

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, SS.

SUPERIOR COURT

CIVIL ACTION No: _____

BHARANIDHARAN PADMANABHAN MD PhD
(Dr BHARANI)
Plaintiff

14 01410

v.

COMPLAINT AND
JURY DEMAND

CITY OF CAMBRIDGE,
CAMBRIDGE PUBLIC HEALTH COMMISSION
(dba Cambridge Health Alliance - CHA),
MARY CASSESSO, ELLEN SEMONOFF,
MOACIR BARBOSA, DAVID BOR,
NANCY BUSNACH, LOUIS DePASQUALE,
FRANCIS DUEHAY, DENNIS KEEFE,
LUCIAN LEAPE, CAROL VANDEUSEN LUKAS,
ISAAC MACHADO, STEVE MANOS,
GERALD McCUE, JANE METZGER,
PAULA PARIS, JOSHUA POSNER,
MAXWELL SOLET, DEBORAH KLEIN WALKER,
ALLISON BAYER, DAVID PORELL,
GERALD STEINBERG, CAROL HULKA,
RACHEL NARDIN, SOMAVA STOUT,
KATHLEEN HARNEY, DAVID ELVIN, JACK BURKE,
DONALD KAPLAN, DAVID LINK, ANNE FABINY,
SIMON AHTARIDES, SAM DOPPELT,
ELIZABETH GAUFBERG, KATHERINE KOSINSKI,
RONALD MINTER, DAVID OSLER, GREGORY OTA,
ASSAAD SAYAH, STEVEN SCHWAI TZBERG,
LAURA SULLIVAN, CHARLES DOUGLAS TAYLOR,
RANDY WERTHEIMER, PRISCILLA DASSE,
ROBERT HEALY, NANCY LIAN,
KATHLEEN MURPHY (FACHE),
THE GREELEY COMPANY, DR JOHN/JANE DOE,
GREGORY LIPSHUTZ, JONATHAN STRONGIN,
MELISSA LAI BECKER,
EXECUTIVE OFFICE OF HEALTH AND HUMAN
SERVICES, JUDYANN BIGBY, JULIAN HARRIS,
CHRISTINE ZAVALAS, JAMES PAIKOS,
LORETTA KISH COOKE, STEPHEN HOCTOR,
ROBERT BOUTON, GERALD HEALY,
CANDACE LAPIDUS SLOANE, MARIANNE FELICE,
LUBIN & MEYER PC, ROBERT HIGGINS,
CENTERS FOR MEDICARE & MEDICAID SERVICES
(BOSTON REGIONAL OFFICE), RAYMOND HURD,

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CLERK OF THE COURTS
NORFOLK COUNTY

WILLIAM KASSLER, STANZLER LEVINE LLC,)
 LIAM FLOYD)
 Defendants)

PARTIES

PLAINTIFF

- 1 The Plaintiff, Bharanidharan Padmanabhan is a Board-certified neurologist licensed to practice in Massachusetts and his address is 30 Gardner Road #6A, Brookline, MA 02445.

DEFENDANTS

PARTY A

- 2 The City of Cambridge, with a usual address of 795 Massachusetts Avenue, Cambridge MA 02139.
- 3 The Cambridge Public Health Commission, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 4 Robert Healy, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 5 Mary Cassesso, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 6 Ellen Semonoff, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 7 Moacir Barbosa, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 8 David Bor, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

- 9 Nancy Busnach, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 10 Louis DePasquale, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 11 Francis Duehay, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 12 Dennis Keefe, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139 and c/o Care New England, 45 Willard Avenue, Providence RI 02905.
- 13 Lucian Leape, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 14 Carol Vandusen Lukas, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 15 Isaac Machado, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 16 Steve Manos, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 17 Gerald McCue, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 18 Jane Metzger, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 19 Paula Paris, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 20 Joshua Posner, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

21 Maxwell Solet, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

22 Deborah Klein Walker, Board Trustee, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

PARTY B

(Officers)

23 Allison Bayer, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

24 David Porell, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

25 Gerald Steinberg, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

26 Carol Hulka, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

27 Rachel Nardin, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

28 Somava Stout, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

PARTY C

(Medical Executive Committee 2010)

29 Kathleen Harney, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

30 David Elvin, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

- 31 Jack Burke, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 32 Donald Kaplan, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 33 David Link, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 34 Anne Fabiny, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 35 Simon Ahtarides, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 36 Sam Doppelt, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 37 Elizabeth Gauferg, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 38 Katherine Kosinski, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 39 Ronald Minter, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 40 David Osler, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 41 Gregory Ota, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 42 Assaad Sayah, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.
- 43 Steven Schwaizberg, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

44 Laura Sullivan, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

45 Charles Douglas Taylor, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

46 Randy Wertheimer, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

47 Priscilla Dasse, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

PARTY D

48 Nancy Lian, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

49 Kathleen Murphy FACHE, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

PARTY E

50 Gregory Lipshutz, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

51 Jonathan Strongin, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

52 Melissa Lai Becker, with a usual address of 1493 Cambridge Street, Cambridge MA 02139.

PARTY F

53 The Greeley Company, with a usual address of 75 Sylvan Street, Suite A-101, Danvers, MA 01923.

54 Dr Jane/John Doe, Consultant for The Greeley Company, with a usual address of 75 Sylvan Street, Suite A-101, Danvers, MA 01923.

PARTY G

55 The Executive Office of Health and Human Services, with a usual address at One Ashburton Place, 11th Floor, Boston MA 02108.

56 Mary Cassesso, Asst. Secretary for Administration and Finance, with a usual address at One Ashburton Place, 11th Floor, Boston MA 02108.

57 Judyann Bigby, with a usual address at One Ashburton Place, 11th Floor, Boston MA 02108 and at Women's Health Center of Excellence, BWH, 75 Francis Street, Boston MA 02115.

58 Julian Harris, with a usual address at One Ashburton Place, 11th Floor, Boston MA 02108 and at The Office of Management and Budget, 725 17th Street, NW, Washington DC 20503.

59 Christine Zavalas, with a usual address at One Ashburton Place, 11th Floor, Boston MA 02108.

60 James Paikos, with a usual address at 200 Harvard Mill Square, Suite 330, Wakefield MA 01880.

61 Loretta Kish Cooke, with a usual address at 200 Harvard Mill Square, Suite 330, Wakefield MA 01880.

62 Stephen Hctor, with a usual address at 200 Harvard Mill Square, Suite 330, Wakefield MA 01880.

63 Robert Bouton, with a usual address at 200 Harvard Mill Square, Suite 330, Wakefield MA 01880.

64 Gerald Healy, with a usual address at 200 Harvard Mill Square, Suite 330, Wakefield MA 01880 and at 194 Grove Street, Wellesley MA 02482.

65 Marianne Felice, with a usual address at 200 Harvard Mill Square, Suite 330, Wakefield MA 01880.

66 Candace Lapidus Sloane, with a usual address at 200 Harvard Mill Square, Suite 330, Wakefield MA 01880.

PARTY H

67 Lubin & Meyer PC, with a usual address at 100 City Hall Plaza, Boston MA 02108.

68 Robert Higgins, with a usual address at 100 City Hall Plaza, Boston MA 02108.

PARTY I

69 Centers for Medicare and Medicaid Services, Boston Regional Office, with a usual address at JFK Federal Building, Suite 2325, Boston MA 02203.

70 Raymond Hurd, with a usual address at JFK Federal Building, Suite 2325, Boston MA 02203.

71 William Kassler, with a usual address at JFK Federal Building, Suite 2325, Boston MA 02203.

PARTY J

72 Stanzler Levine LLC, with a usual address at 45 School Street, 2nd Floor, Boston MA 02108.

73 Liam Floyd, with a usual address at 45 School Street, 2nd Floor, Boston MA 02108.

FACTUAL BACKGROUND

- 74 Dr Bharanidharan Padmanabhan is a resident of Norfolk County, Massachusetts and has maintained continuous residence from 2002.
- 75 The Cambridge Public Health Commission (dba CHA) is the public health agency of the City of Cambridge, established by an Act of Massachusetts Legislature in 1996 and declared to lack sovereign immunity.
(<http://archives.lib.state.ma.us/actsResolves/1996/1996acts0147.pdf>)
- 76 Dr Bharanidharan Padmanabhan is customarily referred to as Dr Bharani
- 77 Dr Bharani earned his MD degree (summa cum laude) at the Semmelweis University of Medicine in Budapest, Hungary in 1995 and his PhD in Multiple Sclerosis in 1997
- 78 Dr Bharani completed his internship in the Boston VA Medical Center in 1997.
- 79 Dr Bharani completed his residency training in Neurology at the Tufts Neurology Program in Boston (Tufts - New England Medical Center, Lahey Clinic and St Elizabeth's Medical Center).
- 80 Following residency Dr Bharani completed a 3-year Fellowship in Multiple Sclerosis Neuroimmunology at the Weiner Lab at Harvard Medical School's Brigham and Women's Hospital in Boston.

