
22 advantage by asserting one position, and then later seeking an advantage by taking a clearly  
23 inconsistent position. (*Risetto v. Plumbers & Steamers Local 343*, 94 F.3d 597, 600-601 (9th Cir.  
24 1996).) Courts invoke judicial estoppel not only to prevent a party from gaining an advantage by  
25 taking inconsistent positions, but also because of "general consideration[s] of the orderly  
26 administration of justice and regard for the dignity of judicial proceedings," and to "protect  
27



1 against a litigant playing fast and loose with the courts." (*Russell v. Rolfs*, 893 F.2d 1033,1037  
2 (9<sup>th</sup> Cir. 1990).)

3 Courts typically consider four factors when ruling on judicial estoppel: (1) a party has  
4 taken inconsistent positions, (2) the party asserted those positions in judicial or quasi-judicial  
5 proceedings, (3) the party successfully asserted the first position, and (4) the first position was  
6 not taken as a result of ignorance, fraud, or mistake. (*NOLM, LLC v. County of Clark*, 120 Nev.  
7 736, 743, 100 P.3d 658, 663 (2004) (internal quotation marks omitted).) Not all factors must be  
8 met in order to successfully apply the doctrine, and notably, the party to be estopped is not  
9 required to have engaged in chicanery or to have made a knowing misrepresentation. (*See*  
10 *Mainor v. Nault*, 120 Nev. 750, 765, 101 P.3d 308, 318 (2004); *Milton H. Greene Archives, Inc.*  
11 *v. Marilyn Monroe, LLC*, 692 F.3d 983, 995 (9<sup>th</sup> Cir. 2012).)

14 Moreover, the fact that defendant V. Reddy was the only one of the current defendants to  
15 have participated in the Illinois action does not preclude the application of judicial estoppel. In  
16 *Milton H. Greene Archives, supra*, the Ninth Circuit Court of Appeal held that the doctrine of  
17 judicial estoppel should be evaluated like other estoppel doctrines so that it may apply "not only  
18 against actual parties to prior litigation, but also against a party that is in privity to a party in a  
19 previous litigation." (*Id.* at 996.) Defendant M. Reddy is certainly in privity with defendant V.  
20 Reddy as they obtained joint checks from defendant Weinstein for the same or similar fraudulent  
21 transactions, while defendants Tharmarla and Max Global are in privity with the other  
22 defendants due to their receipt of the ill-gotten profits. With these factors in mind, there is no  
23 doubt that Defendants are judicially estopped from contesting personal jurisdiction.  
24  
25

26 Plaintiff's Complaint was initially filed in the Circuit Court of Cook County, Illinois in  
27 late 2018. (Complaint, ¶ 13; Johnson Declaration, ¶ 4). Defendants David Weinstein, V.  
28

1 Reddy, Kevin Brown, Visionary Business Brokers, LLC and Medasset Corporation collectively  
2 filed a Motion to Dismiss for lack of jurisdiction and improper venue, whereby they argued that  
3 Plaintiff's Complaint must be brought *only* in Clark County, Nevada. Defendants' argument was  
4 granted by the Cook County Circuit Court and the complaint was dismissed. (Complaint, ¶ 14,  
5 Johnson Decl., ¶ 6.) Accordingly, Plaintiff refiled the case in Clark County, Nevada.  
6

7       Either Defendants' short-term memory has failed them, or they are trying to pull a fast-  
8 one on this court. Defendants already successfully argued that Plaintiff may only pursue this  
9 case in Clark County, Nevada. However, contrary to the doctrine of judicial estoppel, V. Reddy,  
10 M. Reddy, Thalmarla, and Max Global are now collectively arguing, in a single motion by and  
11 through the same attorney, that they cannot be sued in Nevada. Unfortunately, Defendants  
12 cannot have their cake and eat it too.  
13

14       Should Defendants' current Motion to Dismiss be granted, Defendants would derive an  
15 unfair advantage from taking two contradictory positions. Having successfully argued that  
16 Plaintiff's case *must* be pursued in Clark County, Nevada, Defendants now jointly argue that  
17 they are not subject to Nevada jurisdiction. Should Defendants' motion be granted, Plaintiff  
18 would be in the absurd position of being forced to sue in Nevada, yet unable to sue the  
19 individuals involved in the fraud. Or, equally absurd, Plaintiff would be forced to chase  
20 Defendants to another venue, only to have them file another Motion to Dismiss predicated on the  
21 exact same argument they made in the Cook County Circuit Court.  
22  
23

24       Defendants and their privities successfully argued that all disputes arising out of their  
25 fraudulent transaction with Plaintiff must be heard in Clark County, Nevada. Bringing *another*  
26 Motion to Dismiss for Jurisdiction is nothing more than a delay tactic designed to wear Plaintiff  
27 down and prevent the case from being heard on the merits. For this reason, Defendants are  
28

OPPOSITION TO MOTION TO DISMISS - 7

1 judicially estopped from contesting personal jurisdiction and their current Motion to Dismiss  
2 should be denied.

3 **4. PLAINTIFF IS ENTITLED TO AMEND.**

4 Nevada law provides that leave to amend should be freely given when justice requires.  
5 (NRCF Rule 15(a)(2); *Holcomb Condo. Homeowners' Assoc. Inc. v. Stewart Venture, LLC*, 129  
6 Nev. Adv. Op. 18, 300 P.3d 124 (2013).) Plaintiff asks that it be granted leave to amend should  
7 the Court grant Defendants' Motion to Dismiss in any respect.  
8

9  
10  
11 Dated this 21<sup>st</sup> day of May, 2019.

12 /s/ Jay Freedman

13 Jay Freedman  
14 Nevada Bar No. 12214  
15 11700 W. Charleston Blvd. Ste. 170-357  
16 Las Vegas, NV 89135  
17 702-342-5425  
18 Attorney for Plaintiff  
19  
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DECLARATION OF SETH JOHNSON

I, Seth Johnson, declare as follows:

1. I am over the age of 18 and one of the principals of plaintiff Medappeal, LLC. If called as a witness, I would and could competently testify to the matters contained below as they are based on my own personal knowledge.

2. I submit this Declaration in support of Medappeal's Opposition to Defendants' Motion to Dismiss.

3. The current complaint represents the second complaint filed by Medappeal against Defendants. Medappeal's first complaint was filed in Cook County, Illinois.

4. Attached hereto as Exhibit 6 is a copy of the "Trustee's Motion for Authority to Compromise" that was filed in defendant V. Reddy's Bankruptcy action. I believe that Exhibit 6 is a true and correct copy of the Motion that was filed by the Bankruptcy trustee.

5. Attached hereto as Exhibit 7 is a true and correct copy of an Affidavit that defendant David Weinstein filed in the Illinois action.

6. Attached hereto as Exhibit 8 is a true and correct copy of the Motion to Dismiss that Defendants filed in Illinois. The Motion was granted based on Defendants' argument that Nevada was the proper forum for the action.

7. Attached hereto as Exhibit 9 is a true and correct copy of the Reply filed by Defendants in Illinois.

I declare under the penalty of perjury of the laws of the state of Nevada that the above is true and correct. Executed on May 21, 2019.

  
Seth Johnson



**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

In the Matter of:

**VIJAY REDDY,**

Debtor.

In Bankruptcy:

Case No. 18-43079-mlo

Chapter 7

Hon. Maria L. Oxholm

---

**TRUSTEE'S MOTION FOR AUTHORITY TO COMPROMISE**

Trustee Timothy J. Miller, by and through his undersigned attorneys, and for his above titled motion, states:

**JURISDICTION**

1. Pursuant to 28 U.S.C. § 157, the Bankruptcy Court has jurisdiction over this matter.
2. A motion to approve compromise is a "core proceeding" under 28 U.S.C. § 157(b)(2).
3. This Motion is sought in accordance with Fed. R. Bankr. P. 9019.

**FACTS**

4. Debtor Vijay Reddy ("Debtor") filed a Voluntary Petition under Chapter 7 of Title 11 of the United States Code on March 8, 2018.
5. Timothy J. Miller ("Trustee") is the duly appointed Chapter 7 Trustee.

6. Trustee investigated the Debtor's financial affairs including substantial discovery conducted under Fed. R. Bankr. P. 2004.
7. On December 7, 2018, the Trustee filed an adversary proceeding against Ramachandra Vanam Reddy ("R.Reddy"), Debtor's father, alleging among other things, that the Estate was entitled to a portion of the net proceeds (received by R.Reddy) from the sale of Debtor's former residence, based on Debtor's equitable contribution to the value of the former residence, under applicable law. Trustee's complaint sought judgement based on an accounting of Debtor's contributions, or alternatively in the amount of one-quarter of the net proceeds (totalling \$60,062.89). (See Adv. Pro. 18-04560-mlo, Docket No. 1).
8. On January 17, 2019, Trustee made demand on Margaret Reddy ("M.Reddy"), Debtor's spouse, alleging, among other things, that M.Reddy received fraudulent transfers and that she held estate property, recoverable by Trustee under applicable law. Trustee sought payment for alleged fraudulent transfers totalling \$405,000, and turnover of alleged property of the estate including \$17,257.42 cash and two vehicles worth an estimated \$20,000 to \$30,000. (See Exhibit A).

9. On January 17, 2019, Trustee also made demand on Mohan Thalmarla ("M.Thalmarla") alleging, among other things, that M.Thalmarla received fraudulent transfers recoverable by Trustee under applicable law. Trustee sought payment for alleged fraudulent transfers totalling \$330,000. The transfers concerning M.Thalmarla were some of the same transfers Trustee alleged were made by M.Reddy, and thus Trustee's demand on M.Thalmarla would have been recoverable from either M.Reddy or M.Thalmarla, but not both. (See Exhibit B).

10. On January 17, 2019, Trustee also made demand on Karthik Thalmarla ("K.Thalmarla") alleging, among other things, that K.Thalmarla received a fraudulent transfer recoverable by Trustee under applicable law. Trustee sought payment for the alleged fraudulent transfer totalling \$75,000. The transfer concerning K.Thalmarla was one of the same transfers Trustee alleged were made by M.Reddy, and thus Trustee's demand on K.Thalmarla would have been recoverable from either M.Reddy or K.Thalmarla, but not both. (See Exhibit C)

11. Trustee's claims as described above total approximately \$500,000.

12. R.Reddy, M.Reddy, M.Thalmarla, and K. Thalmarla deny liability for the Trustee's claims.

13. In an effort to resolve the matter without further litigation, the Trustee, Debtor,



R.Reddy, M.Reddy, M.Thalmarla, and K.Thalmarla have agreed to enter a settlement agreement (the "Settlement Agreement") to resolve the Estate's interest in the Trustee's claims, subject to Bankruptcy Court approval.

14.Pursuant to the Settlement Agreement, Defendant Parties shall remit a sum of \$330,000 to the Trustee. \$230,000 of the total shall be remitted to the Trustee within 30 days of execution of the Settlement Agreement. The additional\$100,000 shall be remitted to the Trustee within 180 days of execution of the Settlement Agreement (the "Payments"). (See Exhibit D for full terms of the Settlement Agreement).

### **ARGUMENT**

15.The Trustee believes that Court approval of this Settlement Agreement and Motion is in the best interests of the estate and its creditors. The costs of potential litigation, liquidation, and collection are unwarranted in light of the proposed settlement.

16.It is generally held that the bankruptcy court may approve a settlement if it is fair and equitable and is in the estate's best interest. Reynolds v. C.I.R., 861 F.2d 469, 473 (6th Cir., 1988); In Re American Reserve Corp., 849 F.2d 159, 161 (7th Cir., 1987). Four Factors are relevant to the bankruptcy court's review of a proposed compromise:

- a. The probability of success in the litigation;
- b. The difficulties, if any, to be encountered in the matter of collection;
- c. The complexity of the litigation involved, the expense, inconvenience, and delay necessarily attending it; and
- d. The paramount interest of the creditors and a proper deference to their reasonable views in the premises. In Re Jackson Brewing Co., 624 F.2d 605, 607 (5th Cir., 1980); In Re American Reserve Corp., 841 F.2d 161; In Re Woodson, 839 F.2d 610, 620 (9th Cir., 1998).

17.The Trustee, in recommending that this Court approve the proposed compromise, has given due weight to the four (4) criteria set forth above and believes that the proposed compromise is fair and equitable and in the best interest of the estate and its creditors.

18.The Trustee shall provide notice to creditors of the proposed compromise in accordance with L.B.R. 9014-1 (E.D.M.) and Fed. R. Bankr. P. 2002.

19.The Trustee recommends the settlement in the best interests of this Estate.

**WHEREFORE**, the Trustee prays for authority to compromise claims of the estate on the terms set forth in this Motion and proposed Order.

Respectfully submitted,

**CLAYSON, SCHNEIDER & MILLER, P.C.**

Dated: February 21, 2019

/s/ David P. Miller, attorney

David P. Miller (P79911)

645 Griswold, Suite 3900

Detroit, MI 48226

(313) 237-0850

david@detlegal.com

Exhibit 7

# EXHIBIT A

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

FILED  
12/14/2018 6:41 PM  
DOROTHY BROWN  
CIRCUIT CLERK  
COOK COUNTY, IL  
2018L010586

|                                 |   |                           |
|---------------------------------|---|---------------------------|
| MEDAPPEAL, LLC,                 | ) |                           |
|                                 | ) |                           |
| Plaintiff,                      | ) |                           |
|                                 | ) |                           |
| v.                              | ) | No. 18-L-010586           |
|                                 | ) |                           |
| DAVID WEINSTEIN, VIJAY REDDY,   | ) | Judge Brigid Mary McGrath |
| KEVIN BROWN, VISIONARY BUSINESS | ) |                           |
| BROKERS LLC and MEDASSET        | ) |                           |
| CORPORATION,                    | ) |                           |
|                                 | ) |                           |
| Defendants.                     | ) |                           |

## AFFIDAVIT BY CERTIFICATION OF DAVID WEINSTEIN

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this Affidavit are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

1. I am over the age of 18 years, have knowledge of the matters stated herein and, if called as a witness, could competently testify thereto.

2. I have been the sole owner and officer of Defendant Medasset Corporation ("Medasset") since its inception. Medasset is, and has always been, a Nevada corporation with its only office located in Las Vegas, Nevada.

3. On or about May 3, 2018, on behalf of Medasset, I signed a purchase-sale agreement (the "Agreement") to sell certain service contracts with health care providers to Liberty Consulting & Management Services, LLC ("Liberty"). That Agreement that is the subject of Plaintiff's allegations in above captioned case. A copy of the Agreement is attached as Exhibit 3 to the Complaint.

4. In connection with the Agreement, beginning in late April 2018, I had contact with Seth Johnson and Eli Johnson, who I understood at the time to be the owners and/or officers of Liberty, about their potential interest in buying service contracts from Medasset.

5. My first contact with Seth or Eli Johnson or Liberty came after Kevin Brown informed me in late April 2018 that the Johnsons had contacted him to inquire about a posting he placed on BizQuest.com concerning a Medasset business opportunity. Before then, I was not acquainted or familiar with Liberty, the Johnsons, or anyone associated with them, and I had never solicited business from them.

6. As Medasset's sole owner and officer, I have complete knowledge of Medasset's marketing activities. Medasset has never directed marketing to Illinois. The only marketing or solicitation from or concerning Medasset that has ever been available to Illinois-based businesses has been marketing via internet listings that are available to anyone worldwide with access to the internet.

7. I have never met in person with Seth or Eli Johnson. To my knowledge, I have never had any contact with anyone else associated with Liberty or the Johnsons.

