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STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON, Plaintiff, v. CENTER FOR COVID CONTROL, LLC; DOCTORS CLINICAL LABORATORY; AKBAR SYED; and ALEYA SIYAJ, Defendants.	NO. COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff, State of Washington, by and through its attorneys Robert W. Ferguson, Attorney General, and Daniel Davies and Will O'Connor, Assistant Attorneys General, brings this action against Defendants Center for Covid Control, LLC; Doctors Clinical Laboratory; Akbar Syed; and Aleya Siyaj ("Defendants"). Defendants threatened the health and safety of the people of Washington and engaged in unfair or deceptive acts or practices in violation of the Consumer Protection Act, RCW 19.86, while operating COVID-19 testing sites throughout Washington without municipal business licenses to do so.

I. INTRODUCTION

1.1 Center for Covid Control claims to offer crucial COVID-19 tests throughout Washington for free; providing results within 48 hours. In reality, Defendants lacked a license to operate almost all of their Washington testing sites, improperly took patient insurance information, and caused imminent and irrevocable harm to the welfare of the people of

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Washington by providing invalid COVID-19 test results or no results at all. As documented by former employees, Center for Covid Control's testing lab, Doctors Clinical Laboratory, lacked the capacity to process the volume of tests it received and engaged in practices that resulted in consumers receiving false negative test results. These practices included storing tests in garbage bags strewn about its facility for over a week rather than properly refrigerating them, and backdating sample collection dates so that stale samples would still be processed. By reporting false negative test results, Defendants contributed to the spread of the deadly COVID-19 virus. Defendants also frequently failed to report any test results at all, causing potentially COVID-19 free individuals to isolate and miss work, travel, and time with loved ones unnecessarily.

1.2 Defendants threatened the health and safety of the people of Washington. Their conduct was unfair and deceptive in violation of the Washington Consumer Protection Act (CPA), RCW 19.86. As a result of their repeated violations of the CPA, Defendants are liable for civil penalties, injunctive relief, restitution, and other appropriate relief, as set forth below.

II. PARTIES

2.1 The Attorney General is authorized to commence this action pursuant to RCW 19.86.080 and RCW19.86.140. The Washington State Attorney General's Office created the Consumer Protection Division to detect, investigate, and prosecute any act prohibited or declared to be unlawful under the Washington Consumer Protection Act.

2.2 Defendant Center for Covid Control, LLC is an Illinois limited liability company with its principal place of business located at 1685 Winnetka Circle, Rolling Meadows, Illinois 60008. It is registered to do business in Washington and its Unified Business Identifier Number is 604 823 753. On information and belief, Center for Covid Control is co-owned by Akbar Syed and Aleya Siyaj. Center for Covid Control has done business in Washington State by marketing, promoting, selling, and/or providing COVID-19 rapid tests and polymerase chain reaction (PCR) tests to Washington residents.

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2.3 Defendant Doctors Clinical Laboratory is a laboratory in Illinois with its principal place of business located at 1685 Winnetka Circle, Rolling Meadows, Illinois 60008. Doctors Clinical Laboratory is controlled by Center for Covid Control. It shares common ownership with Center for Covid Control, uses Center for Covid Control's office space for its laboratory, and employees believed Center for Covid Control and Doctors Clinical Laboratory were the same company. On information and belief, Doctors Clinical Laboratory performs tests exclusively for Center for Covid Control. Doctors Clinical Laboratory tests the specimens that are collected by Center for Covid Control in Washington, but Doctors Clinical Laboratory is not registered with the Washington Secretary of State to transact business in Washington State.

2.4 Defendant Akbar Syed is an individual residing in Saint Charles, Illinois. On information and belief, at all times material to this Complaint, Defendant Syed was co-founder and co-owner of Center for Covid Control, along with his wife, Defendant Aleya Siyaj. Defendant Syed personally participated in the conduct described herein, and with knowledge approved of such conduct.

2.5 Defendant Aleya Siyaj is an individual residing in Saint Charles, Illinois. On information and belief, at all times material to this Complaint, Defendant Siyaj was co-founder and co-owner of Center for Covid Control, along with her husband, Defendant Akbar Syed. Defendant Siyaj personally participated in the conduct described herein, and with knowledge approved of such conduct.