- 81 Following this 3-year fellowship Dr Bharani completed an additional 1-year Clinical Fellowship in Multiple Sclerosis at the University of Massachusetts Memorial Medical Center in Worcester.
- 82 Dr Bharani was the Director of the MS Service in Taunton and Abington for three years after his training was complete.
- 83 In 2007 Dr Bharani was recruited by Dr Thomas Glick, Professor of Neurology at Harvard Medical School, to provide in-house neurology coverage at CHA's Whidden Hospital and to improve the quality of care at CHA. Dr Bharani has had a decades-long interest in Crew Resource Management, Deming's Principles, Root Cause Analysis and other systems designed to ensure that patients receive the best possible outcome. Dr Bharani was also fully aware of the fact that Cambridge was Dr Lucian Leape's hospital and the source of many of his published medical papers on the culture of teamwork and patient safety. Dr Bharani mistakenly assumed at the time that Dr Leape's published statements were real and not entirely fraudulent. Dr Bharani welcomed the chance to work within Dr Leape's own hospital.
- 84 Dr Bharani was also happy to work at the Whidden Hospital as the site qualified for a J-1 visa waiver and he would get a 'Green Card' after 3 years.
- 85 250 MS patients chose to continue receiving their care from Dr Bharani despite the greater distance involved. Dr Bharani transferred around 500 MS patients to the care of Dr Salvatore Napoli in Foxboro thus helping establish that MS Center in Southern Massachusetts.

- 86 The staff and nurses at the Whidden were very happy with Dr Bharani and awarded him the CHA Quality Circle Award (for excellent patient care and interpersonal skills) within 8 months of his starting work there. This remains an institutional record.
- 87 In May of 2008 Dr Bharani brought to Dr Glick's and Dr Bor's attention a serious problem with the way Brain MRI scans were being read by Dr Carol Hulka's Radiology Department. Dr Bharani raised this issue with the supervisors within his Department alone and depended on them to take the issue up with the Radiology Department.
- 88 Dr Bharani proved that Brain MRI scans were not being read correctly by Dr Carol Hulka's Radiology Department and that if an addendum was issued they illegally covered up this fact.
- 89 Dr Glick commended him for raising this significant issue and called his findings a "smoking gun."
- 90 Dr Glick as Chief of Neurology tried repeatedly to arrange a meeting with Dr Carol Hulka, Chief of Radiology, on this important matter. Dr Hulka refused and no meeting ever took place throughout 2008, 2009 and 2010.
- 91 Dr Bharani continued to put in a huge amount of work and covered the service (being on call) every single weekend between 2007 and 2009.

- 92 Dr Glick calculated Dr Bharani had worked 27 weekends more than he should have and tried to get monetary compensation for the time. At \$2000 per weekend for a locum tenens, Dr Bharani was owed \$54,000. Dr Glick was blocked by Administrator Kathy Murphy FACHE. Eventually Dr Glick managed to get Dr Bharani a raise in his salary to \$145,000 from \$137,000 per year.
- 93 Dr Bharani gave Grand Rounds at CHA on Multiple Sclerosis in April 2008. He had presented it to Dr Glick in full the day before. Dr Glick supported the lecture fully and attended it. The lecture was on how patients with MS were routinely not diagnosed or treated earlier in the course of their disease and how to improve matters using the teamwork and Crew Resource Management techniques touted by Dr Lucian Leape. Dr Bharani also prepared numerous copies of a handout at his personal expense for attendees to keep with them for the next time they came across a person likely to be suffering from MS. The blowback from the leadership at CHA was severe. Dr Glick went on a listening tour to determine the cause of the antipathy. His finding was that CHA's Progressive leadership strongly felt "For a Third World doctor Dr Bharani is not obsequious enough."
- 94 Dr Bharani had arrived at CHA with a \$24,000 Independent Investigator Grant from EMD Serono in order to study balance in MS patients. Dr Glick was very happy about this and totally supportive.
- 95 Dr Bharani was informed he had to apply for permission from the Scientific Committee which for decades had consisted of Dr Bor, Dr Woolhandler and her husband Dr Himmelstein.

- 96 Immediately after joining in July 2007 Dr Bharani applied for permission to begin his clinical research using the Grant he had brought with him. He never ever received any response from Dr Bor, Dr Woolhandler or Dr Himmelstein.
- 97 Dr Glick then informed him that those three individuals were die-hard Progressives who were implacably opposed to any contact with industry. The three individuals had also founded an organization called "Physicians for a National Health Plan" which advocated for single-payer healthcare in the US. Dr Glick was unhappy and apologetic that they had blocked an Independent Grant that was not related to any drug. The Grant was rescinded for non-use.
- 98 Documents filed during the regular biennial re-credentialing process in 2009 describe Dr Bharani's work at CHA as heroic and beyond the call.
- 99 In May 2009 the leadership of CHA floated a progressive public workplace pledge that physicians working at CHA were asked to consider taking, swearing off any and all contact with industry. Having lived in the progressive People's Republic of Hungary, Dr Bharani was opposed to all intrinsically coercive measures such as public pledges at the workplace.
- 100 Dr Bharani was also able to prove that, despite the explicit original claim by sponsors of the pledge, hospital physicians would indeed be publicly denounced as having declined to take the pledge, with the deliberate implication to patients that those who declined were unethical, corrupt and did not care about patients. Having lived under Communism Dr Bharani already

knew that was the original intention all along despite the initial false disclaimer. Dr Bharani was proved 100% correct.

- 101 Dr Bharani responded for the first time to a system-wide email within the hospital and exposed the plan underlying the pledge and the fact that under Communism he had already seen just this. Everyone thus saw that the original proposal was in deliberate bad faith. The rank and file at CHA rebelled. The progressive leadership (Dr Bor, Dr Stout, Dr Ota et al) were forced to shelve the pledge.
- 102 Dr Bharani became popular instantly with the rank and file who all stopped him in the corridors to thank him for saving them from the leadership.
- 103 Dr Bharani however was warned by his colleague Dr Varai, a psychiatrist hailing from the progressive People's Republic of Hungary, that Dr Bharani was now likely to be disappeared by the progressive leadership at CHA.
- 104 In June 2009 Dr Glick informed Dr Bharani that Dr Bor had asked him to retire and that Dr Bor had initiated a formal search for a new Chief of Neurology.
- 105 Dr Glick assured Dr Bharani that his position was secure and that nothing would jeopardize successful completion of his 3-year J-1 waiver and becoming eligible for a 'Green Card'.
- 106 In August 2009 Dr Rachel Nardin joined the Department from the Beth Israel Deaconess Medical Center. At the time Dr Nardin was the President of the

Massachusetts chapter of the group called "Physicians for a National Health Plan" that had been founded by Dr Himmelstein and Dr Woolhandler.

- 107 Dr Rachel Nardin had also, on National Public Radio, vocally supported public pledges by students and faculty swearing off all contact with industry.
- 108 Unbeknownst to Dr Bharani, Dr Nardin began compiling a daily dossier on Dr Bharani immediately after joining CHA in August 2009, when she was still Dr Bharani's colleague and not his supervisor. Dr Glick still was the Chief of Neurology at the time.
- 109 This daily dossier was revealed only in December 2010 during discovery for the Fair Hearing in January 2011. It had reached 600 pages in size. Dr Nardin had looked at every clinic note, every hospital dictation, every email, every phone call and had also spoken with the nurses at Whidden Hospital every evening to find out what Dr Bharani had talked about during the day and if there had been any incidents.
- 110 Dr Bharani had had no inkling that he and he alone had been under comprehensive daily surveillance. It reminded him of the People's Republic of Hungary and the German film "The Lives of Others" about life in East Germany.
- 111 Despite a herculean effort the only "dirt" collected by Dr Nardin was the statement "A patient reported that while walking past her in the clinic waiting area Dr Bharani scowled at her." This statement was included in Dr Nardin's

Request For Termination letter to the Medical Executive Committee. It is still unknown if this statement originated from Dr Nardin herself.