8. All of my contact with Seth Johnson or Eli Johnson has been by telephone or email.

9. I have been in Las Vegas, Nevada every time I have had contact with Seth Johnson or Eli Johnson.

10. Liberty is the only Illinois-based client that Medasset has ever done business with.



Executed on December 14, 2018

---

David Weinstein

## Exhibit 8

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION**

FILED  
12/14/2018 6:41 PM  
DOROTHY BROWN  
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COOK COUNTY, IL  
2018L010586

|                                 |   |                           |
|---------------------------------|---|---------------------------|
| MEDAPPEAL, LLC,                 | ) |                           |
|                                 | ) |                           |
| Plaintiff,                      | ) |                           |
|                                 | ) |                           |
| v.                              | ) | No. 18-L-010586           |
|                                 | ) |                           |
| DAVID WEINSTEIN, VIJAY REDDY,   | ) | Judge Brigid Mary McGrath |
| KEVIN BROWN, VISIONARY BUSINESS | ) |                           |
| BROKERS LLC and MEDASSET        | ) |                           |
| CORPORATION,                    | ) |                           |
|                                 | ) |                           |
| Defendants.                     | ) |                           |

**DEFENDANTS' MEMORANDUM IN SUPPORT OF  
THEIR MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

Defendants David Weinstein ("Weinstein"), Vijay Reddy ("Reddy"), Kevin Brown ("Brown"), Visionary Business Brokers LLC ("Visionary") and Medasset Corporation ("Medasset"), by their attorneys Leland Grove Law LLC, respectfully submit this memorandum of law in support of their motion: (a) to dismiss Plaintiff's Complaint pursuant to 735 ILCS 5/2-301 for lack of personal jurisdiction; or, alternatively, if the Court finds it has jurisdiction over one or more of the Defendants, (b) to dismiss the Complaint pursuant to 735 ILCS 5/2-615 because Cook County, Illinois is not a proper venue.

**INTRODUCTION**

Plaintiff entered into a contract with Defendant Medasset to purchase a certain number of transferrable service contracts with health care providers.<sup>1</sup> Medasset is owned and operated by Defendant Weinstein. Plaintiff complains that after the contract was signed, Medasset failed to

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<sup>1</sup> Plaintiff is not a named party to the contract, but it alleges it entered into the contract "through its parent company, Liberty Consulting & Management Services, LLC." (Compl. ¶31.) Defendants do not admit that Plaintiff has standing to bring the claims alleged in the Complaint, and reserve all rights to challenge Plaintiff's standing at any later appropriate time.



deliver the transferrable contracts at the rate promised. Moreover, Plaintiff claims that Medasset never intended to perform and that the whole transaction was carried out fraudulently – not only by Medasset, but also allegedly with the collusion of Defendant Visionary (a company owned by Defendant Brown), which acted as Medasset's broker for the deal, and Defendant Reddy, who provided a reference and some training in connection with the transaction.

The alleged dispute, however, has no connection with Illinois except that Plaintiff resides here. Defendants are from Nevada, New Jersey and Michigan. The underlying transaction with Plaintiff was Medasset's only transaction with an Illinois-based client. And no Defendant was present in Illinois for any of the events or occurrences alleged in the Complaint. In short, there are no grounds on which to subject any of the Defendants to personal jurisdiction in Illinois.

Accordingly, as explained more fully below, the case should be dismissed as against all five Defendants pursuant to 735 ILCS 5/2-301 ("Section 2-301") for lack of personal jurisdiction. Or, alternatively, in the event that the Court finds it has jurisdiction over any one or more Defendants, it should dismiss the case under 735 ILCS 5/2-615 ("Section 2-615") because Illinois is not a proper venue for the dispute.

### **SUMMARY OF FACTUAL ALLEGATIONS<sup>2</sup>**

The factual allegations of the Complaint are, in summary, as follows.

---

<sup>2</sup> In ruling on a motion to dismiss for lack of personal jurisdiction under Section 2-301, "the court shall consider all matters apparent from the papers on file in the case, affidavits submitted by any party, and any evidence adduced upon contested issues of fact." 735 ILCS 5/2-301(b). This section of the brief summarizes Plaintiff's allegations, and the section that immediately follows summarizes the facts in Defendants' affidavits attached hereto. Nothing herein shall be construed as an admission by Defendants of the truth of any allegation of the Complaint. Defendants expressly hereby reserve their rights to deny and dispute any and all of Plaintiff's allegations at any later point in these or other legal proceedings.

Brown, through Visionary, posted information on the website BizQuest.com concerning an opportunity to purchase Medical Appeals and Medical Credentialing service contracts from Medasset (the “BizQuest Posting”). (Compl. ¶10 & Ex. 1.) The BizQuest Posting – which is attached to the Complaint as Exhibit 1 – states that it concerns “Nationwide Relocatable Niche Business,” and the location of the opportunity is the “United States.” (Id. Ex. 1, p. 1.) There is no reference in the BizQuest Posting to Illinois or any location in Illinois.

In or around March 2018, Plaintiff’s ownership “contacted” Brown about the BizQuest Posting. (Compl. ¶11.)<sup>3</sup> Brown asked Plaintiff to sign and return confidentiality agreements and, after it did so, Brown sent Plaintiff an “Executive Summary” of Medasset. (Id. ¶12.) The Executive Summary – which is attached to the Complaint as Exhibit 2 – lists a New Jersey address for Visionary. (Id. Ex. 2.) It does not provide any address for Medasset, nor does it refer to Illinois or any location in Illinois. The Complaint does not allege how or where the referenced “contact” occurred, or where the confidentiality agreements were formed or negotiated.

After Plaintiff reviewed the Executive Summary, “a series of due diligence calls (“Calls”) took place with Weinstein, Brown, and the principals associated with Plaintiff” (id. ¶19) on which Weinstein and Brown described the business opportunity and represented that the business had various other satisfied customers. (Id. ¶¶20-23.) Plaintiff alleges that Weinstein misrepresented facts on those Calls, and that Weinstein and Brown withheld certain information. (Id.) When Plaintiff’s principals asked for a reference, Weinstein gave them Reddy’s name and contact information. (Id. ¶24.) The Complaint does not allege where the Calls occurred.

---

<sup>3</sup> Actually, Plaintiff’s initial contact with Brown was made on April 19, 2018, as stated below and in the attached Affidavit by Certification of Kevin Brown, ¶3. However, the precise date of this initial contact from Plaintiff is immaterial to Defendants’ motion to dismiss.

On or about the end of April 2018, Plaintiff's principals then contacted Reddy by phone. (Id. ¶¶25, 30.) Reddy told them about many successful and profitable business dealings he had with Weinstein over many years. (Id. ¶¶26, 27.) Plaintiff claims Reddy failed to disclose certain information on those calls, including that he had a "vested interest" in Plaintiff doing business with Weinstein. (Id. ¶¶28-30.) The Complaint does not allege where the alleged calls occurred.

On or about May 3, 2018, Liberty Consulting & Management Services, LLC ("Liberty Consulting"), which is described by Plaintiff as its "parent company," entered into a contract for the purchase of the business opportunity (the "Purchase-Sale Agreement" or "Agreement"). (Id. ¶31.) The Agreement – which is attached to the Complaint as Exhibit 3 – includes a Nevada venue provision and a Nevada choice-of-law provision. (Id. Ex. 3, p. 4.) Exhibit B to the Agreement is a Promissory Note given by Liberty Consulting to Medasset. (Id. Ex. 3, pp. 7-9.) The Promissory Note also contains a Nevada venue provision and a Nevada choice-of-law provision. (Id. Ex. 3, p. 9.) Neither the Agreement nor the Promissory Note contain any reference to Illinois or any location in Illinois.

On or about May 3, 2018, Liberty Consulting sent a \$75,000 wire transfer to Visionary. (Compl. ¶33.) The Complaint does not allege the location from where the wire transfer was made, or to which it was sent.

In early May, 2018, Plaintiff "was reintroduced to" Reddy. (Id. ¶35.) This time, Reddy was identified as a "training coordinator" for Medasset. (Id.) At Reddy's suggestion, Plaintiff completed a series of "remote web-based training sessions." (Compl. ¶36.) The Complaint does not allege where the web-based training sessions occurred, or how or where Plaintiff was "reintroduced" to Reddy.

Since May 3, 2018, Plaintiff was assigned a “de minimus number of Medical Appeal Contracts (approximately 3)” from Medasset pursuant to the Agreement. (*Id.* ¶37.) Plaintiff made various telephone calls to Weinstein to ask why Medasset was not assigning more Medical Appeal Contracts. (*Id.* ¶¶39, 40.) Plaintiff made telephone calls to Brown for the same purpose and left several voicemails, but Brown never returned any of those calls. (*Id.* ¶¶41, 42.) Plaintiff called and emailed Reddy for the same purpose and discussed Medasset’s contract performance. (*Id.* ¶43.) Plaintiff claims Reddy provided false information on those calls. (*Id.*) The Complaint does not allege where the alleged calls occurred.

#### **ADDITIONAL FACTS FROM DEFENDANTS’ AFFIDAVITS<sup>4</sup>**

On April 19, 2018, Plaintiff principal Seth Johnson made the initial contact with Kevin Brown in response to the BizQuest Posting to inquire about the opportunity with Medasset. (Brown Aff. ¶¶3, 5.) Before Plaintiff responded to the BizQuest Posting, none of the Defendants had solicited business from, or had any contact whatsoever with Plaintiff or any of its representatives. (Weinstein Aff. ¶5; Brown Aff. ¶9; Reddy Aff. ¶4.) The BizQuest Posting to which Plaintiff responded was published on [www.BizQuest.com](http://www.BizQuest.com) and, as such, was available nationwide, to anyone who chose to search that website for a business opportunity. (Brown Aff. ¶4.) None of the Defendants has ever met in person with Plaintiff or any of its representatives. (Weinstein Aff. ¶7; Brown Aff. ¶11; Reddy Aff. ¶6.) All contact between Plaintiff and one or more of the Defendants was made by email, telephone or video conferencing via the internet. None of the Defendants was ever physically present in Illinois during any telephone call, email

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<sup>4</sup> The Affidavit by Certification of David Weinstein is attached hereto as Exhibit A and cited herein as “Weinstein Aff. ¶\_\_.” The Affidavit by Certification of Kevin Brown is attached hereto as Exhibit B and cited herein as “Brown Aff. ¶\_\_.” The Affidavit by Certification of Vijay Reddy is attached hereto as Exhibit C and cited herein as “Reddy Aff. ¶\_\_.”

communication or video conference with Plaintiff or its representatives. (Weinstein Aff. ¶¶7-9; Brown Aff. ¶¶11-13; Reddy Aff. ¶¶6-8.) Weinstein was in Nevada every time he had contact with Plaintiff or any of its owners or representatives. (Weinstein Aff. ¶9.) Brown was in New Jersey every time he had contact with Plaintiff or any of its owners or representatives. (Brown Aff. ¶13.) Reddy was in Michigan every time he had contact with Plaintiff or any of its owners or representatives. (Reddy. Aff. ¶8.)

### **ARGUMENT**

As set forth in **Part I**, below, Plaintiff's Complaint should be dismissed under Section 2-301, because it does not allege grounds for personal jurisdiction over any Defendant and, as shown by the attached affidavits of Defendants Weinstein, Brown and Reddy, none of the alleged events or occurrences took place in Illinois.

Alternatively, if the Court does not grant dismissal as to all Defendants for lack of personal jurisdiction, **Part II** explains why the Court should dismiss the Complaint in its entirety pursuant to Section 2-615 because Cook County, Illinois is an improper venue.

#### **I. Motion to Dismiss Pursuant to Section 2-301: The Court Lacks Personal Jurisdiction Over All Defendants**

No Defendant resides in Illinois. With respect to the individual Defendants, Weinstein, Reddy and Brown, the Complaint concedes that they are residents of Nevada, Michigan and New Jersey. (Compl. ¶¶4, 5, 6.) Likewise, as to the corporate Defendants, the Complaint concedes that Medasset is a Nevada corporation with its offices in Las Vegas, Nevada, and Visionary is a New Jersey limited liability company with its offices in Cinnaminson, New Jersey. (*Id.* ¶¶7, 8.) Defendants' affidavits filed herewith confirm the same. (Weinstein Aff. ¶2; Brown Aff. ¶2.)

**A. Legal Standard for Exercising Personal Jurisdiction Over Non-Residents**

This Court can exercise personal jurisdiction over a non-resident defendant only if the defendant has “minimum contacts” with Illinois “such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice.” Campbell v. Acme Insulations, Inc., 2018 IL App (1<sup>st</sup>) 173051, ¶12. There are two categories of jurisdiction – specific and general – and the nature and extent of the contacts required to establish jurisdiction depend on which category is being asserted. Id. ¶12. The Illinois long-arm statute, 735 ILCS 5/2-209, lists certain activities by a defendant that can form the basis for specific jurisdiction (under section 209(a)) and general jurisdiction (under section 209(b)) provided that the defendants’ contacts with Illinois are sufficient to satisfy the due process clauses of the Illinois Constitution and the Constitution of the United States. Campbell, 2018 IL App (1<sup>st</sup>) 173051, ¶11; 735 ILCS 5/2-209(c).

Specific jurisdiction exists, in accordance with the long-arm statute and Illinois and federal constitutional standards, when a defendant’s contacts with Illinois establish “an affiliation ‘between the forum and the underlying controversy,’ i.e., some activity or occurrence ‘that takes place in the forum State and is therefore subject to the State’s regulation.’” Campbell, 2018 IL App (1<sup>st</sup>) 173051, ¶18, quoting Goodyear Dunlop Tires Op., S.A. v. Brown, 564 U.S. 915, 919 (2011). Specific jurisdiction “is confined to adjudication of issues deriving from, or connected with, the very controversy that establishes jurisdiction.” Id.

General jurisdiction, on the other hand, may be established by a defendant’s contacts to the forum state that are unrelated to the controversy. Campbell, 2018 IL App (1<sup>st</sup>) 173051, ¶14. Thus, when general jurisdiction is established, a defendant may be sued in Illinois even if all conduct on which the claims are based occurred outside of Illinois. Id. However, the standard is “very high” to establish general jurisdiction. Id. It requires a showing that the defendant carried on

“continuous and systemic” business activity, “not casually or occasionally, but with a fair measure of permanence and continuity.” Id. Further, even if a defendant engages in continuous and systemic activities in Illinois, general jurisdiction requires still more. Id. It also requires a showing that such activities in Illinois are so substantial relative to defendant’s business activities as a whole, that they make Illinois defendant’s “home” state. Id. Indeed, it is only in “exceptional cases” where a corporate defendant, for jurisdiction purposes, will be deemed “at home” in a state other than where it is incorporated or maintains its principal place of business. Id.

Plaintiff has the burden to establish a *prima facie* basis for personal jurisdiction with respect to each Defendant. Campbell, 2018 IL App (1<sup>st</sup>) 173051, ¶10. If Plaintiff makes a *prima facie* case, it may be overcome by uncontradicted evidence from Defendants that defeats jurisdiction. Id. The Court may consider the allegations of the Complaint and any affidavits submitted by the parties; un rebutted allegations and uncontradicted evidence are taken as true. Id.

**B. The Complaint Does Not Plead Grounds For Jurisdiction**

Plaintiff does not allege grounds for specific jurisdiction. In fact, the Complaint does not identify any activity or occurrence by any Defendant that allegedly took place in Illinois. The Complaint alleges there was correspondence between Defendants and Plaintiff’s representatives, but it does not allege that such correspondence took place in Illinois, or that the participants were physically present in Illinois when such correspondence took place. It alleges that certain Defendants entered into contracts with Plaintiff or its affiliates, but it does not say where such contracts were formed, negotiated, signed or performed. It alleges that Defendants marketed their services but it does not allege that those marketing activities took place in, or were directed to Illinois. In short, it does not allege that Defendants engaged in any business activity in Illinois –

much less the kind of activity necessary to satisfy due process standards and subject Defendants to a lawsuit here.

Rather, Plaintiff asserts one conclusory assertion that: “Illinois is the place in which the tortious acts occurred.” (Compl. ¶9.) It is well established, however, that to plead a valid claim in Illinois a plaintiff must allege facts, not mere conclusions. Demcester’s Flower Shop & Greenhouse, Inc. v. Florists’ Mut. Ins. Co., 2017 IL App (2d) 161001, ¶9. Pleading jurisdiction is no exception – a plaintiff must allege facts that establish jurisdiction. E.g., Kadala v. Cunard Lines, Ltd., 226 Ill.App.3d 302, 310 (1<sup>st</sup> Dist. 1992). Thus, Plaintiff’s allegation that the Court has jurisdiction because “the tortious acts occurred” in Illinois – without a single factual allegation identifying a single tortious act that actually occurred here – does not establish jurisdiction over any Defendant.