III. JURISDICTION AND VENUE

3.1 The State files this Complaint and institutes these proceedings under the provisions of the Consumer Protection Act, RCW 19.86.

3.2 Defendants have engaged in the conduct set forth in this Complaint in King County and elsewhere in the State of Washington.

3.3 Defendants Akbar Syed and Aleya Siyaj have purposefully availed themselves of the privileges and benefits of conducting business in King County and elsewhere in the State of

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Washington by directing and controlling the operations of Center for Covid Control and Doctors Clinical Laboratory in the state.

3.4 Venue is proper in King County pursuant to RCW 4.12.020 and 4.12.025, and Court Rule 82 because the cause of action arose, in part, in King County and Defendants transacted business in King County.

3.5 The Attorney General has the authority to commence this action as conferred by RCW 19.86.080 and RCW 19.86.140.

IV. FACTS

A. THE COVID-19 PANDEMIC CONTINUES TO SURGE IN WASHINGTON AND TESTING IS AN IMPORTANT TOOL IN COMBATING TRANSMISSION OF THE VIRUS

4.1 COVID-19 represents one of the most serious public health challenges this state has ever faced. Since the pandemic began nearly two years ago, over 1.1 million Washington citizens have contracted COVID-19, over 52,000 have been hospitalized due to the disease, and over 10,400 Washington citizens have died from COVID-19.[1] With the emergence of the highly transmissible Omicron variant, Washington is in the midst of its largest wave of COVID-19 infections yet. Cases of COVID-19 have spiked in January 2022 across the state, with the Washington State Department of Health (DOH) reporting a 7-day rolling average of 16,817 cases on January 8, 2022, by far the highest 7-day rate the state has seen thus far. To compare, previous spikes in December 2020 and September 2021 peaked at a 7-day rate in the low three-thousands.

4.2 Along with vaccination and masking, testing is a critical tool in the fight against COVID-19. If testing is conducted in an accurate and timely manner, infected citizens can promptly self-isolate and prevent transmission to others. It is important for citizens to have trust

[1] All statistics on COVID-19 cases pulled from the Washington State Department of Health's website. COVID-19 Data Dashboard, available at http://www.doh.wa.gov/Emergencies/COVID19/DataDashboard (last visited Jan. 24, 2022).

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in the testing process, so that people actually get tested for the virus and take preventative measures if they receive a positive result.

4.3 There are two different types of "viral" or "diagnostic" tests that exist to detect if a person has SARS-CoV-2, the virus that causes COVID-19: 1) a molecular diagnostic test; and 2) an antigen test.

4.4 Molecular amplification diagnostic testing is the most sensitive method of detecting the presence of the virus that causes COVID-19 in an individual. Such testing includes the PCR test, which is a test designed to detect the presence of the genetic material from the virus. Typically, PCR and other molecular amplification diagnostic tests are conducted by an individual first providing a nasal, throat, or saliva sample. The sample may then be tested by a federally certified lab, with results typically reported to the individual in 24 to 72 hours.

4.5 Antigen diagnostic tests are also sometimes referred to as "rapid" tests and check for the presence of specific proteins on the surface of the COVID-19 virus. Typically, antigen tests are conducted by an individual providing a nasal swab or saliva sample that can then be immediately tested with the results available in as little as fifteen minutes. While antigen rapid tests produce quick results, they are not as sensitive—especially for individuals who are not presently exhibiting symptoms from the virus.

4.6 It is critical that labs providing testing for COVID-19 provide prompt and accurate results because test results give people information on how they can act appropriately. For instance, a consumer that receives a false negative result may not take appropriate steps, like self-isolation and masking, when they are contagious. It is important that test results are provided promptly because individuals that have been exposed to COVID-19 should isolate while their test results are pending. A delayed test result leads to an extended isolation period for the consumer, which can negatively impact the consumer's life. Prompt test results are also important because some individuals may choose not to self-isolate until they have received their

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test result confirming they are infected with COVID-19. Consequently, any delay in test results can have a negative impact on public health.