- 112 In December 2009, Dr Rachel Nardin was officially installed by Dr Bor as Chief of Neurology.
- 113 On December 8th, 2009, Dr Nardin met with Dr Bharani at Whidden Hospital and informed him that she was getting a tremendous amount of complaints about him, more than she had ever heard about any doctor anywhere and that she did not want her Department to elicit complaints from the “primary care community.”
- 114 Dr Bharani informed her that he needed to be at Whidden Hospital till he completed the 3-year J-1 waiver requirement and became eligible for a Green Card. Dr Bharani stated that it was highly unlikely he would do anything to jeopardise his professional standing in the interim.
- 115 Dr Bharani asked Dr Nardin for specific requirements that he could meet. Dr Nardin said “Just be professional. You aren’t now.”
- 116 Throughout 2010 Dr Bharani endured enormous continuous criticism from Dr Nardin about his care for patients with Multiple Sclerosis, a topic he is a world-level expert in and which Dr Nardin has had no training in at all. It is important to keep in mind that Dr Bharani trained in Boston throughout. Everything he practices he learnt right here from world leaders in neurology.

- 117 In May 2010 an MS patient diagnosed and treated by Dr Bharani arrived by ambulance at the Cambridge Hospital's Emergency Room. He had developed severe paralysis of his right leg and moderate paralysis of his right arm. He specifically asked for Dr Bharani to be called as he was in the midst of his third major MS attack. The ER Attending Physician, Dr Melvin Schorin, called in Dr Nardin instead.
- 118 The electronic medical record system at CHA fully documented that the patient has MS. His actual MRI scans are also available to view to everyone in the ER. Plus the patient himself stated clearly that this was his third MS attack. Dr Schorin had a fresh MRI scan done which was negative for an acute stroke but did show his MS lesions.
- 119 Dr Rachel Nardin informed the patient that Third World doctors do not know MS, that he had been misdiagnosed with MS because Dr Bharani does not know how to read Brain MRI scans, that he was suffering from his third stroke and that she was going to administer an intravenous clot-buster called tPA. The patient was stunned to hear all this and expressed reservations about the drastic change in plan. Dr Nardin assured him that she had trained at Harvard and was correct.
- 120 More than 3 hours after the onset of his paralysis and with an MRI scan negative for an acute stroke, Dr Bharani's patient was given IV tPA. ER Attending Physician Dr Schorin did not stop Dr Nardin from giving tPA for an MS attack despite Dr Leape touting his hospital as the epitome for Crew Resource Management in the entire field of medicine and one that should serve as the model for all the planet to follow. By deferring to Dr Nardin, clearly Dr Schorin

chose to avoid being labeled “disruptive” and that was more important, a fact reinforced by the congratulatory email sent him by Dr Nardin and the fact that Dr Schorin has never been subject to any disciplinary action for giving tPA for an MS attack. Per CHA protocol my patient was immediately transferred to Massachusetts General Hospital’s Neurology Service.

- 121 At MGH the neurology residents immediately recognized that a major malpractice had occurred. They immediately stopped the tPA and administered intravenous high-dose steroids for the patient’s massive MS attack.
- 122 Dr Rachel Nardin casually mentioned to Dr Bharani the next day at a routine department meeting that “Oh one of your stroke patients came in yesterday. I had some difficulty exactly locating his lesion but still think it was somewhere in the Anterior Choroidal Artery distribution. I gave him tPA and he got better.” Dr Bharani was stunned as he did not have “his” stroke patients. He immediately rushed to MGH to see his MS patient, who was still paralysed on the right side and filled Dr Bharani in on all the events of the day before. He also met with the team at MGH who were apoplectic that a known MS patient had been given tPA for an MS attack, which greatly increased his chance of bleeding within the brain and dying.
- 123 Dr Bharani immediately realized that Dr Nardin had intended for his MS patient to bleed and die to support Dr Nardin’s narrative that the patient had had strokes all along, resulting in a devastating complaint to the Board of Medicine designed to revoke Dr Bharani’s License. It most emphatically was NOT a close judgement call or excusable medical error or incompetence. It was a deliberate

conscious goal-directed act. Dr Bharani thus asked Dr Glick to analyze this event for a Morbidity and Mortality Conference. This was what is classed as a Joint Commission Never Event, something that should never happen in a hospital, especially a Harvard Teaching Hospital. This event was never analyzed at CHA or reported to The Joint Commission or to EOHHS' Department of Public Health.

- 124 This MS patient and his wife independently arrived at that same conclusion in November 2010 after Dr Nardin had security guards throw Dr Bharani out of Whidden Hospital. In December 2010 this patient had his 4th massive MS attack, precipitated by the abrupt stoppage of a powerful MS drug called Tysabri which he lost access to when Dr Bharani was thrown out. Dr Bharani was the only neurologist at Cambridge certified to prescribe and administer Tysabri. The patient refused to call 911 because he would be brought to Cambridge Hospital and he was afraid Dr Nardin would finish the job. He remained bed-bound for 3 weeks. His wife carried him to the bathroom and back. The patient and his wife informed Dr Bharani of their prescient realization and correct decision when they finally found each other again in June 2011. Because of their clear grasp of reality the patient is still alive.
- 125 In August 2010 it suddenly was revealed that Dr Nardin had been inviting in patients diagnosed with MS by Dr Bharani who were then told that Dr Bharani did not know how to read Brain MRI scans or know MS and that they did not have MS. These were patients seen at Whidden Hospital who were called to Dr Nardin's clinic at Cambridge Hospital.

- 126 This is totally unheard of in Boston's teaching hospitals. Furthermore Dr Nardin did not treat other members of the Neurology Division in the same manner.
- 127 In August 2010 Dr Bharani was referred a 64 year old black gentleman. The report by Dr Carol Hulka's radiology department of his Brain MRI scan was egregiously erroneous and exposed the patient to a totally avoidable early death. As Dr Nardin was away on vacation and the malpractice was so egregious, Dr Bharani emailed Dr Hulka directly to point out that reports were being issued without scans actually being viewed and that a treatable disease was being left untreated, just as at Tuskegee. The staff radiologist who had issued the report had actually confessed via email that he did not recall even viewing the all-important Sagittal FLAIR scan.
- 128 Dr Carol Hulka immediately emailed the leadership of CHA asking that Dr Bharani be thrown out of the Medical Staff as soon as possible and suggested the pretext of "disruptive physician behavior." Precisely because that term has been used only against honest caring physicians The Joint Commission stopped using that term in 2012.
- 129 Immediately upon returning from vacation in August 2010, Dr Nardin called Dr Bharani on his cellphone and said "I don't know if you realize this but you are officially on Probation already and you had no business making Dr Hulka upset."
- 130 This was the first time Dr Bharani learnt that he was on Probation in his job.

- 131 Later during discovery Dr Bharani learnt that Dr Nardin, Administrator Kathy Murphy FACHE and Dr Bor had held numerous meetings to discuss throwing Dr Bharani out of CHA but in violation of Massachusetts law he had never been informed of any of these meetings nor given 10 days to place his rebuttal on file.
- 132 It was also shown that Dr Nardin had never written the word Probation down on any document and that Dr Bharani had never been asked to sign any paper acknowledging a change in his job status.
- 133 By this time doctors at all Harvard hospitals had become aware of the famed judgement and injunction obtained by Dr Sagun Tuli from the US District Court in her landmark case against Brigham & Women's Hospital. BWH was represented in that case by the law firm Sloane & Walsh, the same firm that represented the MEC at Dr Bharani's Fair Hearing.
- 134 Dr Bor and Dr Nardin declared their intent to hire a Dr Davender Khera to work as a neurologist at Whidden Hospital when he finished his residency training at Massachusetts General Hospital.
- 135 Dr Khera, an American physician whose parents immigrated from India, had done his MD at Yale and was enrolled in the Neurology residency program at MGH. MGH documents a 6-month gap in his training and that he left the program for that period and then was re-admitted. As a result he completed his training 6 months late, in December 2010.

- 136 Dr Bharani found it interesting that a Yale/MGH graduate would immediately start work at a poor public hospital in an under-served area when he could immediately gain entry to prestigious fellowships elsewhere. He then understood that Dr Khera was being hired solely to thwart any claims in the future by Dr Bharani about discrimination based on national origin and the fact that Dr Bharani was already aware about the leadership's feeling that for a Third World doctor Dr Bharani was not obsequious enough. Dr Bharani did not file any such claim. Dr Khera stayed at Whidden Hospital for one year and left for the University of Rochester.
- 137 The poor people served by Whidden Hospital have no neurologist anymore.
- 138 In October 2010 Dr Bharani was called to Dr Nardin's office. Dr Nardin informed Dr Bharani she had done two 360-degree analyses on him, that he was found to be terrible in both and that he had not improved after the first one. This was the first time Dr Bharani knew that they had been done. Dr Bharani pointed out that they were supposed to involve specific 360-degree coaches and a Performance-Improvement-Plan before a second one is done and that they should not be done purely punitively. Dr Nardin asserted that 360-degree analyses are done only punitively. She repeated that under oath to the Fair Hearing Panel in January 2011.
- 139 Once again Dr Bharani pointed out that he needed to be at Whidden Hospital till the end of June 2011 in order to complete his 3-year J-1 waiver requirement and get a 'Green Card'. He repeated that he wished to complete the 3 years.