The only factual connection the Complaint makes between Illinois and the matter in controversy is that Plaintiff resides here. (Compl. ¶¶3, 9.) However, “[a] nonresident defendant’s contract with an Illinois resident does not automatically establish sufficient minimum contacts” to establish specific jurisdiction. Cardenas Marketing Network, Inc. v. Pabon, 2012 IL App (1<sup>st</sup>) 111645, ¶36; see also Gordon v. Tow, 148 Ill. App. 3d 275, 283 (1<sup>st</sup> Dist. 1986) (“To construe [defendant’s] phone calls and letters which were sent into Illinois as the transaction of business in Illinois ‘would be to destroy the distinction between the transaction of business *in* Illinois and the transaction of business *with* an Illinois [resident]’”), quoting Wessel Co., Inc. v. Yoffee & Beitman Management Corp., 457 F. Supp. 939, 941 (N.D. Ill. 1978). Whether the making of a contract with an Illinois resident provides grounds for jurisdiction depends on (1) who initiated the transaction, (2) where the contract was negotiated, (3) where the contract was formed, and (4) where performance of the contract was to take place. Cardenas, 2012 IL App (1<sup>st</sup>) 111645, ¶36; see also



Gordon, 148 Ill.App.3d at 280-81 (listing the same factors). And, “only the acts of defendant can be considered in determining whether business was transacted in Illinois” for purposes of establishing jurisdiction. Gordon, 148 Ill.App.3d at 280. Here, the Complaint admits that Plaintiff initiated the transaction with Defendants. (Compl. ¶11.) That fact weighs against Plaintiff on the jurisdiction issue. See, e.g., Gordon, 148 Ill.App.3d at 283. As to every other potentially relevant factor, the Complaint is silent.

The Complaint is, likewise, devoid of any alleged factual support for general jurisdiction. The only allegations that arguably relate to general jurisdiction are that: “Defendants have a history of conducting business transactions in Illinois, with multiple Illinois residents incurring damages as a result of their tortious conduct” (Compl. ¶9); and “Defendants have committed and solicited others to commit criminal fraud, theft by deception, and other crimes punishable in the State of Illinois” (Comp. ¶93). As explained above, however, bare legal conclusions do not establish jurisdiction. Thus, Plaintiff’s conclusory allegations, without a single factual actual allegation to support them – e.g., which Defendants, how much business, what activities, with whom or when – fall far short of establishing that any Defendant conducted business in Illinois that was “continuous and systemic” and so substantial relative to Defendants’ other business activities that Defendants can be deemed “at home” in Illinois. Compare Kadala at 310, 315 (defendant that spent \$500,000 marketing in Illinois and earned “substantial revenue” from Illinois residents was not subject to general jurisdiction); Campbell, 2018 IL App (1<sup>st</sup>) 173051, ¶¶15-17 (general jurisdiction was not established by defendant having a registered agent in Illinois for over 100 years, employing 3,000 people in Illinois, and owning and operating 30 facilities in Illinois, because those operations were a relatively small part of its total operations); Cardenas, 2012 IL

App (1<sup>st</sup>) 111645, ¶32 (allegations that defendant worked on one event in Chicago did not establish general jurisdiction).

Thus, Plaintiff has not made even a *prima facie* showing that any Defendant is subject to personal jurisdiction in Illinois. For this reason, alone, the case should be dismissed in its entirety.

**C. The Facts Confirm The Court Lacks Personal Jurisdiction**

Moreover, even assuming that Plaintiff carried its burden to establish a *prima facie* case for jurisdiction (it has not), Defendants' attached affidavits confirm that Plaintiff's alleged claims are not derived from any business activity by Defendants in Illinois. Indeed, Defendants' affidavits establish that:

- The BizQuest Posting to which Plaintiff responded was an internet posting that was not directed or targeted to Plaintiff, or to Illinois;
- Plaintiff made the initial inquiry to Visionary about the Medasset opportunity;
- No Defendant met in person with Plaintiff or its representatives;
- No Defendant was physically present in Illinois during any call, email communication or video conference with Plaintiff or its representatives; and
- No Defendant was physically present in Illinois for any of the events or occurrences alleged in the Complaint.

Further, contrary to the Complaint's baseless allegation that Defendants have "a history of conducting business in Illinois," in fact, the underlying transaction is the only transaction in which Medasset has ever done business with an Illinois-based client. (Weinstein Aff. ¶10.) Likewise, it is the only transaction between Medasset and an Illinois-based client in which Brown, Visionary or Reddy has been involved in any capacity. (Brown Aff. ¶14; Reddy Aff. ¶9.)

\* \* \*

In sum, Plaintiff has failed to establish that any Defendant is subject to personal jurisdiction in Illinois. Accordingly, the Court should dismiss the case as against all Defendants pursuant to 735 ILCS 5/2-301. If the Court agrees that dismissal is warranted on these grounds, it need not read further. However, in the event that the Court finds that it has personal jurisdiction over any one or more of the Defendants, **Part II** of this brief explains in the alternative, that the case should be dismissed pursuant to 735 ILCS 5/2-615 because Illinois is an improper venue.

**II. In the Alternative, Motion to Dismiss Pursuant to Section 2-615:  
The Parties Are Bound By a Clark County, Nevada Forum Selection Clause**

A motion to dismiss under Section 2-615 attacks the legal sufficiency of the complaint based on defects on the face of the pleading. Beahringer v. Page, 204 Ill. 2d 363, 369 (2003). When a complaint is based on a written contract, the contract is deemed part of the complaint for all purposes. 735 ILCS 5/2-606. In this case, the Agreement, which is attached as Exhibit 3 to the Complaint contains two unambiguous Nevada forum selection and choice-of-law clauses. In particular, the Purchase Agreement states:

**Venue:**

The venue is the State of Nevada and the County of Clark.

**Governing Law:**

This Agreement will be governed by the laws of Nevada and the County of Clark.

(Compl. Ex. 3, p. 4.) And, likewise, the Promissory Note that is attached as an exhibit to the Agreement states:

**Venue**

The State of Nevada and the County of Clark shall be the venue for the Agreement.

### Governing Law

The Laws of the State of Nevada and the County of Clark shall govern this Agreement.

(*Id.*, p. 9.) Because the Agreement provides that it “will be governed by the laws of Nevada and the County of Clark,” this Court’s construction and application of the Agreement’s forum selection clauses is governed by Nevada law. For the sake of completeness, however, this section of the brief contains citations to cases from both States.<sup>5</sup> Under both Nevada and Illinois law, the forum selection clauses are enforceable and result in the dismissal of this case.

As a general matter, contractual forum selection clauses are enforced and controlling with respect to contract-based claims. See Fabian v. BGC Holdings, LP, 2014 IL App (1<sup>st</sup>) 141576, ¶16 (a forum-selection clause “is *prima facie* valid and courts should enforce it unless the opposing party shows that enforcement would contravene the strong public policy of the state in which it is brought,” or that enforcement would be so unreasonable that plaintiff would “for all practical purposes be deprived of [its] day in court”); Tuxedo Intern. Inc. v. Rosenberg, 127 Nev. 11, 24-25 (Nev. 2011) (discussing circumstances under which enforceable forum selection clause is binding on tort-based claim in addition to contract-based claims).

Where – as in this case – a plaintiff alleges tort claims that are related to a contract, a forum selection clause will still be enforced under Illinois law as long as the alleged claims are connected to, arise or require interpretation of the underlying contract. Solargenix Energy, LLC v. Acciona, S.A., 2014 IL App (1<sup>st</sup>) 123403, ¶34. Nevada applies a similar, three-step test: first, courts look to the plain language of the forum selection clause “to determine whether related tort claims were meant to be included within the clause’s control”; second, if the contract language alone does not

<sup>5</sup> Copies of Nevada cases are attached as Exhibit D.

resolve the issue, the courts consider “whether resolution of the tort-based claims pleaded by the plaintiff relates to the interpretation of the contract, and if they are, then the claims are within the scope of the forum selection clause”; and, third, if step two still does not resolve the issue, courts look to “whether the contract-related tort claims involve the same operate facts as a parallel breach of contract claim,” or “whether the plaintiff could have brought a parallel breach of contract claim and yet did not.” Tuxedo, 127 Nev. at 25.

In this case, under either State’s law, Plaintiff’s tort-based and other claims are subject to the Nevada forum selection clauses because the claims relate to, and depend on interpretation of the underlying Agreement. In particular, Plaintiff alleges that Defendants worked in concert and conspired to persuade Plaintiff to enter into the Agreement, that Defendants’ allegedly knew Medasset would not perform the Agreement, and that Medasset in fact did not deliver all of the service contracts it promised under the Agreement.

Moreover, the foregoing rules about application of forum selection clauses also apply to claims for fraudulent inducement. Thus, a plaintiff cannot avoid being bound by an otherwise applicable forum selection clause merely by alleging that the contract containing the clause was procured by fraud and, thus, void. IFC Credit Corp., 378 Ill.App.3d at 92-93 (rejecting defendants’ argument that forum selection clause was unenforceable because the entire agreement was procured by fraud, and holding that “to invalidate the clause . . . the fraud alleged must be specific to the forum selection clause itself”); Tuxedo Intern. Inc., 127 Nev. at 693 (“forum selection clauses will become meaningless if parties are simply allowed to circumvent them by alleging fraud in the inducement of the contract rather than asserting contract-based claims”).

Finally, the forum selection language at issue in this case is mandatory, not permissive, because it states “[t]he venue is the State of Nevada and the County of Clark” and “[t]he State of

Nevada and the County of Clark shall be the venue for this Agreement.” (Emphasis added.) Thus, in contrast to clauses that merely provide for parties to “submit to the jurisdiction of” a particular state, but do not actually identify a mandatory forum for disputes, the Agreement’s forum selection clauses plainly state that the venue for any dispute is and shall be Clark County, Nevada. See IFC Credit Corp. v. Reiker Shoe Corp., 378 Ill.App.3d 77, 88 (1<sup>st</sup> Dist. 2007) (distinguishing “mandatory” language stating that actions relating to the contract “shall be venued exclusively” in a certain court with “permissive” language that merely states the defendant “would submit to the jurisdiction of” certain courts, but does not require the parties to litigate there); Am. First Fed. Credit Union v. Soro, 359 P.3d 105, 107-08 (Nev. 2015) (same).

For the foregoing reasons, the forum selection clauses are controlling and dispositive. For this reason alone, the action must be dismissed.

### CONCLUSION

For the foregoing reasons, this Court should grant Defendants’ motion and dismiss Plaintiffs’ Complaint in its entirety.

Respectfully submitted,

DAVID WEINSTEIN, VIJAY REDDY,  
KEVIN BROWN, VISIONARY BUSINESS  
BROKERS LLC and MEDASSET  
CORPORATION

By:   
\_\_\_\_\_  
One of Their Attorneys

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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION**

|                                 |   |                           |
|---------------------------------|---|---------------------------|
| MEDAPPEAL, LLC,                 | ) |                           |
|                                 | ) |                           |
| Plaintiff,                      | ) |                           |
|                                 | ) |                           |
| v.                              | ) | No. 18-L-010586           |
|                                 | ) |                           |
| DAVID WEINSTEIN, VIJAY REDDY,   | ) | Judge Brigid Mary McGrath |
| KEVIN BROWN, VISIONARY BUSINESS | ) |                           |
| BROKERS LLC and MEDASSET        | ) |                           |
| CORPORATION,                    | ) |                           |
|                                 | ) |                           |
| Defendants.                     | ) |                           |

**DEFENDANTS' REPLY IN FURTHER SUPPORT OF  
THEIR MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

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Defendants, by their attorneys Leland Grove Law LLC, respectfully submit this reply in further support of their motion to dismiss the Complaint for lack of personal jurisdiction, or, alternatively, because Cook County, Illinois is not a proper venue (the “Motion”). Terms defined in Defendants’ Memorandum in Support of Their Motion to Dismiss Plaintiff’s Complaint (the “Opening Brief”) shall have the same meaning herein.

Plaintiff’s response brief in opposition to the Motion (the “Response”) is loaded up with allegations and argument (unflattering to Defendants) about the merits of the underlying claims. Indeed, the very first paragraph of the Response uses the words “fraud,” “fraudulent,” “scam” and “unsuspecting victims”— but never once mentions jurisdiction or venue. This Court should not be swayed by Plaintiff’s premature discussion of the merits, which is a distraction from the serious jurisdiction and venue questions presented in the Motion.

**Jurisdiction.** As for the jurisdiction issue, the sum and substance of Plaintiff’s argument is (in Plaintiff’s own words):

... after entering into an ongoing agreement with an Illinois limited liability company, receiving \$75,000 from Plaintiff’s Illinois-based bank, and being informed of Plaintiff’s Illinois residency via written, telephonic, and electronic communication, Defendants argue that they cannot be brought into an Illinois court . . .

(Resp. 2.) Yet, the controlling cases from Illinois dictate that, when an Illinois resident plaintiff initiates contact with a nonresident defendant about a prospective purchase-sale transaction, the fact that the defendant responds by exchanging written, telephonic and email communications with plaintiff, and ultimately enters into a contract and receives payment, is not enough to confer jurisdiction over the nonresident defendant in Illinois.

**Venue.** Plaintiff’s venue argument has no merit because Plaintiff and its principals are a commercially experienced and sophisticated parties who negotiated, revised and ultimately agreed

to a contract that contained two Nevada choice-of-venue and choice-of-law provisions. Plaintiff's principals, who are licensed attorneys, approved the language and understood its legal import.

**I. Jurisdiction – the Court Should Dismiss the Case Under Section 2-301 Because Plaintiff Has Failed to Establish Grounds For Personal Jurisdiction Over Defendants**

**A. Specific Jurisdiction**

Plaintiff agrees it has the burden to establish a *prima facie* basis for personal jurisdiction with respect to each Defendant, and that the Court may consider the allegations of the Complaint and the affidavits submitted by the parties. (See Resp. at 3.) As explained in the Opening Brief (at 8-11), the Complaint does not allege any activity by Defendants in Illinois. The Response, however, offers some additional support in the form of affidavits from Seth Johnson, Michael Bradley, Camille Batiste and Dr. Craig Ramsdell. The Bradley, Batiste and Ramsdell affidavits are relevant only to general jurisdiction, because they do not attest to facts giving rise to Plaintiff's alleged injuries in this case. Accordingly, they will be addressed in Section I.B., below.

Seth Johnson attests to the following facts concerning Defendants' alleged Illinois contacts:

- Johnson "responded to an advertisement . . . posted on the website BizQuest.com on or about April 2018" and, "[a]fter submitting an initial inquiry about the business through the website," he received an email from Defendant Brown transmitting a confidentiality/nondisclosure agreement. (Resp., Ex. A, ¶¶3, 4.)
- He and his business partner Eli Johnson were each required to sign a copy of the confidentiality agreement and provide their contact information therein before they could obtain further information. (Id. ¶¶5, 6.) The Johnsons listed Illinois as their place of residence and returned the agreements to Brown. (Id.)
- His negotiations and communications with Defendants, which included various emails, were conducted from his office in Wilmette, Illinois. (Id. ¶¶8, 14-16.)
- He wired Defendants \$75,000 "from a bank account at North Shore Community Bank & Trust, located in Wilmette, Illinois." (Id. 10.)

- He participated in training sessions from his Illinois office with Defendant Reddy via internet and phone communication. (*Id.* 11.)<sup>1</sup>

In sum, Plaintiff's entire jurisdiction argument is that, after Plaintiff initiated contact with Defendants to express interest in a prospective asset purchase transaction, Defendants responded by sending information about the opportunity, the parties exchanged various communications, and the parties eventually signed the Purchase-Sale Agreement.

#### 1. Controlling Cases From Illinois Defeat Plaintiff's Argument

Plaintiff's argument is defeated by a string of on-point, controlling cases from Illinois. *See, e.g., Gordon v. Tow*, 148 Ill. App. 3d 275 (1<sup>st</sup> Dist. 1986) (jurisdiction not established where an Illinois resident plaintiff initiated contact with a nonresident defendant about a prospective purchase-sale transaction, defendant sent plaintiff information, the parties exchanged telephone and written communications, and ultimately executed a contract), *Bolger v. Nautica Int'l, Inc.*, 369 Ill. App. 3d 947 (2<sup>nd</sup> Dist. 2007) (same), and *Wessel Co., Inc. v. Yoffee & Beitman Management Corp.*, 457 F. Supp. 939, 941 (N.D. Ill. 1978) (same as above, and citing other similar Northern District of Illinois cases). *See also Estate of Isringhausen v. Prime Constructors & Assocs., Inc.*, 378 Ill. App. 3d 1059 (4<sup>th</sup> Dist. 2008) (following *Bolger v. Nautica Int'l, Inc.*), and *Finnegan v. Les Pourvories Fortier, Inc.*, 205 Ill. App. 3d 17 (1<sup>st</sup> Dist. 1990) (following *Gordon v. Tow*).