B. DEFENDANTS ADVERTISE AND PROVIDE RAPID AND PCR COVID-19 TESTING TO WASHINGTON RESIDENTS AND OPERATE MULTIPLE TESTING SITES IN WASHINGTON

4.7 Center for Covid Control is an Illinois based company, which was organized in December 2020, and represents on its website that it has established over 300 locations across the United States where consumers can obtain rapid antigen and PCR tests for COVID-19.[2] Center for Covid Control represents that it partners with a certified independent laboratory, Doctors Clinical Laboratory, which performs diagnostic testing and reports positive and negative results to consumers. The address listed on Doctors Clinical Laboratory's website is also the principle office address for Center for COVID Control—1685 Winnetka Circle, Rolling Meadows, Illinois 60008.

4.8 On information and belief, Defendants have been operating COVID-19 testing sites in Washington since at least October 2021. As of January 12, 2022, Defendants advertised at least 13 testing sites in Washington, including sites located in Lakewood, Tacoma, University Place, Seattle, Bellevue, Auburn, Lynnwood, Everett, Port Orchard, and Yakima. Defendants did not have a license to operate a business in any municipalities in Washington, except for Yakima, at the time they conducted COVID-19 tests.

4.9 Defendants advertised their services as free, walk-in COVID-19 rapid antigen and PCR testing sites that do not require an appointment. When a consumer arrives at one of Defendants' Washington testing sites, they are typically asked to provide a copy of their driver's license and proof of insurance.

[2] According to its website, Center for Covid Control has temporarily closed all of its testing sites until further notice. It intends to re-open once "staffing resources" permit. Center for Covid Control Press Release, available at https://www.centerforcovidcontrol.org/press-release (last visited Jan. 27, 2022).

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4.10 After checking in and providing their information, the consumer waits in line and then submits a sample for one or both of the following COIVD-19 viral diagnostic tests: 1) a COVID-19 nasal swab rapid antigen test; and 2) a COVID-19 nasal swab PCR test. Several consumers have reported that Defendants do not employ basic COVID-19 safety protocols at their Washington testing sites including improper masking, failing to change gloves between consumers, and failing to properly administer the tests.

4.11 Washington consumers report that Defendants' staff sometimes orally announce the results of rapid antigen tests in person at testing site locations in a public manner and without regard to the consumer's privacy. After submitting test samples, consumers leave the testing location and await receipt of their test results from Defendants via email.

4.12 On information and belief, Defendants have obtained and/or intend to obtain reimbursement payments for the COVID-19 tests they have provided to Washington consumers from the federal Department of Health and Human Services' Health Resources and Service Administration (HRSA) for uninsured Washington consumers. Indeed, on information and belief, Doctors Clinical Laboratory, has billed the federal government over $124 million for COVID-19 tests provided to allegedly-uninsured patients across the nation, including Washington consumers.

4.13 Upon receiving a sample, Defendants' employees were instructed to enter the consumers' information into Defendants' computer system. Defendants instructed their employees to examine consumers' reported insurance information and to select the appropriate insurance from a drop-down menu with a finite list of companies, including a "default" option of "uninsured." Uninsured patients' claims for reimbursement would be submitted to and paid by the federal government.

4.14 In cases where a consumer was insured but the insurance company was not listed in Defendants' drop-down menu, Defendants instructed their employees to simply select "uninsured," which Defendants used to support submitting a claim to the federal government for

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reimbursement. Defendants also instructed their employees to list consumers as "uninsured" when the consumer had insurance but failed to provide proof of insurance at the time of testing.

4.15 As test collection ramped up, Defendants sought ways to streamline the data entry process. Defendants, through owner Siyaj, instructed employees to "streamline" data entry by entering the name of the patient and immediately hit a series of keys that would input defaults for the remaining entries, including defaulting a patient's insurance information to "uninsured." On information and belief, by following this "streamlined" data entry process, Defendants subsequently misrepresented to the federal government that Washington consumers with private or public insurance were actually uninsured.

C. DEFENDANTS HAVE MISREPRESENTED THEIR SERVICES

1. Defendants Misrepresent When Washington Consumers Will Receive Their PCR and Rapid Antigen COVID-19 Test Results

4.16 Center for Covid Control represented to Washington consumers on its website that the results of its PCR test "will be emailed within 48 hours" and that the results of its rapid antigen test "are verbally given within 15 minutes and an email confirmation is given within 3 hours." Likewise, Doctors Clinical Laboratory represents on its website that:

> A PCR test takes 24 to 48 hours to receive your results… With the rapid antigen test, results are verbally given within 15 minutes and an email confirmation is given within 3 hours.