- 140 Dr Nardin repeated that Dr Bharani (and his entire practice) was unprofessional and substandard, that he did not meet the level of other doctors at Harvard and did not deserve to be there. Dr Nardin also stated that she would be discussing Dr Bharani with Dr Bor and that she doubted very much that Dr Bharani would complete his 3-year J-1 waiver requirement, meaning he would have to leave the country immediately, lose all his patients and not return for two full years.
- 141 In early November 2010 Dr Bharani was called to Dr Bor's office. Dr Bor stated Dr Nardin had done a full review of Dr Bharani's practice, that she had recommended that his case be forwarded to the Medical Executive Committee for their evaluation and decision and that he would be doing so the next week.
- 142 Dr Bor and Dr Nardin presented a Request for Termination to the MEC on the 9th of November 2010. The MEC approved this Request in a 29-minute meeting where Dr Bharani was one of three cases discussed.
- 143 It was the very first time Dr Bharani had been discussed by any MEC. Most members of that MEC did not know anything about Dr Bharani at all.
- 144 The MEC summarily suspended Dr Bharani's privileges at CHA on the 9th of November, 2010 and recommended Permanent Termination by the Trustees.
- 145 A summary suspension is to prevent the public from an imminent danger (a drunk surgeon scheduled to operate that same day for example) and should be

reviewed by the MEC within 14 days to comply with the US Constitution, case law and CHA's own binding Bylaws.

- 146 Dr Bharani came in to work at CHA as usual on the 10th and on the 11th and saw patients during their regularly scheduled appointments. He also consulted on sick patients in the ICU and the inpatient wards those two days.
- 147 Around 3pm on the 11th of November 2010 Dr Bharani was in his office completing his clinic notes when there was a knock on the door. Dr Nardin entered along with Chief Administrative Officer Dave Porell who handed Dr Bharani a ream of paper and recited the contents of the Termination Letter including CHA's order that Dr Bharani stay away from CHA and not talk to any of the staff or his patients.
- 148 CHA's Termination Letter also specified that he was Terminated for cause and that his visa from CHA would end on December 27th, 2010. CHA expected him to leave the United States on that date or very soon after.
- 149 Dr Bharani was then escorted out by Security and CAO Porell in an extended "perp-walk" through Whidden Hospital. Dr Bharani left with just his reflex hammer in hand that his father had bought for him when Dr Bharani was 17 and had settled on neurology as his life. Before leaving he stressed to Dr Nardin that his MS patients were his and not the hospital's and that he needed to arrange for their care. Dr Nardin refused and insisted he leave the premises immediately.

- 150 The next week Dr Bharani endured repeated demands by Administrator Kathy Murphy FACHE that he vacate his office room immediately and that if he did not have movers come in very soon he would find his belongings on the sidewalk outside his home.
- 151 CHA's Senior Director for Medical Staff Services and Credentialing Nancy Lian told Dr Bharani that in order to apply for a Fair Hearing all he needed to do was write a one line request and give it to her and she would personally hand it to the CEO. Dr Bharani did so and CHA Credentialing Chief Nancy Lian stamped it to make it look official.
- 152 Upon returning home that day Dr Bharani read through the CHA Fair Hearing Plan and discovered that unless the Request is sent in via Certified Mail the physician is deemed to have waived his right to a Fair Hearing. Dr Bharani immediately rushed to the Post Office and sent in another request via Certified Mail. It beggars belief that the Head of staff services did not know this basic law. CHA never meant for Dr Bharani to have a Fair Hearing at all.
- 153 In early December 2010, CEO Dennis Keefe informed Dr Bharani that he would arrange for a Fair Hearing in January 2011.
- 154 Through his attorney Dr Bharani informed CHA that given CHA's written order that he not talk to CHA staff, he was being blocked from properly defending himself.

- 155 CHA were also clearly informed that as Dr Bharani's visa from CHA would expire on December 27th, 2010, arranging for a Fair Hearing in January 2011 deliberately blocked Dr Bharani from being physically present to face his accusers and defend himself.
- 156 CHA agreed that Dr Bharani's visa would not expire in December 2010 and that CHA would officially maintain his visa status till the last day of the Fair Hearing with the firm declaration that after the Fair Hearing his physical presence in the US was not mandatory for any "post-Evidentiary Hearing processes."
- 157 The Fair Hearing Panel was hand-picked by the President of the MEC and per the Fair Hearing Plan was required to find in favor of the MEC unless the physician was able to prove that there was no credible evidence to support his Termination.
- 158 The Fair Hearing lasted three days and was conducted under oath and with a record transcribed by a Court Reporter. Numerous documents were presented and witnesses questioned. The Hearing Panel also independently requested the the MEC deliver a copy of the minutes of the MEC meeting from November 9th.
- 159 That was the first time Dr Bharani discovered that he had been Suspended and Terminated by the MEC in a meeting that lasted a total of 29 minutes during which his was not the sole matter under discussion.
- 160 Dr Bharani had not been invited to attend that meeting and had not been provided a copy of the Minutes earlier. The Minutes also documented that the

MEC heard from only Dr Bor and Dr Nardin before adopting VERBATIM their Recommendation to Terminate.

- 161 With the end of the sworn Fair Hearing the process irrevocably entered the “post- Evidentiary Hearing” phase per the binding Fair Hearing Plan. CHA’s visa status ended immediately.
- 162 Per CHA’s Fair Hearing Plan the Panel had 30 days to deliver their Verdict. The Panel delivered their Verdict on the 30th day - February 28th, 2011 - and ruled that there was NO CREDIBLE EVIDENCE to Terminate Dr Bharani’s privileges and employment at CHA.
- 163 CHA has refused to honor the Verdict till today.
- 164 According to the Fair Hearing Plan, which had been rigorously followed till the Verdict was issued, the CEO was OBLIGATED to convene a meeting of the full Board of Trustees within 20 days of receiving a timely request by Dr Bharani. Dr Bharani’s request was timely.
- 165 CEO Dennis Keefe refused repeatedly to present the matter to the Board of Trustees for their final decision. At CHA no Termination is final until it is approved by the Trustees.
- 166 In February 2011, even before the Fair Hearing panel had issued it’s verdict, Dr Bharani received a letter from CHA Credentialing Chief Nancy Lian informing

him that as he no longer was employed at CHA he should inform the Drug Enforcement Administration and EOHHS' DPH of his new address.

- 167 Dr Bharani had been living without a CHA salary from the end of 2010.
- 168 Month after month Dr Bharani requested that CHA follow the Fair Hearing Plan. CHA repeatedly refused.
- 169 According to CHA's binding Bylaws, if a suspension is not resolved within 6 months, it expires automatically. This rule exists specifically to prevent witch-hunts and harassment of physicians by the MEC and to comply with the US Constitution. As CHA refused to present Dr Bharani's suspension to the Trustees, on May 9th 2011 the suspension automatically expired.
- 170 Also, as Dr Bharani's privileges had not been renewed in June 2011 they too expired routinely while he was no longer under any suspension per the binding Bylaws.
- 171 In August of 2011 suddenly Dr Bharani was informed by CHA that he was to present himself before an "Investigative Committee" composed of Dr Gregory Lipshutz, Dr Jonathan Strongin and Dr Melissa Lai-Becker. Dr Bharani was not told what the Committee was to discuss and what the charges were. He received 3 days notice. Dr Bharani informed CHA that as his credentials (and his CHA visa) had lapsed, legally he was no longer affiliated with the Medical Staff at CHA.