##### a. Gordon v. Tow

In *Gordon*, plaintiff, an Illinois resident, called defendant, a Rhode Island resident, and expressed interest in purchasing an interest in a book-publishing business that defendant owned and operated out of Rhode Island. 148 Ill. App. 3d at 277-278. In response to plaintiff's inquiry, defendant sent various materials and information to plaintiff in Illinois. *Id.* at 278. Over the course

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<sup>1</sup> The Response relies on a whopper-sized red herring – also supported by the Seth Johnson affidavit – that Defendants' *knew* Plaintiff and its principles were based in Illinois. Yet, Defendants do not dispute (nor have they ever) that they knew the Johnsons lived and worked in Illinois.

of four months, the parties were in “frequent contact through telephone calls and written correspondence.” Id. When the parties reached a deal, plaintiff sent a signed contract and \$20,000 from Illinois to Rhode Island. Id. At no time was defendant physically present in Illinois. Id.

The First District affirmed the dismissal of the case for lack of personal jurisdiction. Id. at 281. The court emphasized it was plaintiff who made the initial call to defendant to inquire about the business, and “[a]ll later contacts by [defendant] regarding [plaintiff’s] investment flowed from that initial encounter.” Id. The court rejected plaintiff’s argument that jurisdiction was established by the parties’ extensive communications for which plaintiff was always present in Illinois:

To construe [plaintiff’s] phone calls and letters which were sent into Illinois as the transaction of business in Illinois “would be to destroy the distinction between the transaction of business in Illinois and the transaction of business with an Illinois [resident].” Id. at 283.

So too, in this case, Johnson admits he initiated contact with Defendants by sending Brown a BizQuest “interest request.” (Resp., Ex. A ¶¶3, 4 & attachments.) It is undisputed that all further communications between the parties followed from that initial inquiry, just like they did in Gordon.

Plaintiff tries to turn this critical fact around on Defendants by arguing that Defendants “expressly aimed their conduct” at Illinois after Seth Johnson made the initial inquiry. (See Resp. at 9.) That is not the way it works. As Gordon (and the other controlling law cited herein) firmly establishes, the critical contact is the initial contact, and the fact that a nonresident responds to an inquiry from an Illinois resident does not subject the nonresident to jurisdiction here. E.g., Gordon, 148 Ill. App. 3d at 281; Bolger, 369 Ill. App. 3d at 948, Wessel, 457 F. Supp. at 941. The Response does not cite a single case in which a nonresident Defendant who responds to an inquiry from a forum resident is deemed to be the party who “initiated” the transaction for jurisdiction purposes.

The court in Gordon also found it significant that the parties’ contract was formed in Rhode Island. Id. at 281. Citing the “long-established rule in Illinois” that a contract is deemed to be made in the place where “the last act necessary to give validity to the contract is done,” the court

held that the contract was formed in Rhode Island because that is where the last signature was applied. Id. at 282. The same is true here. The last signature on the Purchase-Sale Agreement was Weinstein's on behalf of Medasset, which was applied in Nevada. (Brown 2<sup>nd</sup> Aff. ¶5 & Ex. 3; Weinstein 2<sup>nd</sup> Aff. ¶4.)<sup>2</sup> Thus, the Agreement is deemed formed in Nevada.

b. **Bolger v. Nautica Int'l, Inc.**

In Bolger, plaintiff, an Illinois resident, contacted defendant, a Florida-based business that made custom inflatable boats, to inquire about a prospective boat purchase. 369 Ill. App. 3d at 948. Defendant responded by emailing a price quote to plaintiff in Illinois. Id. Further communications followed between the parties and they eventually entered into a sale contract. Id. Plaintiff signed a quote from defendant and faxed it from Illinois to Florida. Id. Plaintiff also sent payment from Illinois to Florida. Id. Defendant's invoice for the purchase said, among other things, that it "shall be construed and interpreted according to the laws of the State of Florida." Id.

The court affirmed dismissal of the case for lack of personal jurisdiction over defendant. Id. at 954. As in Gordon, the court in Bolger emphasized that plaintiff initiated contact with defendant to express interest in a possible purchase, the contract had a Florida choice of law provision and was to be performed there, and defendant was never physically present in Illinois in connection with the transaction. Id. at 954. Because plaintiff reached out to defendant to initiate the first contact, the court found that the communications that naturally followed could not form the basis for jurisdiction in Illinois:

Here, although various pieces of communication were sent by both parties between Illinois and Florida, [defendant] did not reach into Illinois and purposefully avail itself of the benefits and protections of its laws. Instead, it was [plaintiff] who initiated the purchase of the boat.

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<sup>2</sup> The Second Affidavit of Kevin Brown is Exhibit A hereto and cited as "Brown 2<sup>nd</sup> Aff." The Second Affidavit of David Weinstein is Exhibit B hereto and cited as "Weinstein 2<sup>nd</sup> Aff." The Second Affidavit of Vijay Reddy is Exhibit C hereto and cited as "Reddy 2<sup>nd</sup> Aff."

Id. The court also cited the established rule that “[a]n individual’s contract with a nonresident defendant alone does not automatically establish the requisite minimum contacts.”

Bolger, too, is on point for the same reasons that Gordon is. Moreover, as for the place of contract performance, the Purchase-Sale Agreement required Defendants to produce certain assets and transfer and assign them to Plaintiff. (See Weinstein 2<sup>nd</sup> Aff. ¶3, Ex. 1, p. 1 of 9.) The transfer of those assets were to be effectuated through interstate communications between the parties. (See id.) Although the assets in this case were intangible (unlike a boat), Bolger still compels the same conclusion here – *i.e.*, Plaintiff cannot invoke jurisdiction in Illinois merely because Medasset agreed to sell and deliver goods or services to an Illinois resident.

c. **Wessel Co., Inc. v. Yoffe & Beitman Management Corp.**

In Wessel, plaintiff, an Illinois corporation, reached out (through a New Jersey-based sales agent) and sent a bid to defendant, a Pennsylvania company, to print brochures. 457 F. Supp. at 939-40. Defendant accepted the bid and, for several months thereafter, defendant corresponded by letter and telephone with plaintiff’s representative in Illinois. Id. at 940. The parties exchanged at least five letters and six phone calls. Id. All brochures were produced and printed in Illinois and shipped to Pennsylvania. Id. Defendant mailed payment to plaintiff’s Illinois offices. Id. After defendant failed to pay the full amount invoiced, plaintiff sued to collect the balance. Id.

The court dismissed the case, holding that the minimum contacts essential to personal jurisdiction were not present. Id. As in Gordon and Bolger, the Wessel court emphasized the critical fact that it was plaintiff who initiated the transaction. Id. at 941. The court distinguished other similar cases where nonresident defendants had invoked the benefits and protections of the forum state by initiating contact with an Illinois resident, stating:

Where, as in those cases, a foreign defendant invokes the benefits and protection of the forum by initiating a substantial business transaction in the forum, he is undoubtedly subject to the forum state’s jurisdiction. Equally clearly, this defendant did not invoke

those benefits and protections by placing an order with a New Jersey salesman whose Illinois principal filled it, following occasional directions from defendant by letter and telephone, and hence it is not subject to this court's jurisdiction. Id.

\* \* \*

In sum, controlling precedent precludes the exercise of jurisdiction over a nonresident party – like Defendants here – who corresponded and entered into a purchase-sale contract with a known Illinois resident, where – as in this case – the Illinois resident (Plaintiff) initiated the transaction. And these principles apply with particular force in this case where it is undisputed that: (i) the Purchase-Sale Agreement was formed in Nevada and contains two Nevada choice-of-law and venue provisions; (ii) the BizQuest Posting was a national listing, not directed to Illinois; and (iii) no Defendant was ever physically present in Illinois. The Response cites no contrary authority.

## **2. Plaintiff's Reliance on *Calder*, *Tamburo* and *Felland* Is Misplaced**

The Response (at 9-10) argues that a different, “express aiming” analysis governs personal jurisdiction in tort cases, citing Calder v. Jones (Sup. Ct.), and two Seventh Circuit cases, Tamburo v. Dworkin and Felland v. Clifton. Not so. Indeed, this argument fails for two reasons.

First, since those three cases were decided, both the Supreme Court and the Seventh Circuit have gone out of their way to reinforce that: (a) an injury to a forum resident in a tort case is not sufficient to confer jurisdiction in the forum state; (b) the traditional ‘minimum contacts’ test applies to all cases, including those in which fraud is alleged. See Walden v. Fiore, 571 U.S. 277, 290 (2014) (“Calder made clear that mere injury to a forum resident is not a sufficient connection to the forum.”); Advanced Tactical Ordinance Sys., LLC v. Real Action Paintball, Inc., 751 F.3d 796, 801 (7<sup>th</sup> Cir. 2014) (“Walden serves as a reminder that the [‘minimum contacts’] inquiry has not changed over the years, and that it applies to intentional tort cases as well as others.”); id. at 802 (“after Walden there can be no doubt that ‘the plaintiff cannot be the only link between the defendant and the forum.’”). Rather, to establish jurisdiction, “the relation between the defendant

and the forum ‘must arise out of contacts that the ‘defendant himself’ creates with the forum’ . . . Contacts between the plaintiff or other third parties and the forum do not satisfy this requirement.” Advanced Tactical, 751 F.3d at 801 (citations omitted).

Second, the “express aiming” analysis on which the Response relies only further reinforces the importance – as emphasized in Gordon, Bolger and Wessel – of looking at which party initiates the transaction. Here, as Seth Johnson’s affidavit admits, it was Plaintiff.

### **3. There Is No Dispute Concerning The Legal Standard**

The Response (twice) argues that Defendants are applying the wrong legal standard by relying on “mechanical tests,” whereas the correct standard focuses on whether a defendant has “purposefully directed” activities at the forum. (Resp. at 7, 9.) This is another red herring. The applicable legal standard – including the importance of whether a party “purposefully avails” itself of the benefits and protections of Illinois law – is well-established, and not disputed by the parties.

### **4. Plaintiff’s “Long-Term Contract” Argument Fails**

The Response (at 8) argues that the Purchase-Sale Agreement established a “long-term” relationship between the parties that “could last for 20 years.” Not so. In fact, the Purchase-Sale Agreement plainly states that Medasset must complete the transfer of all assets “over the course of nine months from the date of signing this Agreement.” (Weinstein 2<sup>nd</sup> Aff. ¶3, Ex. 1, p. 1 of 9.) Thus, this case is nothing like the case Plaintiff relies on, Burger King Corp. v. Rudzewicz, 471 U.S. 462, 462, 480-82 (1985), in which the Supreme Court found a Michigan resident was subject to jurisdiction in Florida because it entered into a 20-year franchise contract with a Florida corporation that was made in Florida and contained a Florida choice-of-law provision.

### **5. Illinois v. Hemi Group LLC Is Not On Point**

The Response’s reliance (at 7) on Illinois v. Hemi Group LLC, 622 F.3d 754 (7<sup>th</sup> Cir. 2010), is misplaced. The Illinois case has unusual facts and is easily distinguished. In fact, although it



was decided only eight years ago, Illinois has been distinguished an astonishing 13 times – including 12 times by courts within the Seventh Circuit. In that case, defendant, a New Mexico company, set up interactive websites through which it sold cigarettes to customers from 49 states, including Illinois. Id. at 755-56. Defendant announced on its websites that it would not sell to New York residents because of litigation against the company in New York. Id. Defendant also refused to collect state sales taxes – instead directing buyers to check with their home State about tax liability. Id. at 756. The Illinois Department of Revenue sued defendant for violation of Illinois tax, distribution and consumer protection laws. Id.

The court found defendant was subject to jurisdiction in Illinois because, by carrying out interactive internet sales and intentionally excluding New York – to avoid litigation there – it was deliberately “reaching out” to the other 49 states. Id. at 758. In contrast, none of those odd facts (e.g., interactive sales websites, sales activity directed to fewer than all States) are present here.

**B. General Jurisdiction – the Bradley Batiste and Ramsdell Affidavits**

Before turning to the reasons why the Bradley, Batiste and Ramsdell affidavits do not establish general jurisdiction, Defendants and Defendants’ counsel wish to express their regret and apologies for an inaccurate statement in the affidavits of Reddy and Brown – i.e., the statement that neither of those Defendants had been involved in a transaction (other than with Plaintiff) “in which Defendant Weinstein or Medasset was involved and the client was based in Illinois.” (Brown Aff. ¶14; Reddy Aff. ¶9.) As stated in the affidavit of Michael Bradley, Brown and Reddy were involved in a transaction with Weinstein for which the client was Mr. Bradley, who was an Illinois resident at the time. (Brown 2<sup>nd</sup> Aff. ¶7; Reddy 2<sup>nd</sup> Aff. ¶2.) Reddy also was involved with Weinstein in a sale to Joseph Benard, who Reddy believes lived in Illinois; no money or assets changed hands in that transaction. (Id. ¶3.) Although unintentionally so, the contrary statements in the Brown and Reddy Affidavits are inaccurate, and they are hereby withdrawn by Defendants.

The Batiste and Ramsdell affidavits do not contradict Defendants' affidavits, and do not contain facts that have any potential relevance to jurisdiction. For example, Camille Batiste attests in her affidavit: "I am a resident of Decatur, Illinois and the mother of two children." (Resp., Ex. C ¶3.) Ms. Batiste does not disclose, however, that at the time she transacted business with Defendants Brown, Weinstein and Reddy, she represented that she lived in Arizona and held herself out as an Arizona resident. (Brown 2<sup>nd</sup> Aff. ¶6 & Ex. 4; Weinstein 2<sup>nd</sup> Aff. ¶5; Reddy 2<sup>nd</sup> Aff. ¶4.) Indeed, Ms. Batiste signed a confidentiality agreement in which she provided a Chandler, Arizona address. (Id.) Ms. Batiste's affidavit does not say where she lived at that time (unlike Mr. Bradley's affidavit, which specifies as much in Paragraph 2), but in full candor, she and Plaintiff's counsel should have disclosed that she was an Arizona resident at that time.

In all events, the affidavits from Bradley, Batiste and Ramsdell (who is a Michigan resident) establish – at most – one other transaction, unrelated to Plaintiff's transaction, in which the three individual Defendants sold assets to an Illinois resident, and a third transaction in which Reddy and Weinstein were involved. As explained in the Opening Brief (at 10-11), three – or, in Brown's case, two – separate business transactions are nowhere near enough business activity to establish *general* jurisdiction over Defendants. See also Bolger, 369 Ill. App. 3d at 952 ("sales of one to four boats each year" was not enough to establish general jurisdiction over nonresident).

## **II. Venue – Alternatively, the Court Should Dismiss the Case Under Section 2-615 Because the Parties Are Bound By a Clark County, Nevada Forum Selection Clause**

Defendants stand on their arguments in the Opening Brief (at 12-15) that the Purchase-Sale Agreement contains two mandatory Nevada choice-of-venue provisions that require this dispute to be litigated in Nevada. Defendants will not repeat those arguments here.

The Response (at 12-13) argues that the Johnsons did not understand the two choice-of-venue clauses "applie[d] to lawsuits" because the language is unclear. Seth and Eli Johnson are both licensed attorneys and litigators. They represent Plaintiff in this case. Choice-of-law and

venue clauses are ubiquitous in contract law, and any experienced lawyer knows that a provision in a contract that speaks to choice of “forum” or “venue” governs the place where the parties agree to litigate disputes. This is especially evident where – as in this case – the venue and choice-of-law provisions appear right next to each other. Although the venue clauses are short and to the point, they are expressed in mandatory, plain terms – “The venue is the State of Nevada and the County of Clark” and “The State of Nevada and the County Clark shall be the venue for this Agreement.” (Emphasis added.) The Response (at 13) posits the rhetorical question “venue for what?”, but that only begs the more relevant question: what else could “venue” refer to in this context other than litigation venue? Plaintiff does identify any reasonable alternative construction.