4.17 Defendants routinely orally reinforce and repeat these representations to consumers who appear in person at their testing sites. For example, Defendants regularly orally represent to Washington consumers that they can expect to receive their PCR COVID-19 test results via email sometime in the next 24 to 72 hours after having taken the test. Likewise, Defendants regularly orally represent to Washington consumers at their testing locations that their rapid antigen test results will be emailed to them within the same day the test is taken.

4.18 While Defendants have represented to the public that they are capable of processing tests at this speed, Defendants have been aware that they are actually unable to

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process many of the samples being sent in by consumers at that pace. According to former employees of Defendants, in early December 2021, Defendants were receiving between 8,000-10,000 tests per day. The former employees explained that Defendants' receiving and data entry teams have been unable to keep pace with the incoming tests, and Defendants' employees have been gathering incoming tests in garbage bags and piling them in various corners of their office without any semblance of organization. One former employee, a shift lead, reports repeatedly asking Defendant co-owners Akbar Syed and Aleya Siyaj for more staff and being refused. Co-owners Akbar Syed and Aleya Siyaj, who were regularly at the facility, observed the tests being stored in trash bags and took few, if any, steps to better organize testing and ensure timely processing of the samples.

4.19 Defendants' representations about when Washington consumers would receive the results of their COVID-19 PCR and rapid antigen tests are unfair and deceptive. Indeed, numerous consumers did not receive any PCR test results from Defendants—let alone within the promised window of 24 to 72 hours after having taken the test.

4.20 Defendants' former employees reported regularly finding test samples that were more than a week old stored in trash bags strewn around the office. Many of these samples had never been refrigerated, let alone tested by their lab.

2. Defendants Provide Inaccurate and Deceptive Test Result Information to Washington Consumers and Have Fraudulently Reported Negative Test Results to Consumers that Never Completed COVID-19 Tests

4.21 Not only do Defendants fail to promptly deliver test results to Washington consumers as they promised, when they do provide COVID-19 test results their reports are often inaccurate. For example, one Washington consumer visited the Center for Covid Control's Everett testing site on January 11, 2022. At the time, the consumer had been exposed to COVID-19 and was experiencing symptoms. The consumer waited five hours for a test result before traveling back to the site and being told her result was lost. She proceeded to get tested again but was told two hours later that her second test had also been lost, only to receive an email one

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minute later telling her she tested negative. Because of the negative test result, the consumer went to work the next day. Suspicious of the negative result, however, the consumer booked another appointment at a DOH testing site. She received a positive COVID-19 test result on January 15, 2022 from DOH.

4.22 Similarly, another consumer, who never received his test result from the Center for Covid Control, reported that two of his family members received negative test results from Defendants despite exhibiting severe symptoms of COVID-19 the day after being tested.

4.23 Former employees report that Defendants were careless and engaged in deceptive practices with regard to PCR tests. For example, Defendants' lab manager told other employees that PCR test samples were no longer "good" after, at most, three days, and that if a sample was older than three days, the sample should not be sent to the lab for processing. The lab manager explained that after three days, the test would always result in a negative or inconclusive result. But Defendants' Director of Operations instructed Defendants' employees to begin falsely post-dating samples, in order to make them appear more recent that they actually were, and to continue sending such samples to the lab for processing.

4.24 As Defendants fell behind on processing incoming test samples, they began to receive numerous consumer complaints about tardy or non-existent test results. Call waits were, at times, over three hours long. When consumers did finally get through the queue to ask about their results, Defendants' employees looking up consumers' test results often found that the tests had not yet been processed, even though more than 48 hours had passed. Defendants instructed their employees to deceptively tell consumers in this situation that the consumers' results were coming in 24 hours, even if the employees had no idea where the sample was or if the lab would ever test it. If a consumer called multiple times, employees were instructed to falsely tell consumers that the test result was inconclusive and that they needed to take another test. That way, not only could Defendants bill for the test that was not processed or was processed late,

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Defendants encouraged consumers to send yet another sample to Defendants for Defendants to bill.