- 172 This troika issued a report dictated by the MEC that does not meet the "Safe Harbor" protections of HCQIA 1986. They further declared that if only Dr Bharani had just set foot in the room they were meeting in they would have required him to undergo psychiatric evaluation for mental instability. (NYPD whistleblower Adrian Schoolcraft got the same treatment from NYPD.)
- 173 In August of 2011 via an attorney Dr Bharani requested Relief from Middlesex Superior Court and an Order requiring CHA's Trustees to give a final verdict. Middlesex Judge Liebenspurger verbally informed CHA that he was "troubled" by the delay. He strongly urged CHA's attorney to begin settlement talks immediately and gave him 5 minutes to arrive at a date when they would begin.
- 174 CHA through Attorney Brian Sullivan of Sloan & Walsh assured Middlesex Judge Liebenspurger they would begin immediately. Middlesex Judge Leibenspurger ruled in favor of the City of Cambridge and dismissed Dr Bharani's plea as not ripe even though the Hospital was required to provide Appellate Review within 20 days and it was now August 2011.
- 175 At that Court Hearing Dr Bharani was handed for the first time a report commissioned by CHA from The Greeley Company. The Greeley report was written by a person whose identity has not been revealed by CHA to this day. The report reasserted CHA's lies that had been disproved at the Fair Hearing and was CHA's attempt at a second bite at the apple well after acquittal.
- 176 In September and October of 2011 Dr Bharani was placed under severe pressure by CHA who daily demanded that he resign from the Medical Staff. He

was informed by his attorneys that CHA, being connected to the City of Cambridge and Middlesex County, was all-powerful and considered itself immune from the law.

- 177 Dr Bharani repeatedly reminded CHA that the Trustees had yet to render a final decision on the Hearing Panel's Verdict exonerating Dr Bharani. Dr Bharani also reminded CHA that per CHA's own bylaws, his suspension had expired without a final resolution within the required 6-month period and that his privileges at CHA had lapsed AFTER the suspension had expired.
- 178 CHA's Bylaws were well-written and specifically protected physicians from unending witch-hunts by the MEC. If there is no final decision by the Trustees within 6 months of a suspension or the start of an investigation, it expires fully. Six months is more than adequate for any Good Faith investigation to see if a physician is an IMMEDIATE DANGER to society.
- 179 Suddenly in November 2011, exactly 1 year to the day that he had been suspended and perp-walked out of CHA, Dr Bharani received a Termination Letter via FedEx stating that his last day of employment at CHA had been October 28th, 2011.
- 180 This was news to Dr Bharani as his visa to work at CHA had expired in January 2011, he had not received a salary from CHA for all of 2011 and his privileges had routinely lapsed in June 2011.

- 181 CHA followed this with a report to EOHHS' Board of Registration in Medicine claiming that Dr Bharani had "Voluntarily Resigned to Avoid an Investigation."
- 182 CHA also published that same false claim to the Federal Government's Department of Health and Human Services' National Practitioners Data Bank.
- 183 Resignation in this professional context automatically implies guilt.
- 184 Because of CHA's consciously false claim to the Massachusetts Board and the Federal Government, Dr Bharani is unable to enroll with insurance companies to get paid for treating patients.
- 185 Because of this consciously false claim to the Massachusetts Board and the Federal Government, Dr Bharani is unable to apply for a fresh J-1 waiver job anywhere else as the Federal Government requires that J-1 waiver-seeking physicians not have any professional blemishes.
- 186 CHA's action was in deliberate malice and fully conscious of Dr Bharani's immigration requirements. CHA aims to drive Dr Bharani out of the US.
- 187 CHA followed this action with a threat delivered via the Massachusetts Department of Medicaid (MassHealth). When Dr Bharani read in the Boston Globe in June 2012 that Dr Bor's protégé Dr Julian Harris had been appointed by EOHHS Secretary JudyAnn Bigby as Director of MassHealth the day after he finished fellowship training, Dr Bharani fully expected to be threatened with a Government Audit. The threat duly arrived in November 2012 despite the fact

- that Dr Bharani had not billed MassHealth since leaving CHA and was seeing his patients without charging them.
- 188 The notice from MassHealth ('randomly selected...') included the same list of patients that Dr Nardin had selected for the Fair Hearing in November 2010, a privileged peer-protected event, and for the Greeley report, a report paid for by CHA.
- 189 Dr Bharani was meant to understand this threat emanated from Cambridge and was expected to be frightened by Cambridge's awesome power over and control of the Government of Massachusetts.
- 190 Dr Bharani informed MassHealth in writing of the unlawfulness of its actions and the corrupt Audit threat instantly vanished.
- 191 CHA provided a copy of the Greeley report to Loretta Kish Cooke and James Paikos at the Massachusetts Board of Registration in Medicine (BORIM), a quasi-judicial Government agency within EOHHS. The report was paid for by CHA after Dr Bharani was exonerated at the Fair Hearing and months after his suspension had expired and his privileges had lapsed along with his visa. BORIM received all documents from CHA by early 2012.
- 192 Loretta Kish Cooke and James Paikos finally brought Dr Bharani's Docket from 2010 (BORIM 2010-426) before BORIM's Complaint Committee in January 2013, 805 DAYS into BORIM's alleged investigation. BORIM knew the 2-YEAR DELAY prevented Dr Bharani from earning a living. Dr Bharani's repeated written pleas

to get the matter completed soon were consciously ignored by BORIM. James Paikos telephoned Dr Bharani one week prior and stated that he had conducted a "comprehensive INDEPENDENT investigation" and that as Board Investigator he would recommend to the Complaints Committee that Dr Bharani's License be immediately suspended but that if Dr Bharani agreed to plead guilty and agreed to probation for 5 years with monthly assessment of Dr Bharani's clinical skills by an "expert" (chosen by James Paikos) whose clinical skills were better than Dr Bharani's, he would recommend an immediate Stay of said suspension. Dr Bharani informed James Paikos that try as he might he could not think of a single physician in Massachusetts with better clinical skills than his own. James Paikos immediately hung up the phone.

- 193 At the Hearing in January 2013 James Paikos quoted VERBATIM from CHA's Greeley Report and stated that he had hired the author of the Report himself as part of his "comprehensive INDEPENDENT investigation" of Dr Bharani on behalf of BORIM and the people of Massachusetts. It was impossible to tell where CHA ended and BORIM began. BORIM stated VERBATIM the two points CHA is desperate to establish -
- A) The official MRI report issued by CHA is always correct
 - B) By not going along with the official CHA MRI report, Dr Bharani has negligently harmed patients
- 194 Dr Bharani immediately informed the Committee orally and in writing that James Paikos was corruptly working for CHA as it's proxy and that Paikos had deliberately lied when he stated that he had paid for the Report and "expert" with BORIM's funds. Dr Bharani further informed the Committee that the Greeley

Report had been custom-ordered and paid for by CHA as part of its criminal retaliation against a Public Healthcare Whistleblower and the patients discussed in the report were selected in 2010 by Dr Rachel Nardin.

- 195 Given that the list of patients in BORIM's Docket and CHA's Greeley Report was that selected by Dr Rachel Nardin and the same defamatory statements within CHA's Greeley Report were repeated VERBATIM by James Paikos in January 2013, it is impossible for BORIM to prove its stated LIE that it discharged its statutory obligation to serve as a neutral fact-finder on behalf of the people of this Commonwealth and that BORIM had indeed conducted a "comprehensive INDEPENDENT investigation" of Dr Bharani's practice. BORIM consciously set out to defame Dr Bharani's expertise in reading Brain MRI scans in order to help CHA in the eventual lawsuit. BORIM and the rest of the Commonwealth have no legitimate interest in bolstering this claim. BORIM's actions are even more egregious given that 35 patients filed serious written complaints against Dr Rachel Nardin and BORIM dismissed all 35 complaints without ANY investigation. BORIM thus implements Dr Nardin's goals while actively protecting her from the people of the Commonwealth. BORIM cares more about Dr Nardin than about the people of Massachusetts.
- 196 BORIM has already admitted in writing that CHA gave it the Fair Hearing Report that fully exonerated Dr Bharani of all charges regarding the very same list of patients and CHA's false allegations. BORIM proceeded with the full knowledge that CHA wanted Dr Bharani to be persecuted and found guilty anywhere by anyone in order to help CHA in the eventual lawsuit. BORIM was fully and consciously willing to serve CHA in that role and to use CHA's Greeley

Report which had been custom-ordered for that purpose and an "expert" custom-selected for CHA's purpose. This meets the definition of corrupt collusion and racketeering. BORIM should not be working for CHA.