In that same vein, the Response (at 13-14) tries to cast the Johnsons as victims who were unfairly exploited, arguing that the venue clauses are part of Defendants’ alleged “fraudulent scheme,” and it would be “contrary to notions of fair play and justice” to force Plaintiff to litigate in Nevada. This argument should be rejected out of hand. Seth Johnson sought out the business opportunity that Defendants offered on BizQuest and, in doing so, held himself out to Defendant Brown as an experienced and successful business person. Johnson stated:

I currently own and run a niche medical billing practice in Chicago.  
This looks like it could be a great compliment to the practice.  
Financing would not be necessary.

(Brown 2<sup>nd</sup> Aff. ¶3 & Ex. 1.) Johnson also acted as Plaintiff’s legal counsel and, in that capacity, reviewed and revised a draft of the Purchase-Sale Agreement before signing it. (Id. ¶4 & Ex. 2.) Defendants agreed to Johnson’s edits. (Id.) And, although the Johnsons had every opportunity to perform due diligence, they chose to sign the Agreement on May 3, 2018 – just two weeks after Seth Johnson inquired with Brown, and ten days after he signed the Confidentiality Agreement.

Illinois law does not insulate commercially experienced and sophisticated parties, who negotiate a transaction at arms-length, from the ordinary rules of contract construction on grounds

of “fair play and justice.” For the same reason, the Response’s argument (at 13) that the Purchase-Sale Agreement should be construed against Defendants (because they wrote the initial draft) has no merit. Illinois law offers no such presumption in favor of attorneys and sophisticated parties who are given full opportunity to negotiate contract terms. See, e.g., Central Ill. Light Co. v. Home Ins. Co., 213 Ill.2d 141, 156 (2004) (declining to construe insurance policy against insurer where insured was a sophisticated business entity with specialized knowledge of the contractual terms); Bunge Corp. v. Northern Trust Co., 252 Ill. App. 3d 485, 492-93 (4th Dist. 1993) (experienced attorneys who negotiated a deal were not entitled to presumption against the drafter); see also Beanstalk Group, Inc. v. AM Gen’l Corp., 283 F.3d 856, 858-59 (7<sup>th</sup> Cir. 2002) (same).

Finally, the Response (at 12) relies on Wiggins v. Seeley, in which a federal district court in Nevada found the following language was permissive (not mandatory): “Jurisdiction is Douglas County, Nevada.” Yet, Wiggins is not on point because, as the court held in that case, the provision at issue spoke to jurisdiction, not venue. 2017 WL 969186, at \*3 (D. Nev. 2017) (“a forum selection clause providing a particular court or state has jurisdiction, but says nothing about it being exclusive jurisdiction, is permissive and generally will not be enforced”). The court contrasted this non-exclusive jurisdiction clause from a venue clause stating “venue of any action brought hereunder shall be deemed to be in Gloucester County, Virginia,” which the court recognized “is mandatory.” Id. Likewise, here, the clauses speak to venue, not jurisdiction, and they are framed in mandatory terms (i.e., “The venue is . . .”, and “shall be” Nevada).

Respectfully submitted,

DAVID WEINSTEIN, VIJAY REDDY,  
KEVIN BROWN, VISIONARY BUSINESS  
BROKERS LLC and MEDASSET  
CORPORATION

By:   
One of Their Attorneys

**CERTIFICATE OF SERVICE**

I, Jay Freedman, declare under penalty of perjury under the law of the State of Nevada that the following is true and correct. I served the attached **OPPOSITION TO MOTION TO DISMISS** in the following manner:

Through the Court's electronic service system on May 21, 2019.

Dated this 21st day of May, 2019

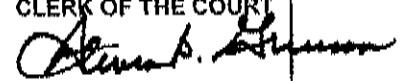
/s/ Jay Freedman  
Jay Freedman

# Exhibit 18

DISTRICT COURT  
CLARK COUNTY, NEVADA

\*\*\*

Electronically Filed  
6/20/2019 7:16 AM  
Steven D. Grierson  
CLERK OF THE COURT



Medappeal, LLC, Plaintiff(s)  
vs.  
David Weinstein, Defendant(s)

Case No.: A-19-792836-C

Department 14

**NOTICE OF HEARING**

Please be advised that the Defendants' Motion to Dismiss for Lack of Personal Jurisdiction in the above-entitled matter is set for hearing as follows:

**Date:** August 01, 2019

**Time:** 9:30 AM

**Location:** RJC Courtroom 14C  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, NV 89101

**NOTE: Under NEFCR 9(d), if a party is not receiving electronic service through the Eighth Judicial District Court Electronic Filing System, the movant requesting a hearing must serve this notice on the party by traditional means.**

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Chaunte Pleasant  
Deputy Clerk of the Court

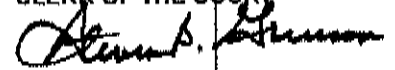
**CERTIFICATE OF SERVICE**

I hereby certify that pursuant to Rule 9(b) of the Nevada Electronic Filing and Conversion Rules a copy of this Notice of Hearing was electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System.

By: /s/ Chaunte Pleasant  
Deputy Clerk of the Court

# Exhibit 19





1 DECL



2 Jay Freedman  
3 11700 W. Charleston Blvd. Ste. 170-357  
4 Las Vegas, NV 89135

5 702-342-5425

6 702-475-6455 (fax)

7 jay@jayfreedmanlaw.com

8 Attorney for Plaintiff

9 EIGHTH JUDICIAL DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 MEDAPPEAL, LLC, An Illinois Limited  
12 Liability Company,

13 Plaintiff,

14 vs.

15 DAVID WEINSTEIN, VIJAY REDDY,  
16 MARGARET REDDY, MOHAN  
17 THALMARLA, KEVIN BROWN, MAX  
18 GLOBAL, INC., VISIONARY BUSINESS  
19 BROKERS LLC, MEDASSET  
20 CORPORATION, and DOES 1-50

21 Defendants

Case No.: A-19-792836-C

Dept: 14

SUPPLEMENTAL DECLARATION OF  
SETH JOHNSON IN SUPPORT OF  
PLAINTIFF'S OPPOSITION TO MOTION  
TO DISMISS FILED BY VIJAY REDDY ET  
AL.

22 I, Seth Johnson, declare as follows:

23 1. I am over the age of 18 and one of the principals of plaintiff Medappeal, LLC. If called  
24 as a witness, I would and could competently testify to the matters contained below as they are  
25 based on my own personal knowledge.

26 2. I submit this Supplemental Declaration in support of Medappeal's Opposition to  
27 Defendants' Motion to Dismiss.

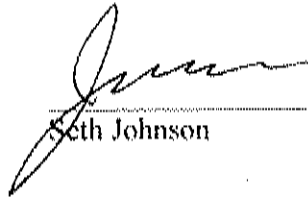
28 3. Attached hereto as Exhibit 11 is a true and correct copy of the transcript from the March  
19, 2019, hearing on the motion to dismiss filed by Defendants in Cook County, Illinois.

SUPPLEMENTAL DECLARATION - 1

1 4. I was present during the hearing and can confirm that the transcript accurately reflects the  
2 statements that were made by the attorneys and by the Court.

3 5. I understand that the attached transcript was provided to counsel for defendant Vijay  
4 Reddy on July 23.

5  
6 I declare under the penalty of perjury of the laws of the state of Nevada that the above is  
7 true and correct. Executed on July 3, 2019.  
8

9  
10   
11 Seth Johnson  
12  
13  
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22  
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27  
28



03/19/2019

IN THE CIRCUIT COURT OF COOK COUNTY  
COUNTY DEPARTMENT - LAW DIVISION

MEDAPPEAL, LLC, )  
 )  
Plaintiff, )  
 )  
vs. ) No. 18 L 010586  
 )  
DAVID WEINSTEIN, VIJAY REDDY, )  
KEVIN BROWN, VISIONARY )  
BUSINESS BROKERS, LLC, and )  
MEDASSET CORPORATION, )  
 )  
Defendants. )

Record of proceedings had at the  
hearing for the above-entitled cause, before the  
Honorable Bridget McGrath, one of the Judges of  
said Court, on March 19, 2019, in Room 1907,  
Richard J. Daley Center, Chicago, Illinois,  
60602, at 11:00 a.m.

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847-236-0773

03/19/2019

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A P P E A R A N C E S

JOHNSON, JOHNSON & ASSOCIATES, LLC

1000 Skokie Boulevard

Suite 225

Wilmette, Illinois 60091

847.348.8808

BY: Mr. Gregory Markwell

on behalf of Plaintiff;

LELAND GROVE LAW, LLC

150 North Michigan Avenue

Suite 2800

Chicago, Illinois 60601

312.248.2200

BY: Mr. John F. Shonkwiler

on behalf of Defendants.

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847-236-0773

1 MR. MARKWELL: Good morning, Your  
2 Honor. Greg Markwell here for the plaintiffs.

3 MR. SHONKWILER: Your Honor, John  
4 Shonkwiler on behalf of defendants.

5 I didn't get your name.

6 MR. MARKWELL: Greg Markwell.

7 MR. SHONKWILER: Markwell?

8 MR. MARKWELL: Yeah.

9 THE COURT: Okay. Gentlemen, you  
10 have half an hour. You didn't ask for an hour,  
11 and I have a trial going on. So half an hour,  
12 and I'm holding you to it.

13 I'm going to make one ruling before  
14 you start. I've reviewed everything and read  
15 everything. And the Court can properly  
16 consider this forum selection clause on a 2-615  
17 motion because the complaint is part -- the  
18 agreement is attached with the complaint as an  
19 exhibit, and becomes part of the complaint  
20 because this cause of action is based on that  
21 exhibit.

22 So go ahead for the remainder of  
23 the argument, Counsel.

24 MR. SHONKWILER: Your Honor, this

1 whole case arises out of one contract. It's a  
2 contract between Medasset, one of the  
3 defendants, and a company called Liberty  
4 Consultant.

5 We are informed Liberty is the  
6 parent company of Medappeal, which is a company  
7 owned by Seth Johnson and Ian Johnson. The  
8 contract was for the sale of a transferable  
9 service contract, contracts be assigned. And  
10 those contracts were for services provided to  
11 medical providers.

12 There are two types, medical  
13 appeals contracts, which I understand are --  
14 medical appeals refers to the process whereby a  
15 physician appeals an insurance company's  
16 refusal to cover a particular charge from a  
17 physician. It's a medical appeals. So,  
18 apparently, there are enough of those that  
19 doctors shop them out to people to handle their  
20 medical appeals.

21 The other type of contract at issue  
22 is a contract for medical credentialing  
23 services. And my understanding of what that  
24 is, is when a doctor wants to be accepted in

1 network with an insurance company, they have to  
2 go through a credentialing process, which is  
3 something also that physicians apparently shop  
4 out. The contract between Medasset and Liberty  
5 that is at issue here, and the root of all the  
6 claims was a contract for Medasset to get those  
7 contracts with these medical service providers,  
8 and then assign them to the company run by the  
9 Johnson brothers.

10 The Johnson -- Metappeal is an  
11 Illinois company. It's based in Illinois. The  
12 defendants always knew that. The defendants  
13 are based in New Jersey, Nevada and Michigan --  
14 the plaintiffs always knew that. The Johnson  
15 brothers are also lawyers, and they're partners  
16 in their own law firm.

17 The defendants, you've got three  
18 individuals, Kevin Brown from New Jersey, David  
19 Weinstein from Nevada, and Vijay Reddy from  
20 Michigan. And then two companies. One is a  
21 company owned and operated by Weinstein, and  
22 that's Medasset. It's a contracting company.

23 The other company is a company  
24 called Vision (sic), which is owned and



1 operated by Brown, and it's a New Jersey  
2 company. None of these defendants, the  
3 individuals or the companies, has any office or  
4 any agent or employee or any physical presence  
5 in Illinois, and hasn't at any time during this  
6 transaction between the parties.

7 Everything arose out of a  
8 Bizquest.com posting. Bizquest is a Web site.  
9 It's not directed to any particular state.  
10 It's -- anyone can get on Bizquest from  
11 anywhere in the US and shop for opportunities.

12 The particular posting that gave  
13 rise to this case was posted by Brown and his  
14 company, Visionary from New Jersey. And the  
15 posting advertised a nationwide relocatable  
16 niche business opportunity. The posting listed  
17 the location and the opportunity as being the  
18 United States. It didn't mention Illinois, and  
19 it provoked a response.

20 Seth Johnson saw the posting on  
21 Bizquest, and reached out to Mr. Brown and  
22 Visionary, sent a response through Bizquest.  
23 It's kind of like an e-mail, but it goes  
24 through the Bizquest page, I guess.

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1           Mr. Johnson reached out and  
2           expressed interest. He said he had some  
3           related business, and he thought this was a  
4           good opportunity, could we have more  
5           information.

6           Mr. Brown said, Yes. Sign an NDA,  
7           nondisclosure agreement, to promise to keep  
8           confidential what I'm sending you, and I'll  
9           sent you information. Both of the Johnson  
10          brothers signed and sent NDAs through e-mail to  
11          Brown, who then sent information. Two weeks  
12          later, there was a contract signed, the  
13          contract between Medasset and Liberty.

14          During that two weeks of due  
15          diligence, there were some e-mails, there was  
16          some phone calls. For all of those, the  
17          Johnsons were in Illinois, the defendants were  
18          in Nevada, New Jersey, and Michigan. The  
19          parties never met face-to-face. The defendants  
20          were never in Illinois.

21          Right after the contract was  
22          signed, Vijay Reddy, a defendant, conducted web  
23          based training sessions with the Johnsons and  
24          the other representatives from their company.

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1 These were all done either -- my understanding  
2 is all the contact between Reddy and the  
3 Johnsons during this period was either through  
4 phone or web based conferencing.

5 Medasset's performance under its  
6 contract, three components to it. One was to  
7 assign medical appeals service contracts. The  
8 other was to assign a certain number of medical  
9 credentialing services contracts, and the third  
10 component was the training that Reddy provided  
11 right after the contract was signed. None of  
12 those activities involved any activities with  
13 defendants in Illinois.

14 You Honor, the action should be  
15 dismissed for lack of jurisdiction. We have  
16 the venue argument, in the alternative, should  
17 the Court find that it has jurisdiction over  
18 any of the defendants.

19 In short, I know we have limited  
20 time, but the reasons for the lack of  
21 jurisdiction set out in the briefs, but --  
22 there are two kinds of jurisdiction, general  
23 and specific. The Illinois long-arm statute  
24 allows jurisdiction to the full extent

1 permitted by the Illinois and federal  
2 constitution, the due process clauses. So the  
3 correct analysis really is just does it satisfy  
4 due process? And if it does, then the Illinois  
5 statute permits it.

6 Here to establish a general  
7 jurisdiction, I really don't think this is a  
8 serious issue in this case. It requires  
9 systematic and continuous contacts with the  
10 forum. And it is only in an exceptional case  
11 that any companies deemed to be subject to  
12 general jurisdiction in any state other than  
13 the one in which is domiciled. It's  
14 exceptional and unusual, and there are no  
15 exceptional or unusual contacts of that nature  
16 here.

17 What we're looking at is specific  
18 jurisdiction. That is established by  
19 purposeful availment. The types of minimum  
20 contacts that establish specific jurisdiction  
21 in the due process clauses are purposeful  
22 availment. Burger King v. Rudzewicz, that's  
23 the case they rely on. It's a Supreme Court  
24 case, and it sets that point out clearly.

1           And here's the -- this is a quote  
2     from Burger King, It is essential in each case  
3     that there be some act by which the defendant  
4     purposely avails itself of the privilege of  
5     conducting activities within the forum state.  
6     That's at page 475 of that case. It's settled.  
7     There are many cases.

8           Madison Miracle Productions case  
9     from Illinois, that's a First District case  
10    2012 IL App 112334 at paragraph 95 and several  
11    others that we've cited.

12           The controlling Illinois case law,  
13    Judge, on this issue establishes that where an  
14    Illinois resident plaintiff initiates contact,  
15    as the plaintiffs did here with nonresident  
16    defendants, and then the company -- each  
17    company worked toward a purchase sale agreement  
18    of any sort, goods, services, anything. We  
19    have a case with inflatable boats that are  
20    custom made in Florida. We've a case where an  
21    Illinois resident purchased a limited  
22    partnership agreement in a partnership that was  
23    in Rhode Island. It applies the same in every  
24    case. And the principle is, when this Illinois

1 resident reaches out to a nonresident defendant  
2 to engage into some sort of a purchase sale  
3 agreement, a single transaction, and where the  
4 parties exchange written telephonic e-mail  
5 correspondence, and there may be a lot of it.  
6 In several of the cases that we cited to you  
7 that are controlling here, there was abundant  
8 communication because that's what these  
9 transactions provoked. It's what people do.