V. CLAIM FOR VIOLATION OF THE CONSUMER PROTECTION ACT, RCW 19.86.020

5.1 Plaintiff re-alleges Paragraphs 1.1 through 4.24 and incorporates them as if set fully herein.

5.2 Defendants Center for Covid Control and Doctors Clinical Laboratory engage in "trade" or "commerce" within the meaning of the Consumer Protection Act, RCW 19.86.010(2), by operating COVID-19 testing sites in King County and throughout the state, and by marketing, promoting, selling, and/or providing COVID-19 rapid tests and test results and RT-PCR tests and test results to Washington residents.

5.3 Defendants engaged in unfair and deceptive acts and practices in trade or commerce affecting Washington consumers, including but not limited to the following:

a. Unfairly and deceptively representing the timeframe in which Defendants would communicate and report the results of its COVID-19 PCR and rapid antigen test results to Washington consumers;

b. Unfairly and deceptively representing that Defendants will promptly report the results of its COVID-19 RT-PCR and rapid antigen tests to Washington consumers but then failing to report such results;

c. Unfairly and deceptively listing in its results reports the date and time when test samples were collected or received from Washington consumers, which do not correspond to the actual date and time Defendants collected or received test samples from such Washington consumers;

d. Unfairly and deceptively representing to complaining Washington consumers that their test results were coming in 24 hours or that their test

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results were inconclusive without knowing the present status or condition of their test samples;

e. Unfairly and deceptively providing rapid antigen test results to Washington consumers who only provided Defendants with PCR test samples;

f. Unfairly and deceptively communicating deceptive results reports to Washington consumers whose tests had not been processed;

g. Unfairly and deceptively collecting consumers' personal identifying and insurance information while representing that the information would be used to bill insurance, when Defendants did not, in fact, bill the consumers' insurance; and

h. Engaging in an unfair method of competition by operating without a business license in multiple Washington municipalities.

5.4 The conduct described above in paragraphs 5.3.a to 5.3.h have impacted the public interest and may continue without relief from this Court.

5.5 Based on the above unfair and deceptive acts and practices, Plaintiff is entitled to relief under the Consumer Protection Act including injunctive relief and restitution pursuant to RCW 19.86.080, civil penalties pursuant to RCW 19.86.140 for each and every violation of RCW 19.86.020, and reimbursement of the costs of this action, including reasonable attorneys' fees, pursuant to RCW 19.86.080.

VI. PRAYER FOR RELIEF

Wherefore, the State prays for the following relief:

6.1 That the Court adjudge and decree that the Defendants have engaged in the conduct complained of herein.

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6.2 That the Court adjudge and decree that the conduct complained of constitutes unfair or deceptive acts or practices and is unlawful in violation of the Consumer Protection Act, RCW 19.86.

6.3 That the Court issue a permanent injunction pursuant to the Consumer Protection Act, RCW 19.86.080, enjoining and restraining Defendants and their representatives, successors, assigns, offices, agents, servants, employees, and all other persons acting or claiming to act for, on behalf of, or in concert or participation with Defendants, from continuing or resuming the unlawful conduct complained of herein.

6.4 That the Court assess civil penalties, pursuant to RCW 19.86.140, against Defendants for each and every violation of RCW 19.86.020 caused by the conduct complained of herein.

6.5 That the Court assess enhanced civil penalties, pursuant to RCW 19.86.140, against Defendants in the amount of $5,000 for each and every violation of RCW 19.86.020 which targeted or impacted individuals or communities based on demographic characteristics, including individuals with disabilities.

6.6 That the Court, as an equitable remedy, disgorge Defendants of money or property acquired by Defendants as a result of the conduct and violations complained of herein.

6.7 That the Court make such orders pursuant to RCW 19.86.080 as it deems appropriate to provide for restitution to consumers of money or property unlawfully acquired by Defendants as a result of the conduct complained of herein.

6.8 That the Court make such orders pursuant to RCW 19.86.080 to provide that the Plaintiff, State of Washington, have and recover from Defendants the costs of this action, including reasonable attorneys' fees.

6.9 That the Court award prejudgment interest.

6.10 For such other relief as the Court may deem just and proper.

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DATED this 31st day of January, 2022.

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