- 197 BORIM's Complaint Committee did not deliver a verdict to Dr Bharani throughout 2013 knowing full well delay in exoneration at the Board meant he would continue to be unable to earn a living. The aim was to drive Dr Bharani away from medicine and the US.
- 198 Dr Bharani did not hear back from BORIM for 16 months, i.e. another 485 DAYS. In the interim Dr Healy left BORIM and launched his private consultancy based on papers he has published with Dr Lucian Leape of Cambridge Hospital. (<http://www.ajustnhs.com/wp-content/uploads/2012/06/Culture-2-AM.pdf>) Suddenly in May 2014 Dr Bharani was called before BORIM's Complaint Committee for a repeat session on the same Docket number (2010-426). NO new evidence was presented though the Docket was now in it's 1290th DAY. Loretta Kish Cooke and James Paikos repeated VERBATIM the words from the Greeley Report that CHA had paid for back in 2011. Again Dr Bharani was denied the name of the person who wrote the report that was quoted and used by BORIM to declare that Dr Bharani represented an IMMEDIATE danger to public safety and should have his License instantly suspended. It was in August 2014, after being compelled by an Administrative Law Magistrate, that BORIM revealed the last name of the alleged "independent expert" - Dr Horowitz - but not the first name. BORIM handed over a "password-protected" CD that allegedly contains the CV of Dr Horowitz but to date has not provided the password. BORIM then informed the Magistrate that Dr Horowitz is reluctant to

testify under oath in open court about his written opinion that Dr Bharani does not know MS, does not know how to read Brain MRIs and that his license should be suspended for being an IMMEDIATE danger to public safety.

- 199 In May 2014 BORIM also physically prevented Dr Bharani from bringing in his videographer so he could have an independent objective record of the Hearing.
- 200 EOHHS' BORIM knew fully for 15 months that Loretta Kish Cooke and James Paikos had violated the US Constitution by presenting anonymous testimony paid for by an outside party and had lied in a BORIM proceeding. Dr Marianne Felice, a state employee and now Chair of the Complaints Committee, had been made fully aware in January 2013 that the Government's claim was corrupt and suspect. State employee Dr Felice personally knew that Dr Bharani had been deliberately blocked from earning a living for 1290 DAYS and that she could have ended it 15 months prior had she had a shred of integrity or concern for the standards of medicine or the plight of the common people of Massachusetts. EOHHS and BORIM consciously allow Loretta Kish Cooke and James Paikos to continue their unlawful racketeering through abuse of the Government's regulatory power.
- 201 By consciously allowing Loretta Kish Cooke and James Paikos to continue their public corruption, EOHHS' BORIM is consciously violating MGL 149 Section 187 by deliberately aiding and abetting the actions of CHA to retaliate against a statutorily protected Public Healthcare Whistle-blower who proved patient neglect and insurance fraud at CHA.

- 202 Dr Bharani filed a timely request with Attorney General Martha Coakley requesting her to enforce MGL Ch 149 Section 187 on his behalf against CHA. Despite numerous pleas via Certified Mail with Recorded Delivery, AG Coakley has NEVER responded to Dr Bharani about this request.
- 203 Through a public records request AGO informed Dr Bharani that AG Coakley has never ever enforced that Law against corrupt hospitals. AG Coakley has not even enforced the clear mandate of the Legislature that notice of that Law be posted prominently within hospitals so physicians and nurses are aware of legal protections for whistleblowers in Massachusetts. AG Coakley has made her preference for corrupt hospitals over honest physicians and nurses undeniably clear.

(This is not unique. The Boston Globe quoted Secretary of State William Galvin stating clearly that the reason his Office stopped asking the Attorney General to enforce his orders to agencies to release public documents is "because Martha Coakley's administration indicated they were not a top priority.") Boston Globe Sep. 14th 2014

- 204 Dr Bharani filed a written complaint against CHA in December 2011 with Daniel Levinson, Inspector General for the US Department of Health and Human Services. Special Agent in Charge Jennifer Trussell, Director - Investigations Branch, informed Dr Bharani that she had referred his complaint to the Boston Regional Office of the Centers of Medicare and Medicaid Services. Dr Bharani informed SAC Trussell that the behavior of hospitals in Boston made it clear

- CMS' Boston Regional Office was on the take and engaged in criminal racketeering. Despite Dr Bharani's explicit warning, SAC Trussell did not care.
- 205 Dr Bharani was informed in late 2013 by Special Agent Keith Nelson of the Boston FBI's Healthcare Fraud Division that CMS' Boston Regional Office had declined to investigate CHA despite a credible and well-documented complaint. Boston CMS never ever contacted Dr Bharani even once, exactly as he had warned SAC Trussell in early 2012.
- 206 By consciously suppressing Dr Bharani's complaint, exactly as expected, CMS' Boston Regional Office actively aids and abets Medicare fraud and other felonies by CHA.
- 207 CMS' Boston Regional Office also consciously allows Dr Lucian Leape's hospital to defraud the private insurance marketplace by allowing Dr Lucian Leape's Leapfrog Group to declare that CHA deserves a Safety Score of A even though CMS has received credible complaints about patient neglect and active fraud at CHA. The Leapfrog Group depends on Dr Lucian Leape's public reputation to give credibility to its Safety Score and thus depends on Dr Leape's own hospital to tout a Score of A. All of that would be threatened if CMS' Boston Regional Office investigates Dr Leape and his hospital (CHA) and declares his hospital neglects patients and commits Medicare fraud.
- 208 In order to bolster his claim that his Safety Score is not an unscientific fraud Dr Lucian Leape published a paper simply asserting that. His paper was published by his co-conspirator Dr Charles Denham in a "journal" for which Dr Denham

was the Editor. Dr Denham was also affiliated with Dr Leape's Leapfrog Group and had a vested interest in seeing the fraud continue. When published, Dr Leape's paper did not disclose the fact that Dr Denham was also officially affiliated with Leapfrog and that the paper did not receive even an iota of peer review. Dr Leape's paper is held up as proof by Dr Ashish Jha (and others officially affiliated with Leapfrog Group) that the Leapfrog Group is not a fraud. Though Dr Denham's "journal" is published in Boston and serves purely as a vehicle to advance the fraud associated with Dr Leape, he was unmasked by the Kansas FBI and resigned as Editor to be immediately replaced by Dr David Bates, another close affiliate of Dr Leape and Dr Jha and also associated officially with the Leapfrog Group.

209 Dr William Kassler, Chief Medical Officer for CMS' Boston Regional Office sits on the Board of the Leapfrog Group and has co-authored papers with supporters of Dr Leape's conscious fraud, including Dr Jha. Dr Kassler's last publication prior to being co-opted by Leapfrog was in 2005. Since joining Leapfrog's Board in 2011 he has been named a co-author on 3 papers in rapid succession, papers written to cast doubt on CMS' Congressionally-mandated scheme to stop payment to hospitals providing poorer care. It is impossible to tell where Dr Leape's Leapfrog Group ends and CMS' Boston Regional Office begins. Naturally CMS' Boston Regional Office declined to investigate Dr Lucian Leape or his hospital. Fully as Dr Bharani warned SAC Trussell, who did not care.

210 In addition to actively shielding Dr Leape from the law, CMS has actually raided the Treasury and paid for Dr Leape to travel on speaking tours though he is faculty at a wealthy private University and has a private Institute named for him.

- 211 As noted earlier in 125 and 126, Dr Rachel Nardin has repeatedly attempted to convince/coerce patients to file written complaints against Dr Bharani making the very same two claims each time -
- A) The official MRI report issued by CHA is always correct
 - B) By not relying on the official CHA MRI report, Dr Bharani has negligently harmed patients
- 212 In addition to abusing Government power via MassHealth and BORIM, CHA and Dr Nardin arranged for a malpractice lawsuit to be filed in 2011 by a former patient alleging these same two points. This patient's care had been discussed in depth at the Fair Hearing and Dr Bharani had been proved correct.
- 213 Because CHA needs to impeach Dr Bharani's testimony against CHA's fraudulent official MRI reports, CHA and Dr Nardin persisted in pushing these same two points, now via the law-firm of Lubin & Meyer whose partner Kathleen Sullivan Meyer Esq. now also conveniently serves on the Board of Registration in Medicine and expects to sit in judgement over Dr Bharani in the BORIM case. Lubin & Meyer is a law firm that publicly claims to support ordinary people against big hospitals while aiding and abetting CHA's felonies via both Civil Court and within the Board itself.
- 214 Through his malpractice carrier Dr Bharani filed a clear answer and the case vanished. Kathleen Sullivan Meyer Esq. however continues to "serve" on the Board of Registration in Medicine.