10 And when the parties then go and  
11 sign a contract, enter into a contract, all the  
12 while knowing that the nonresident is not a  
13 resident of Illinois, and then the nonresident  
14 knows that he's dealing with a -- he or it is  
15 dealing with an Illinois company, none of this  
16 is enough to confer jurisdiction over  
17 nonresident defendants, especially where, as  
18 here, the defendants were not performing a  
19 contract in Illinois. There was a choice of  
20 law and venue provision in the contract that  
21 the plaintiff signed.

22 And that the only contacts with  
23 Illinois are contacts -- are activities that  
24 were performed by the plaintiff. And this is

1 an important point. This is a quote from the  
2 First District case, Madison Miracle  
3 Productions, focus -- when evaluating minimum  
4 contacts, focus is on the defendants' activity  
5 within the forum state, not on those of the  
6 plaintiff. That rule is also set out in Gordon,  
7 which is cited in our brief. And another case  
8 in our brief, Advanced Tactical. It's a  
9 Seventh Circuit case from 2014, 751 Fed 3d 796  
10 at 801.

11 All of these cases establish that  
12 defendants' activities are what decide this.  
13 Purposeful availment is the essence of the  
14 specific jurisdiction inquiry. And in order to  
15 satisfy that essential purposeful availment  
16 element, you have to have actual activities by  
17 the defendant in the forum state, or activities  
18 of the defendant by which it reached out and  
19 availed itself of the privilege to do business  
20 in Illinois. None of that -- and we've cited  
21 several cases. And the cases we cite, cite  
22 other cases, a legion of cases in which a  
23 single sale purchase transaction, as we've  
24 described it, is -- having been found by the

1 courts not to be sufficient to create personal  
2 jurisdiction over the nonresident defendants.

3           There's only one -- there's one  
4 that I'm aware of that was cited in the briefs,  
5 and that's the Burger King case. And I want to  
6 take just a second to distinguish that. The  
7 Burger King case is one in which a Michigan  
8 company decided it wanted to be a Burger King  
9 franchise, and reached out to the Burger King  
10 franchising company in Florida, and entered  
11 into a franchising agreement.

12           And it was -- had a 20 year term.  
13 The parties performed it for 20 years. The  
14 franchising agreement said that it was -- it  
15 had a Florida choice of law provision in it,  
16 and granted substantial control to the Florida  
17 franchising company over the transaction  
18 between the parties.

19           As one would imagine would be the  
20 case in a Burger King franchise contract, in  
21 that case, the Supreme Court found, based on  
22 this 20 -- this 20 year franchising agreement,  
23 the long ongoing relation between the parties  
24 that was initiated by someone who reached out



1 and said, I want to have a franchise, and I  
2 want to deal with you, Florida franchise  
3 company. Under those circumstances, and the  
4 others including the -- the court placed heavy  
5 reliance on the fact that the contract had a  
6 Florida state -- a Florida choice of law  
7 provision in it.

8 It found jurisdiction in Florida  
9 over the Michigan company that reached out to  
10 enter into the franchise agreement. There's  
11 nothing like that here.

12 Your Honor, we've cited Bolger,  
13 it's a Second District case; Gordon, a First  
14 District case, and Wessel (phonetically), a  
15 Northern District case, I'll skip because we've  
16 described those cases at length in the reply  
17 brief.

18 THE COURT: I have read all the  
19 beliefs, just so you know.

20 MR. SHONKWILER: Thank you.

21 And we have limited time here, so  
22 I'm not going to go over each of those cases  
23 again, unless Your Honor has questions about  
24 them.

1 THE COURT: No.

2 MR. SHONKWILER: There is one other  
3 point, and that is -- before I turn things over  
4 to the defendant -- or to the plaintiff here.

5 And that is the forum selection  
6 clause, there were various issues raised. I  
7 think they were briefed pretty fully. There's  
8 no question that even though plaintiffs  
9 appeared to almost go out of their way not to  
10 plead a breach of contract claim, one would  
11 think there would be one here, perhaps to try  
12 to avoid the forum selection clause. The law  
13 is clear in Illinois and Nevada that that is  
14 not a way to avoid a forum selection clause.

15 It applies equally to fraud claims  
16 that arise from contracts in the cases in which  
17 a plaintiff could have alleged the breach of  
18 contract claim; it didn't. It also applies to  
19 plaintiffs who allege that they were  
20 fraudulently induced to enter into a contract,  
21 and plaintiffs who allege that a contract is  
22 void for fraudulent inducement.

23 Even under all of those  
24 circumstances, the forum selection clause is

1 still -- if it's mandatory, is still applied.  
2 If there's a dispute over whether this language  
3 is mandatory, we believe it is. They argue it  
4 isn't. The key cases that are briefed in the  
5 briefs show that courts have found where a  
6 contract says the jurisdiction lies in the  
7 stay, that's not mandatory.

8 But on the other hand, where it  
9 says the venue for this is Nevada that's  
10 mandatory, it's not -- doesn't speak to  
11 jurisdiction. It speaks to venue.

12 And the other point I just want to  
13 hit on quickly that is also briefed is that the  
14 Johnsons are both lawyers. They've seen venue  
15 clauses. They've seen choice of law clauses.  
16 Those words have their own meaning to lawyers  
17 who have written contracts and read contracts  
18 and litigated, as the Johnsons have. They  
19 understand what those words mean. And they can  
20 argue about how the particular language of  
21 those provisions isn't the most crystal clear  
22 any of us has ever seen, and I don't think  
23 there's any questions that that's true, but  
24 this doesn't mean that there's any other

1 conceivable relevant or reasonable  
2 interpretation of those provisions, there  
3 isn't.

4 THE COURT: That you, Counsel.

5 MR. SHONKWILER: Thank you.

6 THE COURT: Counsel.

7 MR. MARKWELL: Your Honor, counsel  
8 here is -- respectfully, he is simply incorrect  
9 about the law. And as Your Honor knows, the  
10 Illinois long-arm statute has several  
11 provisions to it. One of them is subsection C,  
12 which talks about federal due process. And if  
13 you comply with federal due process, there is  
14 jurisdiction.

15 The cases cited by counsel, those  
16 are -- those were decided before the amendment  
17 creating that subsection C federal due process  
18 was even there. We are proceeding under  
19 federal due process subsection C.

20 Pursuant to that, it's the non --  
21 it said the nonresident defendant had minimum  
22 contact, so there was fair warning that they  
23 could be hailed into court.

24 Case law is clear, the focus is not

1 on the plaintiff's activities, but it's the  
2 defendants'. And the minimum contacts here are  
3 significant, Your Honor. Counsel wants to keep  
4 painting this as a sale, like a boat, a one  
5 time sale. That's not the case.

6 This -- starting from the  
7 beginning, defendants posted this -- the  
8 Internet posting. And, yes, plaintiffs  
9 responded to it.

10 In order to even start a  
11 discussion, this confidentiality agreement had  
12 to be entered into. From the getgo, defendants  
13 knew that plaintiffs were Illinois residents.  
14 They signed this confidentiality agreement  
15 indicating we are Illinois residents.

16 After that, an executive summary of  
17 the business was sent to plaintiffs from  
18 defendants in Illinois. A wire transfer for  
19 \$75,000 from an Illinois bank was made to  
20 defendants. That's one thing.

21 And now let's just get into the  
22 actual performance. This was not a one and  
23 done contract. This was 30 credentialing and  
24 60 appeals. And 60 appeals, that's 60

1 different medical providers. That's a few  
2 physicians each, and this is one -- 2,000  
3 different appeals. This was over the course of  
4 not -- and that's just for the appeals. In  
5 addition, there was the credentialing. And  
6 this is over the course of nine months this was  
7 supposed to happen. Not only that, but there  
8 was ongoing training provided for an entire  
9 year.

10 Defendants helped the plaintiffs  
11 set up their phone system in Illinois. They  
12 provided their training for them to be able to  
13 service these contracts. This contract is  
14 still going on. Three or so of these appeals  
15 were actually finally provided. It was  
16 supposed to be 90. It hasn't been, but three  
17 of them were provided, two plaintiffs in  
18 Illinois.

19 In addition to that Your Honor,  
20 there is serious credibility issues you need to  
21 be aware of about defendants. Now, we're not  
22 here to talk -- there's these news articles  
23 about the scam that they do. We're not here to  
24 talk about that. I understand that.

1 But they submitted affidavits  
2 saying they'd never done business in Illinois  
3 before. Now, they have to admit and tell Your  
4 Honor, you know, actually we made a mistake.  
5 There was a 250,000 transaction we did, but we  
6 made a mistake. It was -- we thought it was  
7 Iowa when really it was Illinois. They have a  
8 pattern of doing this, Your Honor.

9 And on the due process analysis,  
10 Your Honor, the long performance of this  
11 contract, there is no way to suggest that the  
12 minimum contacts here are not satisfied.

13 In addition, the venue provision.  
14 The venue provision is one sentence. The venue  
15 is the state of Nevada and the county of Clark.  
16 That's it. The venue is the state of Nevada  
17 and the county of Clark. For what? There's no  
18 indication specifically what it is for. More  
19 than that, Illinois has set a very high and  
20 clear bar for venue provisions. And the point  
21 of venue provisions is so there's some  
22 consistency, and you can predict what's going  
23 to happen. You know where an action is  
24 supposed to potentially be held.

1           In order to have a mandatory  
2 provision, the provision needs to exclude other  
3 jurisdictions. That's not the case here. The  
4 venue is the state of Nevada and the county of  
5 Clark. There are zero connections to the state  
6 of Nevada in this case. If it was not -- and  
7 we concede that this can be brought in Nevada.

8           If it was not for this provision,  
9 this could not be brought in Nevada. So they  
10 put in this contract an out for them that if  
11 they have an issue, they can bring this in  
12 Nevada. And that's true, but it says nothing  
13 about not being able to bring it here in  
14 Illinois. That's where the harm happened.  
15 That's where they directed their activities  
16 here, and they knew from the getgo.

17           In addition, counsel here keeps  
18 talking about the plaintiffs being  
19 sophisticated transactional attorneys. Your  
20 Honor, it's true they went to law school.

21           They're not litigators. They're  
22 not transactional attorneys. They don't deal  
23 with these clauses. I don't even think that it  
24 matters, Your Honor, but to the extent that it



1 does.

2           The venue clause has to manifest a  
3 clear intent to rule out other venues, and it  
4 simply doesn't. It provides an additional one,  
5 that being the Nevada. The jurisdiction here  
6 is such that the minimum contacts are  
7 absolutely satisfied. The focus where -- it --  
8 who did it first, who reached out to whom  
9 first, that does not matter, Your Honor.

10           What matters is that their  
11 activities were purposely directed to Illinois  
12 residents. What are -- Illinois certainly has  
13 a significant interest in protecting the  
14 residents of its state, my clients, the  
15 plaintiffs.

16           And jurisdiction, venue is proper  
17 here in Illinois before this Court.

18           THE COURT: Thank you, Counsel.  
19 Counsel, last word.

20           MR. SHONKWILER: Yes. Just  
21 three -- four very short things.

22           Number one, the amendment to the  
23 long-arm statute only brought the statute into  
24 compliance to the well-established law. It

1 didn't change the law.

2 And you need to look no further  
3 than Wessel, the case we cited. This is 1978,  
4 the Northern District of Illinois. It is well  
5 settled that in enacting the statute -- talking  
6 about the long-arm statute, the Illinois  
7 legislature intended to provide a means by  
8 which jurisdiction can be asserted over  
9 non-residents to the extent permitted under the  
10 due process clause.

11 It's always been the law. Every  
12 one of these cases that we cite applies the  
13 same minimum contacts test under the due  
14 process clauses that have been applied by  
15 courts for an eternity.

16 Here's the Seventh Circuit, Judge.  
17 This is on page seven of our reply brief,  
18 advanced tactical ordinance case. This is a  
19 2014 case, and it refers to Walden, which is a  
20 Supreme Court case in 2014.

21 It says, Walden serves as a  
22 reminder that the minimum contacts inquiry has  
23 not changed over the years, and that it applies  
24 to intentional tort cases, as well as others.

1           And it goes on to say after Walden,  
2   that's the Supreme Court case, and this is the  
3   Seventh Circuit discussing it, there can be no  
4   doubt that the plaintiff cannot be the only  
5   link between the defendant and forum. That  
6   case rejected any notion that the test is  
7   different for torts than it is for contracts,  
8   or that the test has changed in any way.

9           There is no authority to support  
10   this argument that the key factors which every  
11   case -- and look at the medical case -- we've  
12   already read the cite into the record, a very  
13   recent First District case that goes through an  
14   analysis of what they're referring to. It's  
15   called Madison Miracle. We've already read  
16   that cite into the record. There's --

17           MR. MARKWELL: For the record,  
18   that's not what we're referring to.

19           MR. SHONKWILER: Okay. There is  
20   some discussion in recent First District cases  
21   that a formulaic -- you know, for example,  
22   looking at only four factors as opposed to  
23   looking at the whole nature of the business  
24   transactions and the relationship is wrong. No

1 doubt that that's wrong.

2 If there are any cases that we've  
3 cited that we relied on that don't look at the  
4 whole body of facts and due process relevant  
5 facts, then I'm not aware of what it is,  
6 because every one of these cases apply the same  
7 factors and look at the same things. And I  
8 think this is picking over little things.

9 But who initiates an inquiry is  
10 absolutely essential. It's important under  
11 every one of these cases. All of these cases  
12 apply the same law that applies now, and the  
13 reason it is, is because purposeful availment  
14 is the essence of the test.

15 Two other very quick points.  
16 Performance by my client was a nine month time  
17 period. They had nine months in which to  
18 assign these contracts, and that is it.  
19 There's no way this contract -- I'm shocked to  
20 hear that they say the contract is still going  
21 on. I know we haven't litigated the merits of  
22 this case. And I filed -- I filed a limited  
23 appearance to contest jurisdiction. But I'm  
24 very surprised to hear that a year after this

1 contract was entered with only three contracts  
2 assigned, they think it's still going on.

3 All that my clients did under the  
4 contract was assign contracts and provide  
5 training. That was it. And the training was  
6 Web based.

7 Last thing, we apologize -- we did  
8 apologize. We're sincere in our apology, of  
9 course. And we withdrew the statement. There  
10 was one statement in two affidavits that was  
11 inaccurate, because, in fact, there was one  
12 Illinois based client. And my clients just  
13 forgot about that, and that was a mistake. It  
14 was absolutely not an intent -- any intent to  
15 mislead anyone.

16 And, frankly, in the end, I think  
17 it's an relevant fact because this -- the  
18 claims here don't arise out of that particular  
19 contract, but it was a mistake, and I apologize  
20 for it. And there was only one contract  
21 though.

22 THE COURT: All right, gentlemen.  
23 Excellent job, by the way, on both sides.

24 But in looking at the -- at the

1 contract, I think that the venue clause is  
2 enforceable. You know, it states -- it's  
3 very -- it's very brief. The venue is the  
4 state of Nevada and the county of Clark, and  
5 coupled with the governing law, this agreement  
6 will be governed by the laws of Nevada and the  
7 county of Clark.

8 But I think it shows it's  
9 mandatory, not obligatory. And, you know,  
10 venue is a much more precise term than  
11 jurisdiction. It's the venue that is where --  
12 that's where any causes of action relating to  
13 this agreement must be brought.

14 I also think any -- even if I'm  
15 wrong on that, maybe I am, because you guys  
16 present really interesting arguments on that.  
17 I've been wrong before.

18 But I do think that asserting  
19 jurisdiction over the defendants would have had  
20 due process under the federal due process  
21 analysis.

22 You know, Medasset markets to  
23 Illinois via Internet listings available to  
24 anyone with the Internet. Only contacted

1 Medappeal by telephone or e-mail. Brown who  
2 owns Visionary avvered he saw the response to  
3 the online posting and forum his client,  
4 Weinstein. Brown never met the plaintiff or  
5 the plaintiff's officers in-person.

6 I think I'm looking over all the  
7 facts that were raised by the defendants, I  
8 don't think that they have had minimum contact,  
9 so as to -- with Illinois so as to provide fair  
10 warning that they could be sued in Illinois.

11 So I'm granting the motion to  
12 dismiss in favor of jurisdiction elsewhere.

13 MR. MARKWELL: In favor of  
14 jurisdiction elsewhere?

15 THE COURT: Yes. I would say  
16 Nevada and county of Clark, but in case you all  
17 decide you're going to file it elsewhere, and  
18 you think you have a good argument for it, I  
19 don't want to foreclose that.

20 MR. MARKWELL: And do we need --  
21 this is to all the defendants, do we 304(a) in  
22 there?

23 THE COURT: Yeah, I'll give you  
24 304(a) right now. I think it's on that. I've

1 never practiced appellate law, so we'll a belt  
2 and suspenders and put that in, just to make  
3 sure we're covered.

4 MR. MARKWELL: Okay.

5 THE COURT: Excellent job.

6 MR. MARKWELL: Okay. And will you  
7 issue an order?

8 THE COURT: No. And you can state  
9 for the reasons stated on the record, if you  
10 want, and incorporate that transcript.

11 MR. MARKWELL: Okay.

12 (The proceedings in the above  
13 matter concluded at 11:33  
14 a.m.)  
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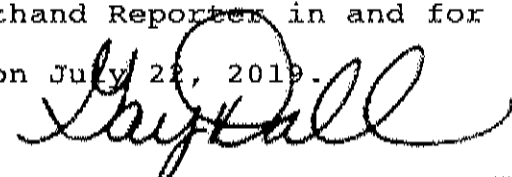


## REPORTER'S CERTIFICATE

I, GAY DALL, CSR and RPR, doing business in the City of Chicago, County of Cook and State of Illinois, do hereby certify that I reported in computerized shorthand the foregoing proceedings as appears from my stenographic notes.

I further certify that the foregoing is a true and accurate transcription of my shorthand notes and contains all the testimony had at said proceedings.

IN WITNESS WHEREOF, I hereunto set my hand as Certified Shorthand Reporter in and for the State of Illinois on July 22, 2019.



Gay Dall, CSR & RPR  
License Number: 084-001169

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**CERTIFICATE OF SERVICE**

I, Jay Freedman, declare under penalty of perjury under the law of the State of Nevada that the following is true and correct. I served the attached **SUPPLEMENTAL DECLARATION OF SETH JOHNSON IN SUPPORT OF OPPOSITION TO MOTION TO DISMISS** in the following manner:

Through the Court's electronic service system on July 31, 2019.

Dated this 31st day of July, 2019

\_\_\_\_\_  
/s/ Jay Freedman  
Jay Freedman

# Exhibit 20



**RPLY**

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

|                                               |   |                         |
|-----------------------------------------------|---|-------------------------|
| MEDAPPEAL, LLC, An Illinois Limited Liability | ) |                         |
| Company,                                      | ) | CASE NO.: A-19-792836-C |
| Plaintiff,                                    | ) | DEPT. NO.: XIV          |
| vs.                                           | ) |                         |
|                                               | ) |                         |
| DAVID WEINSTIEN, VIJAY REDDY,                 | ) |                         |
| MARGARET REDDY, MOHAN THALMARLA,              | ) |                         |
| KEVIN BROWN, MAX GLOBAL, INC.,                | ) |                         |
| VISIONARY BUSINESS BROKERS LLC,               | ) |                         |
| MEDASSET CORPORATION, AND DOES 1-50,          | ) |                         |
|                                               | ) |                         |
| Defendants;                                   | ) |                         |
|                                               | ) |                         |

**REPLY IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS FOR LACK OF**

**PERSONAL JURISDICTION**

Defendants, Vijay Reddy ("V. Reddy"), Margaret Reddy ("M. Reddy"), Mohan Thalmarla ("Thalmarla"), and Max Global Inc. ("Max Global"), (collectively "Defendants") by and through their counsel of record, Leah A. Martin, Esq. of Leah Martin Law hereby submit this Reply in Support of Motion to Dismiss for lack of personal jurisdiction.

**I. INTRODUCTION**

Plaintiff would have this court assert personal jurisdiction over the defendants under Plaintiff's theory that defendants were involved in a conspiracy to defraud plaintiff. Plaintiff asserts this position

1 despite an utter lack of proof that Max Global, M. Reddy, and Tharmarla knew about the purchase and  
2 sale agreement. Plaintiff wants this court to piggy back personal jurisdiction on Defendants based on the  
3 unrelated contacts of Defendants Weinstein and Medasset in Nevada. Plaintiff seeks to prevent Defendants  
4 from asserting the personal jurisdiction issue by arguing that they are judicially estopped from asserting  
5 the defense as it contradicts their statements made in prior litigation. Notably M. Reddy, Max Global,  
6 and Tharmarla were never parties in the prior litigation. Yet Plaintiff suggests that judicial estoppel applies  
7 to Defendants because they are in privity to the defendants named in the prior litigation. These claims  
8 defy logic. Plaintiff is grasping at straws in a last ditch effort to maintain Defendants as parties to this  
9 case. It is clear that there is no personal jurisdiction over Defendants in Nevada. The connections Plaintiff  
10 is attempting to make are far too attenuated to give this Court sufficient grounds to assert personal  
11 jurisdiction over Defendants.

## 12 II. LEGAL ARGUMENT

### 13 A. Defendants are not subject to personal jurisdiction.

14 In order to establish personal jurisdiction the conduct of the defendant needs to be evaluated. The  
15 evaluation should focus on the relationship between the defendant, the forum, and the litigation, and "the  
16 defendant's suit-related conduct," which must create a substantial connection with the forum." *Walden v.*  
17 *Fiore*, 571 U.S. 277, (283-84 (2014)). Therefore, the minimum contacts analysis looks to the defendant's  
18 contacts with the forum state itself, not the defendant's contacts with persons who reside there." *Id.*

19 Here, Plaintiff has failed to show any minimum contacts Defendants had with Nevada that would  
20 establish personal jurisdiction in Nevada. Defendants did not purposefully direct any activities at Nevada.  
21 This is especially true for Thalmarla and Max Global. Max Global is an entity owned by Thalmarlo.  
22 Neither Thalmarla nor his entity has knowledge of any other defendant except for M. Reddy and V. Reddy,  
23 and this knowledge is only due to familial relations with Thalmarla being V. Reddy's uncle. Aside from  
24 that connection, Thalmarla has never communicated with the other defendants, conducted business with  
25 the other defendants, or conducted business in the State of Nevada. Defendants V. Reddy and M. Reddy  
26 know the other defendants, but have had no contacts nor have they conducted any activity in the State of  
27 Nevada. Since Plaintiff has failed to show any activity of the Defendants that occurred in Nevada, Plaintiff  
28 has failed to establish its prima facie case of personal jurisdiction.

1           B.       *There is no Conspiracy Theory Jurisdiction.*

2           Plaintiff attempts to use conspiracy theory jurisdiction in order to establish personal jurisdiction  
3 over Defendants in the State of Nevada. Plaintiff asserts *Tricarichi v. Cooperative Rabobank* as its basis  
4 that Defendants are subject to personal jurisdiction in Nevada. In *Tricarichi*, the Nevada Supreme Court  
5 recognizes and applies the conspiracy theory jurisdiction to determine whether the defendants were subject  
6 to personal jurisdiction in Nevada. The Supreme Court found in *Tricarichi* that the defendants were not  
7 subject to personal jurisdiction under the conspiracy theory. This Court should find the same in this case.  
8 In order to prove personal jurisdiction exists under conspiracy theory, the plaintiff must show (1) there is  
9 a conspiracy (2) the acts of co-conspirators meet minimum contacts with the forum, and (3) the co-  
10 conspirators could have reasonably expected at the time of entering into the conspiracy that their actions  
11 would have consequences in the forum state.

12                   1.       *Plaintiff has failed to show that a conspiracy exists between the defendants.*

13           Plaintiff's complaint makes allegations of the Defendants conspiring in general and even goes so  
14 far as to bring in documentation wherein the bankruptcy trustee alleges fraudulent transfers occurred. But  
15 what Plaintiff has failed to do is show an existence of conspiracy *in this case*. Plaintiff does not explain  
16 which acts taken by Defendants would constitute acts of co-conspirators or that a conspiracy exists.  
17 Thalmarla and Max Global have taken no action whatsoever relating to the agreement, M. Reddy worked  
18 with Defendant Weinstein in a secretarial position largely for prior projects, and V. Reddy conducted web  
19 training seminars for Plaintiff as a favor for Weinstein. It is unclear how these actions or inaction can  
20 allude to a conspiracy existing between the parties. Even if it is found that there is enough information to  
21 establish a possibility of a conspiracy existing, Plaintiff will still fail to establish the last two prongs of the  
22 test.

23                   2.       *Plaintiff has not established any co-conspirator acts that meet the minimum*  
24 *contacts requirement to satisfy the second prong of the test.*

25           As stated above, Plaintiff has not shown any conduct of Defendants that were directed at Nevada.  
26 While M. Reddy and V. Reddy know the other defendants and have previously done business with  
27 Defendant Weinstein, that fact is insufficient to apply conspiracy theory jurisdiction. Once again, the focus  
28 in the analysis of minimum contacts is centered around the defendant's conduct with the forum state itself

1 and the defendant's contact with another person who resides in the forum state. Plaintiff claims that  
2 Defendants communicated with Defendant Weinstein while he was in Las Vegas, Nevada. Without more,  
3 Plaintiff fails to show any co-conspirator acts that are purposefully directed at Nevada. Therefore,  
4 conspiracy theory jurisdiction cannot be applied.

5           3.       *Plaintiff has failed to show that Defendants could have reasonably expected that*  
6 *their actions would have consequences in Nevada.*

7           Even if Plaintiff managed to satisfy the first two prongs, Plaintiff fails on the third prong because  
8 Defendants did not reasonably expect that their actions or inactions would have consequences in Nevada.  
9 The Reddys are residents of Michigan while Tharmarla is a resident and Max Global Inc. is incorporated  
10 in Illinois. They have not conducted business in Nevada and none of Defendants' actions have taken place  
11 in Nevada. They could not have expected for their actions to have consequences in Nevada because they  
12 were not parties to the Agreement. Any conduct or training that occurred from V. Reddy took place online  
13 from his home in Michigan. Such actions do not readily appear to have any consequences in Nevada.

14           C.       *The Theory of Judicial Estoppel Does Not Apply.*

15           Plaintiff contends that Defendants are judicially estopped from contesting personal jurisdiction  
16 because they successfully argued in the Illinois case that the claims could only be brought in Clark County,  
17 Nevada. However, this is not true. Judicial estoppel may be applied where "(1) the same party has taken  
18 two positions; (2) the positions were taken in judicial or quasi-judicial administrative proceedings; (3) the  
19 party was successful in asserting the first position (i.e., the tribunal adopted the position or accepted it as  
20 true); (4) the two positions are totally inconsistent; and (5) the first position was not taken as a result of  
21 ignorance, fraud, or mistake." *Nolm, LLC v. County of Clark*, 120 Nev. 736, 743 (2004).

22           First, M. Reddy, Tharmarla, and Max Global were not parties in the previous case and therefore  
23 could not have an inconsistent position here. They did not make a statement of fact in that case and  
24 therefore cannot contradict themselves with the argument that they are not subject to personal jurisdiction  
25 in Nevada in this case. Further there are no sufficient grounds to find that M. Reddy, Tharmarla, and Max  
26 Global are in privity to V. Reddy. Plaintiff claims that Defendants are in privity with each other because  
27 M. Reddy and V. Reddy "obtained joint checks from defendant Weinstein for the same or similar  
28 fraudulent transactions" and Tharmarla and Max Global are in privity "due to their ill-gotten profits."

1 (Opposition, at 6:20-24.) However, such connections to V. Reddy are insufficient to find that the  
2 Defendants are in privity to him. It is well established that a "non-party may be bound by a judgment if  
3 one of the other parties to the earlier suit is so closely aligned with the non-party's interest as to be its  
4 virtual representative." *Milton H. Greene Archives Inc. v. Marilyn Monroe, LLC*, 692 F.3d 983, 996 (9th  
5 Cir. 2012) (quoting *Mother's Rest., Inc. v. Mama's Pizza, Inc.*, 723 F.2d 1566, 1572 (Fed. Cir.1983)).

6 The actions that Plaintiff claims occurred (which they didn't and for which no evidence has been  
7 provided) are clearly insufficient to find that the Defendants are so closely aligned as to be the virtual  
8 representatives of one another. Plaintiff has shown no proof that the Defendants' interests are so aligned  
9 that they could be considered representatives of each other. What has been shown is that Max Global and  
10 Tharmarla had no role or interaction in the agreement at the heart of this case; M. Reddy worked as an  
11 independent contractor for Medasset performing jobs such as compiling databases and making marketing  
12 brochures; and V. Reddy's only interaction with Plaintiff was being a reference and voluntarily conducting  
13 the training of Plaintiff. Therefore, judicial estoppel should not apply to Defendants as they are not in  
14 privity to each other.

15 Second, in addressing the first and fourth elements of the judicial estoppel test, Defendant V.  
16 Reddy's position here and in the Illinois case are not totally inconsistent with each other. Defendants'  
17 position has always been that the jurisdiction in which the claims have been brought lack general and  
18 specific jurisdiction over him. That was the case in Illinois and that is the same here. An alternative  
19 argument that was made in the event that the court in Illinois found that it had personal jurisdiction over  
20 the defendants in that matter was that the case should be dismissed because Cook County Illinois was not  
21 the proper venue according to the forum selection clause contained in the agreement. However,  
22 Defendants were not parties to the agreement and cannot be bound by its terms.

23 Plaintiff has also failed to satisfy the third factor of the judicial estoppel test. Plaintiff must show  
24 that the "party was successful in asserting the first position (i.e., the tribunal adopted the position or  
25 accepted it as true). It cannot be said that Defendants were successful in asserting the position that Clark  
26 County, Nevada is the proper venue for Plaintiff to bring its claim. This is even more telling from the  
27 transcript of the March 19, 2019 hearing in Illinois. The judge at that hearing states that she does not  
28 believe that the defendants in that case had minimum contact with Illinois so as to provide fair warning

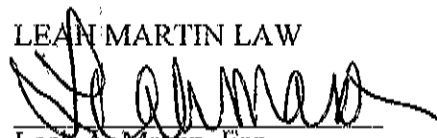
1 that they could be sued in Illinois. (Transcript at 28:7-12.) She goes on to say that she is granting the  
2 motion to dismiss in favor of jurisdiction elsewhere. *Id.* In explaining why she did not specify that the  
3 claims must be brought in Clark County, Nevada, she stated that she wanted to give the plaintiff an option  
4 of filing somewhere else if the plaintiff decided to do so. *Id.* at 15-19. In reviewing the statements it is  
5 clear that defendants did not assert, at least with any success, that Clark County, Nevada is the only place  
6 where a claim can be brought. This the ultimate reason to apply judicial estoppel fails.

### 7 8 III. CONCLUSION

9 For the above reasons, Defendants V. Reddy, M. Reddy, Thalmarla, and Max Global Inc.,  
10 respectfully request that this Court dismiss Plaintiffs' Complaint against them for lack of personal  
11 jurisdiction.

12 DATED this 31<sup>st</sup> day of July, 2019.

13 LEAN MARTIN LAW

14   
15 Leann A. Martin, Esq.

16 Amber D. Scott, Esq.

17 3100 W. Sahara Ave., Ste. 202

18 Las Vegas, NV 89102

19 Attorneys for Defendants Reddy,

20 Thalmarla, and Max Global Inc.



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**CERTIFICATE OF MAILING**

I HEREBY CERTIFY on the \_\_\_\_ day of July, 2019, I caused service of the foregoing **REPLY IN SUPPORT DEFENDANTS' MOTION TO DISMISS FOR LACK OF JURISDICTION** to be made via electronic mail through the Eighth Judicial District Court's E-Filing System to the following at the e-mail address provided in the e-service list:

Jay Freedman, Esq.  
11700 W. Charleston Blvd. Ste. 170-357  
Las Vegas, NV 89135  
jay@jayfreedmanlaw.com

\_\_\_\_\_  
On behalf of LEAH MARTIN LAW

( ) ( )  
03/19/2019

1 IN THE CIRCUIT COURT OF COOK COUNTY  
2 COUNTY DEPARTMENT - LAW DIVISION  
3

4 MEDAPPEAL, LLC, )

5 Plaintiff, )

6 vs. )

No. 18 L 010586 )

7 DAVID WEINSTEIN, VIJAY REDDY, )

8 KEVIN BROWN, VISIONARY )

9 BUSINESS BROKERS, LLC, and )

MEDASSET CORPORATION, )

10 Defendants. )  
11

12 Record of proceedings had at the  
13 hearing for the above-entitled cause, before the  
14 Honorable Bridget McGrath, one of the Judges of  
15 said Court, on March 19, 2019, in Room 1907,  
16 Richard J. Daley Center, Chicago, Illinois,  
17 60602, at 11:00 a.m.  
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A P P E A R A N C E S

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312.248.2200

BY: Mr. John F. Shonkwiler

on behalf of Defendants.