- 215 In August 2014, after BORIM was forced to declare to Kenneth Bresler, Magistrate for the Division of Administrative Law Appeals, that it's so-called "independent expert" was reluctant to testify under oath in open court at a DALA Trial and no longer wished to be associated with the Docket against Dr Bharani, CHA and Dr Nardin rushed through a second malpractice lawsuit, now via the law-firm of Stanzler Levine alleging again the same exact two points. After all, the need to impeach Dr Bharani's testimony against CHA's fraudulent official MRI reports has not gone away and they now needed a case that was not handled by said "independent expert." Since that day in August 2014, Dr Bharani has expected CHA to rush through exactly such a contrived case, before the DALA Trial in January 2015.
- 216 The only notice to Dr Bharani about this lawsuit was an ORDER from Middlesex Superior to appear before a Malpractice Tribunal on the 31st of October 2014. The ORDER was issued on the 6th of October and mailed on the 7th. Naturally Middlesex's ORDER did not state what the charges were.
- 217 Middlesex issued this ORDER to appear before a Tribunal within barely 20 days and acknowledged to Dr Bharani that it did so with the full knowledge that Dr Bharani had not been served any papers by plaintiff's Counsel and with the full knowledge that Dr Bharani was not aware of the very existence of this lawsuit let alone the charges or other necessary details.
- 218 Plaintiff's Counsel had signed this complaint on the 19th of October 2014 and filed it with Middlesex on the 25th. Till the end of business on the 14th of October 2014 Dr Bharani had not been served with any papers nor had his

malpractice carrier. And yet Dr Bharani was ORDERED to present himself before a Tribunal on the 31st.

219 It is almost unheard of for a Tribunal to be held on a malpractice claim within 18 months of a claim being filed as it takes that long usually to prepare a written answer, participate in discovery, engage independent experts on both sides etc.

220 Dr Bharani physically obtained a photocopy of the filed complaint from Margaret Prebensen, malpractice clerk at Middlesex. The complaint as expected makes the exact two points most useful to CHA and Dr Nardin -
A) The official MRI report issued by CHA is always correct
B) By not going along with the official CHA MRI report, Dr Bharani has negligently harmed patients

221 The direct involvement of CHA is explicitly stated in the complaint - "The Plaintiff finally saw a different physician at the Cambridge Health Alliance who scheduled her for an additional MRI on October 25, 2011. Only after the results of that MRI were made known to her did the Plaintiff learn that she did not have MS and had been taking medication unnecessarily. The Defendant deviated from the applicable standard of care by failing to properly diagnose, care for and treat the Plaintiff." Dr Bharani was the only fellowship-trained MS specialist at CHA. No one else at CHA has the expertise to second-guess his diagnosis of MS.

222 By arranging for an ORDER to Dr Bharani to present himself before an IMMEDIATE Tribunal without serving any papers at all and with the full

knowledge Dr Bharani would have no records for the patient or the MRI from 2011 given he was thrown out of CHA abruptly by security guards in November 2010, Liam Floyd and Stanzler Levine have deliberately arranged to ambush Dr Bharani before his BORIM Docket reaches Trial in January 2015, and solely to aid and abet CHA's massive felonies. Liam Floyd and Stanzler Levine are deliberately and explicitly acting as proxies for CHA and colluding in corrupt unlawful racketeering and obstruction of justice. The violation of Dr Bharani's due process rights is undeniably deliberate. This is an ongoing tort.

STATEMENT OF CLAIM

- 223 Dr Bharani repeats and re-alleges paragraphs 1-222 as if fully set forth herein.
- 224 The Medical Executive Committee of Cambridge Health Alliance did not independently investigate the Request For Termination from Dr David Bor and Dr Rachel Nardin in conscious violation of it's legal obligations.
- 225 The MEC did not afford Dr Bharani any due process before summarily suspending his Privileges at CHA.
- 226 The MEC did not implement a Summary Suspension for a full 48 hours because it knew the action was fraudulent, with malice, and that Dr Bharani was no danger to the public. CHA knew the legal risk of patient harm was zero and that it was never going to be sued by any patient seen within those 48 hours.

227 The MEC did not review the summary suspension within 14 days as required by CHA's own Bylaws, the Federal Health Quality Improvement Act of 1996 (HCQIA) and case law. By not reviewing the suspension within 14 days the MEC proved conscious malicious disregard for the US Constitution and Dr Bharani's due process rights as well as property rights under Massachusetts law. It evidenced total disregard for the individual in favor of the collective.

228 According to CHA's Bylaws, which are binding, the MEC is obligated to be independent of the executive leadership of CHA and to conduct an independent investigation of all matters brought to it. Only by being independent and by fulfilling the four "Safe-Harbor" requirements set forth in the Federal Health Quality Improvements Act 1986 does the MEC avail itself of peer-review immunity.

1 - The MEC was required to take actions only in the reasonable belief that they furthered the quality of care.

The MEC spent about 20 minutes on the matter, too soon a time to develop any belief, reasonable or otherwise. The MEC was obligated to independently examine any impact on the quality of care before taking any adverse action. By summarily suspending Dr Bharani and depriving the under-served under-privileged people of Everett, Chelsea, Revere, Malden and Winthrop of his expertise, the MEC has worsened the quality of care and access to specialist care locally.

- 2 The MEC had to make a reasonable effort to obtain the facts independently.

Within a (total) 29 minute meeting it is impossible for any MEC to make a reasonable effort to obtain the facts. The MEC was obligated by law and by CHA's Bylaws to take Dr Bor's request under advisement and investigate and arrive at the facts independently before taking it's own action. The MEC consciously chose to not do so.

CHA's MEC should have followed CHA's own Bylaws and appointed an independent fact-finder who would report back within the required 14 days.

- 3 The MEC was obligated to give adequate notice and a hearing to Dr Bharani before taking it's action.

The MEC did not inform Dr Bharani that it was considering a request to terminate his privileges permanently. The MEC did not invite Dr Bharani to present his side before it recommended permanent termination of his privileges.

Claiming that suspension of Dr Bharani's privileges was warranted by it's belief that he presented an imminent danger to public safety, belied by the 48-hour delay in implementation, still does not absolve the MEC of it's obligation under both settled law and CHA's Bylaws to review the suspension within 14 days and hear from Dr Bharani during that time frame.

There was no legitimate justifiable Good Faith reason to NOT review that suspension within the required 14 days.

4 The MEC had to reasonably believe that it's adverse action was warranted by the facts known.

Within a single (total) 29-minute meeting there was no way the MEC could have arrived at any reasonable belief that any facts were known. The MEC then went and proved that it did not act in even a trace of Good Faith by letting 48 hours pass and by not reviewing the suspension within the required 14 day period.

Abjectly deferring to the Chief of Medicine does not exempt the MEC from it's obligations under the law. Favoring the collective over the individual is still unlawful in the United States and deliberately contrary to the nation's founding principles.

229 By not availing of the 4 clearly specified "Safe Harbor" protections afforded peer review committees by HCQIA, which aim to demonstrate "Good Faith" on the part of the MEC, CHA's MEC has no immunity and should be held fully accountable in a Court of Law for it's numerous conscious, deliberate, Bad Faith, malicious violations.

230 It is important to note that the same Leadership of CHA has already been condemned by a Massachusetts Government Labor mediator for acting in deliberate Bad Faith.

COUNT 1**Tortious interference with advantageous business relations****Against Parties A, B, C, D, E, F**

- 231 Dr Bharani repeats and re-alleges paragraphs 1-230 as if fully set forth herein.
- 232 By maliciously using "peer review" to retaliate against Dr Bharani, CHA deliberately interfered with Dr Bharani's contract with CHA to serve as a salaried neurologist at Whidden Hospital. Dr Bharani lost his job, professional reputation, about 1000 patients and his ability to maintain his Faculty position within Harvard Medical School as well as the peace of mind required to concentrate on his chosen field. Dr Bharani also lost an enormous amount of money from both loss of income and the legal fees needed to clear his name.
- 233 The people of Everett, Malden, Revere, Chelsea and Winthrop were also maliciously deprived of a world-class, Boston-trained super-specialist because Cambridge chose insurance fraud over the people of the region.

COUNT 2**Intentional interference with advantageous relations with patients****Against Parties A, B, C, D, E, F**

- 234 Dr Bharani repeats and re-alleges paragraphs 1-233 as if fully set forth herein.
- 235 Dr Bharani came to CHA with 250 MS patients of his own. While at CHA his practice expanded to around 1000 patients who chose to receive their care from

him. By maliciously using "peer review" to retaliate against Dr Bharani he was forced to lose access to the majority of his patients.

236 By corruptly using EOHHS' BORIM to keep the Docket open for THREE YEARS, CHA continues to this day to interfere with Dr Bharani's relations with patients and blocks him from rebuilding his practice. It is an ongoing long-drawn-out tort.