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1 MR. MARKWELL: Good morning, Your  
2 Honor. Greg Markwell here for the plaintiffs.

3 MR. SHONKWILER: Your Honor, John  
4 Shonkwiler on behalf of defendants.

5 I didn't get your name.

6 MR. MARKWELL: Greg Markwell.

7 MR. SHONKWILER: Markwell?

8 MR. MARKWELL: Yeah.

9 THE COURT: Okay. Gentlemen, you  
10 have half an hour. You didn't ask for an hour,  
11 and I have a trial going on. So half an hour,  
12 and I'm holding you to it.

13 I'm going to make one ruling before  
14 you start. I've reviewed everything and read  
15 everything. And the Court can properly  
16 consider this forum selection clause on a 2-615  
17 motion because the complaint is part -- the  
18 agreement is attached with the complaint as an  
19 exhibit, and becomes part of the complaint  
20 because this cause of action is based on that  
21 exhibit.

22 So go ahead for the remainder of  
23 the argument, Counsel.

24 MR. SHONKWILER: Your Honor, this

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1 whole case arises out of one contract. It's a  
2 contract between Medasset, one of the  
3 defendants, and a company called Liberty  
4 Consultant.

5 We are informed Liberty is the  
6 parent company of Medappeal, which is a company  
7 owned by Seth Johnson and Ian Johnson. The  
8 contract was for the sale of a transferable  
9 service contract, contracts be assigned. And  
10 those contracts were for services provided to  
11 medical providers.

12 There are two types, medical  
13 appeals contracts, which I understand are --  
14 medical appeals refers to the process whereby a  
15 physician appeals an insurance company's  
16 refusal to cover a particular charge from a  
17 physician. It's a medical appeals. So,  
18 apparently, there are enough of those that  
19 doctors shop them out to people to handle their  
20 medical appeals.

21 The other type of contract at issue  
22 is a contract for medical credentialing  
23 services. And my understanding of what that  
24 is, is when a doctor wants to be accepted in

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1 network with an insurance company, they have to  
2 go through a credentialing process, which is  
3 something also that physicians apparently shop  
4 out. The contract between Medasset and Liberty  
5 that is at issue here, and the root of all the  
6 claims was a contract for Medasset to get those  
7 contracts with these medical service providers,  
8 and then assign them to the company run by the  
9 Johnson brothers.

10 The Johnson -- Metappeal is an  
11 Illinois company. It's based in Illinois. The  
12 defendants always knew that. The defendants  
13 are based in New Jersey, Nevada and Michigan --  
14 the plaintiffs always knew that. The Johnson  
15 brothers are also lawyers, and they're partners  
16 in their own law firm.

17 The defendants, you've got three  
18 individuals, Kevin Brown from New Jersey, David  
19 Weinstein from Nevada, and Vijay Reddy from  
20 Michigan. And then two companies. One is a  
21 company owned and operated by Weinstein, and  
22 that's Medasset. It's a contracting company.

23 The other company is a company  
24 called Vision (sic), which is owned and

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1 operated by Brown, and it's a New Jersey  
2 company. None of these defendants, the  
3 individuals or the companies, has any office or  
4 any agent or employee or any physical presence  
5 in Illinois, and hasn't at any time during this  
6 transaction between the parties.

7 Everything arose out of a  
8 Bizquest.com posting. Bizquest is a Web site.  
9 It's not directed to any particular state.  
10 It's -- anyone can get on Bizquest from  
11 anywhere in the US and shop for opportunities.

12 The particular posting that gave  
13 rise to this case was posted by Brown and his  
14 company, Visionary from New Jersey. And the  
15 posting advertised a nationwide relocatable  
16 niche business opportunity. The posting listed  
17 the location and the opportunity as being the  
18 United States. It didn't mention Illinois, and  
19 it provoked a response.

20 Seth Johnson saw the posting on  
21 Bizquest, and reached out to Mr. Brown and  
22 Visionary, sent a response through Bizquest.  
23 It's kind of like an e-mail, but it goes  
24 through the Bizquest page, I guess.

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1 Mr. Johnson reached out and  
2 expressed interest. He said he had some  
3 related business, and he thought this was a  
4 good opportunity, could we have more  
5 information.

6 Mr. Brown said, Yes. Sign an NDA,  
7 nondisclosure agreement, to promise to keep  
8 confidential what I'm sending you, and I'll  
9 sent you information. Both of the Johnson  
10 brothers signed and sent NDAs through e-mail to  
11 Brown, who then sent information. Two weeks  
12 later, there was a contract signed, the  
13 contract between Medasset and Liberty.

14 During that two weeks of due  
15 diligence, there were some e-mails, there was  
16 some phone calls. For all of those, the  
17 Johnsons were in Illinois, the defendants were  
18 in Nevada, New Jersey, and Michigan. The  
19 parties never met face-to-face. The defendants  
20 were never in Illinois.

21 Right after the contract was  
22 signed, Vijay Reddy, a defendant, conducted web  
23 based training sessions with the Johnsons and  
24 the other representatives from their company.



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1 These were all done either -- my understanding  
2 is all the contact between Reddy and the  
3 Johnsons during this period was either through  
4 phone or web based conferencing.

5 Medasset's performance under its  
6 contract, three components to it. One was to  
7 assign medical appeals service contracts. The  
8 other was to assign a certain number of medical  
9 credentialing services contracts, and the third  
10 component was the training that Reddy provided  
11 right after the contract was signed. None of  
12 those activities involved any activities with  
13 defendants in Illinois.

14 You Honor, the action should be  
15 dismissed for lack of jurisdiction. We have  
16 the venue argument, in the alternative, should  
17 the Court find that it has jurisdiction over  
18 any of the defendants.

19 In short, I know we have limited  
20 time, but the reasons for the lack of  
21 jurisdiction set out in the briefs, but --  
22 there are two kinds of jurisdiction, general  
23 and specific. The Illinois long-arm statute  
24 allows jurisdiction to the full extent

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1 permitted by the Illinois and federal  
2 constitution, the due process clauses. So the  
3 correct analysis really is just does it satisfy  
4 due process? And if it does, then the Illinois  
5 statute permits it.

6 Here to establish a general  
7 jurisdiction, I really don't think this is a  
8 serious issue in this case. It requires  
9 systematic and continuous contacts with the  
10 forum. And it is only in an exceptional case  
11 that any companies deemed to be subject to  
12 general jurisdiction in any state other than  
13 the one in which is domiciled. It's  
14 exceptional and unusual, and there are no  
15 exceptional or unusual contacts of that nature  
16 here.

17 What we're looking at is specific  
18 jurisdiction. That is established by  
19 purposeful availment. The types of minimum  
20 contacts that establish specific jurisdiction  
21 in the due process clauses are purposeful  
22 availment. Burger King v. Rudzewicz, that's  
23 the case they rely on. It's a Supreme Court  
24 case, and it sets that point out clearly.

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1 And here's the -- this is a quote  
2 from Burger King, It is essential in each case  
3 that there be some act by which the defendant  
4 purposely avails itself of the privilege of  
5 conducting activities within the forum state.  
6 That's at page 475 of that case. It's settled.  
7 There are many cases.

8 Madison Miracle Productions case  
9 from Illinois, that's a First District case  
10 2012 IL App 112334 at paragraph 95 and several  
11 others that we've cited.

12 The controlling Illinois case law,  
13 Judge, on this issue establishes that where an  
14 Illinois resident plaintiff initiates contact,  
15 as the plaintiffs did here with nonresident  
16 defendants, and then the company -- each  
17 company worked toward a purchase sale agreement  
18 of any sort, goods, services, anything. We  
19 have a case with inflatable boats that are  
20 custom made in Florida. We've a case where an  
21 Illinois resident purchased a limited  
22 partnership agreement in a partnership that was  
23 in Rhode Island. It applies the same in every  
24 case. And the principle is, when this Illinois

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1 resident reaches out to a nonresident defendant  
2 to engage into some sort of a purchase sale  
3 agreement, a single transaction, and where the  
4 parties exchange written telephonic e-mail  
5 correspondence, and there may be a lot of it.  
6 In several of the cases that we cited to you  
7 that are controlling here, there was abundant  
8 communication because that's what these  
9 transactions provoked. It's what people do.

10 And when the parties then go and  
11 sign a contract, enter into a contract, all the  
12 while knowing that the nonresident is not a  
13 resident of Illinois, and then the nonresident  
14 knows that he's dealing with a -- he or it is  
15 dealing with an Illinois company, none of this  
16 is enough to confer jurisdiction over  
17 nonresident defendants, especially where, as  
18 here, the defendants were not performing a  
19 contract in Illinois. There was a choice of  
20 law and venue provision in the contract that  
21 the plaintiff signed.

22 And that the only contacts with  
23 Illinois are contacts -- are activities that  
24 were performed by the plaintiff. And this is

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1 an important point. This is a quote from the  
2 First District case, Madison Miracle  
3 Productions, focus -- when evaluating minimum  
4 contacts, focus is on the defendants' activity  
5 within the forum state, not on those of the  
6 plaintiff. That rule is also set out in Gordon,  
7 which is cited in our brief. And another case  
8 in our brief, Advanced Tactical. It's a  
9 Seventh Circuit case from 2014, 751 Fed 3d 796  
10 at 801.

11 All of these cases establish that  
12 defendants' activities are what decide this.  
13 Purposeful availment is the essence of the  
14 specific jurisdiction inquiry. And in order to  
15 satisfy that essential purposeful availment  
16 element, you have to have actual activities by  
17 the defendant in the forum state, or activities  
18 of the defendant by which it reached out and  
19 availed itself of the privilege to do business  
20 in Illinois. None of that -- and we've cited  
21 several cases. And the cases we cite, cite  
22 other cases, a legion of cases in which a  
23 single sale purchase transaction, as we've  
24 described it, is -- having been found by the

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1 courts not to be sufficient to create personal  
2 jurisdiction over the nonresident defendants.

3 There's only one -- there's one  
4 that I'm aware of that was cited in the briefs,  
5 and that's the Burger King case. And I want to  
6 take just a second to distinguish that. The  
7 Burger King case is one in which a Michigan  
8 company decided it wanted to be a Burger King  
9 franchise, and reached out to the Burger King  
10 franchising company in Florida, and entered  
11 into a franchising agreement.

12 And it was -- had a 20 year term.  
13 The parties performed it for 20 years. The  
14 franchising agreement said that it was -- it  
15 had a Florida choice of law provision in it,  
16 and granted substantial control to the Florida  
17 franchising company over the transaction  
18 between the parties.

19 As one would imagine would be the  
20 case in a Burger King franchise contract, in  
21 that case, the Supreme Court found, based on  
22 this 20 -- this 20 year franchising agreement,  
23 the long ongoing relation between the parties  
24 that was initiated by someone who reached out

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1 and said, I want to have a franchise, and I  
2 want to deal with you, Florida franchise  
3 company. Under those circumstances, and the  
4 others including the -- the court placed heavy  
5 reliance on the fact that the contract had a  
6 Florida state -- a Florida choice of law  
7 provision in it.

8 It found jurisdiction in Florida  
9 over the Michigan company that reached out to  
10 enter into the franchise agreement. There's  
11 nothing like that here.

12 Your Honor, we've cited Bolger,  
13 it's a Second District case; Gordon, a First  
14 District case, and Wessel (phonetically), a  
15 Northern District case, I'll skip because we've  
16 described those cases at length in the reply  
17 brief.

18 THE COURT: I have read all the  
19 beliefs, just so you know.

20 MR. SHONKWILER: Thank you.

21 And we have limited time here, so  
22 I'm not going to go over each of those cases  
23 again, unless Your Honor has questions about  
24 them.

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1 THE COURT: No.

2 MR. SHONKWILER: There is one other  
3 point, and that is -- before I turn things over  
4 to the defendant -- or to the plaintiff here.

5 And that is the forum selection  
6 clause, there were various issues raised. I  
7 think they were briefed pretty fully. There's  
8 no question that even though plaintiffs  
9 appeared to almost go out of their way not to  
10 plead a breach of contract claim, one would  
11 think there would be one here, perhaps to try  
12 to avoid the forum selection clause. The law  
13 is clear in Illinois and Nevada that that is  
14 not a way to avoid a forum selection clause.

15 It applies equally to fraud claims  
16 that arise from contracts in the cases in which  
17 a plaintiff could have alleged the breach of  
18 contract claim; it didn't. It also applies to  
19 plaintiffs who allege that they were  
20 fraudulently induced to enter into a contract,  
21 and plaintiffs who allege that a contract is  
22 void for fraudulent inducement.

23 Even under all of those  
24 circumstances, the forum selection clause is



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1 still -- if it's mandatory, is still applied.  
2 If there's a dispute over whether this language  
3 is mandatory, we believe it is. They argue it  
4 isn't. The key cases that are briefed in the  
5 briefs show that courts have found where a  
6 contract says the jurisdiction lies in the  
7 stay, that's not mandatory.

8 But on the other hand, where it  
9 says the venue for this is Nevada that's  
10 mandatory, it's not -- doesn't speak to  
11 jurisdiction. It speaks to venue.

12 And the other point I just want to  
13 hit on quickly that is also briefed is that the  
14 Johnsons are both lawyers. They've seen venue  
15 clauses. They've seen choice of law clauses.  
16 Those words have their own meaning to lawyers  
17 who have written contracts and read contracts  
18 and litigated, as the Johnsons have. They  
19 understand what those words mean. And they can  
20 argue about how the particular language of  
21 those provisions isn't the most crystal clear  
22 any of us has ever seen, and I don't think  
23 there's any questions that that's true, but  
24 this doesn't mean that there's any other

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1 conceivable relevant or reasonable  
2 interpretation of those provisions, there  
3 isn't.

4 THE COURT: That you, Counsel.

5 MR. SHONKWILER: Thank you.

6 THE COURT: Counsel.

7 MR. MARKWELL: Your Honor, counsel  
8 here is -- respectfully, he is simply incorrect  
9 about the law. And as Your Honor knows, the  
10 Illinois long-arm statute has several  
11 provisions to it. One of them is subsection C,  
12 which talks about federal due process. And if  
13 you comply with federal due process, there is  
14 jurisdiction.

15 The cases cited by counsel, those  
16 are -- those were decided before the amendment  
17 creating that subsection C federal due process  
18 was even there. We are proceeding under  
19 federal due process subsection C.

20 Pursuant to that, it's the non --  
21 it said the nonresident defendant had minimum  
22 contact, so there was fair warning that they  
23 could be haled into court.

24 Case law is clear, the focus is not

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1 on the plaintiff's activities, but it's the  
2 defendants'. And the minimum contacts here are  
3 significant, Your Honor. Counsel wants to keep  
4 painting this as a sale, like a boat, a one  
5 time sale. That's not the case.

6 This -- starting from the  
7 beginning, defendants posted this -- the  
8 Internet posting. And, yes, plaintiffs  
9 responded to it.

10 In order to even start a  
11 discussion, this confidentiality agreement had  
12 to be entered into. From the getgo, defendants  
13 knew that plaintiffs were Illinois residents.  
14 They signed this confidentiality agreement  
15 indicating we are Illinois residents.

16 After that, an executive summary of  
17 the business was sent to plaintiffs from  
18 defendants in Illinois. A wire transfer for  
19 \$75,000 from an Illinois bank was made to  
20 defendants. That's one thing.

21 And now let's just get into the  
22 actual performance. This was not a one and  
23 done contract. This was 30 credentialing and  
24 60 appeals. And 60 appeals, that's 60

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