COUNT 3

Violation of the Massachusetts Healthcare Whistleblower Statute

MGL Chapter 149, Section 187

Against ALL defendants

237 Dr Bharani repeats and re-alleges paragraphs 1-236 as if fully set forth herein.

238 Dr Bharani brought serious neglect and insurance fraud to the notice of CHA's leadership. At the time he had not gone outside of the organization. None of Dr Bharani's complaints had anything to do with him personally; they were in pure Good Faith and solely with the interests of patients at heart. Dr Bharani did so knowing he could suffer but it was the right thing to do.

239 CHA consciously retaliated against a Public Healthcare Whistleblower (protected by MGL Ch149 Sec187) confident that they would not be held accountable in any way by Attorney General Martha Coakley or CMS' Boston Regional Office and that Dr Bharani would be out of the country by December 2010 as his visa from CHA expired and he would be unable to find employment in any other hospital due to CHA's retaliation.

COUNT 4**Violation of Plaintiff's Freedom of Speech****Against Parties A, B, C, D, E**

- 240 Dr Bharani repeats and re-alleges paragraphs 1-239 as if fully set forth herein.
- 241 CHA violated Dr Bharani's Freedom of Speech by retaliating against him. This applies to both his written opposition to the coercive and consciously malicious progressive public ethics pledge that was introduced under deliberately false pretenses and his testimony about neglect of patients and insurance fraud by CHA. Dr Bharani proved that CHA does not care about patients per se, does not care about this nation's founding principles or her laws.
- 242 In Lane v Franks, the US Supreme Court has unanimously held that testifying in the public interest, as Dr Bharani did verbally and by email, was protected speech even though he was a salaried public employee.

COUNT 5**Malicious slander****Against ALL Parties**

- 243 Dr Bharani repeats and re-alleges paragraphs 1-242 as if fully set forth herein.
- 244 CHA personnel actively telephoned Dr Bharani's patients and the patients' Primary Care Physicians to slander Dr Bharani as a substandard neurologist. CHA did this in order to ensure those PCPs did not give patients referrals to get their

care from Dr Bharani in the future and to ensure Dr Bharani is not accepted in local hospitals where these PCPs are on staff. Numerous patients shall testify to the jury on this Count re Dr Nardin and Kathy Murphy FACHE. BORIM, CMS and the law firms actively aided and abetted CHA in this slander.

COUNT 6

**Usurping State Regulatory Powers in order to drive Plaintiff out of the profession of
Medicine**

Against Parties A, B, C, E, F, G

- 245 Dr Bharani repeats and re-alleges paragraphs 1-244 as if fully set forth herein.
- 246 CHA is corruptly abusing Government machinery to drive Dr Bharani out of the profession of Medicine even after he was exonerated by CHA's own Fair Hearing and his standards were proved to meet or exceed the State's standards.
- 247 CHA deliberately provided EOHHS' BORIM a secret report bought and paid for by CHA itself in order to use BORIM to further retaliate against Dr Bharani.
- 248 CHA also deliberately used EOHHS to threaten Dr Bharani with a Government Audit in an effort to intimidate him and drive him out of the US.

COUNT 7

Malicious Breach of Contract

Against defendants A, B, C, D, E

- 249 Dr Bharani repeats and re-alleges paragraphs 1-248 as if fully set forth herein.

- 250 Massachusetts is an At-Will state. CHA could have simply terminated Dr Bharani's contract without cause. By deliberately engaging in malicious "peer review" and pursuing him via EOHHS and the National Practitioners Data Bank, CHA breached its contract maliciously.
- 251 By its various violations of the Bylaws and the Fair Hearing Plan, CHA further maliciously breached its contractual obligations to Dr Bharani.

COUNT 8

Illegal taking of property

Against ALL defendants

- 252 Dr Bharani repeats and re-alleges paragraphs 1-251 as if fully set forth herein.
- 253 By malicious abuse of the peer review process CHA destroyed Dr Bharani's practice and drove away the vast majority of his patients. Massachusetts considers a physician's license and practice as his property and full statutory protections for property rights apply. CHA also maliciously destroyed goodwill assets.
- 254 By consciously aiding CHA in its efforts to drive Dr Bharani out of medicine by using testimony ordered and paid for by CHA, The Greeley Company (via Dr Jane/John Doe), Loretta Kish Cooke, James Paikos and EOHHS are equally complicit in the illegal taking of Dr Bharani's property.

- 255 By consciously aiding CHA in its efforts to drive Dr Bharani out of medicine and falsely impeaching his testimony against CHA's fraudulent MRI reports, the law firms of Lubin & Meyer as well as Stanzler Levine are consciously aiding and abetting the illegal taking of Dr Bharani's property as well as engaging in witness intimidation, the obstruction of justice and conscious violation of due process.
- 256 By unlawfully colluding with Dr Leape and CHA in conscious violation of their statutory obligations, CMS' Boston Regional Office (specifically Administrator Raymond Hurd and Chief Medical Officer William Kassler) consciously aided and abetted the illegal taking of Dr Bharani's property and CHA's retaliation against a Public Healthcare Whistleblower.

COUNT 9

Uttering and Publishing False Statements and Mail Fraud

Against Parties A, B, C, D, E, G

- 257 Dr Bharani repeats and re-alleges paragraphs 1-256 as if fully set forth herein.
- 258 CHA consciously uttered and published a false statement when it declared that Dr Bharani had "Voluntarily Resigned In Order To Avoid An Investigation" when it knew that Dr Bharani had never resigned, had repeatedly requested a final decision from CHA's Board of Trustees and that per CHA's bylaws Dr Bharani's privileges had routinely expired while not under suspension.
- 259 This false statement was intended to cover up the fact that the Board of Trustees refused to sign any document on this matter. Through a Sheriff, Dr Bharani had

delivered documents to the homes of the Trustees and they were fully aware of all facts. This false statement was also designed to harm Dr Bharani at the Federal level by making it impossible for him to get a J-1 waiver position anywhere else in the United States. This false statement was designed to drive Dr Bharani out of both the profession of medicine and the country itself. This false statement was a preemptive action to prevent a credible witness from being able to testify against the hospital in any insurance fraud prosecution or qui tam lawsuit. CHA is consciously and actively aided in this by EOHHS.

260 Kathy Murphy FACHE and Nancy Lian also consciously uttered a false statement in an attempt to deprive Dr Bharani of his right to a Fair Hearing.

COUNT 10

Violation of Massachusetts Employment Laws

Against Parties A, B, C, D, E

261 Dr Bharani repeats and re-alleges paragraphs 1-260 as if fully set forth herein.

262 In conscious violation of the law CHA did not inform Dr Bharani that meetings had been held that were adverse to his continued employment at CHA. He also was not given the opportunity to place his rebuttal on file within the legally mandated 10 days.

COUNT 11

Conscious Fraud, Honest Services Fraud and Mail Fraud

Against Parties A, B, C, D, E, G

263 Dr Bharani repeats and re-alleges paragraphs 1-262 as if fully set forth herein.

- 264 CHA committed conscious fraud by fabricating the Termination Letter of November 11th, 2011, one full year after the real Termination Letter of November 11th, 2010.
- 265 This second, deliberately fraudulent Termination Letter, with a consciously false "last date of employment" was intended to hide the fact that the Trustees had never finalized the Termination of 2010.
- 266 This second consciously fraudulent document was also intended to support CHA's deliberate lie that Dr Bharani had "Voluntarily Resigned In Order To Avoid An Investigation" when CHA knew he had not and it does not possess a Letter from Dr Bharani documenting that he is hereby resigning his privileges at CHA.
- 267 CHA Administrator Kathy Murphy FACHE is under further fiduciary obligations as a Fellow of the American College of Healthcare Executives for not participating in conscious fraud and ensuring the highest standards within her department. She was copied on the second fraudulent Termination Letter as well.

COUNT 12

Aiding and abetting Retaliation against a Public Healthcare Whistleblower

Against Defendants I and J

- 268 Dr Bharani repeats and re-alleges paragraphs 1-267 as if fully set forth herein.
- 269 Defendants Robert Higgins and his law firm, Lubin & Meyer, actively aided and abetted CHA in it's attempt to threaten Dr Bharani and force him to leave the

country. The basis of Lubin & Meyer's lawsuit threat totally matches CHA's exclusive false claim that Dr Bharani does not know MS and that CHA's MRI reports are correct, the exact same false claim that CHA is corruptly pursuing via EOHHS. Lubin & Meyer consciously acted as CHA's agents in this retaliation.

270 Defendants Liam Floyd and his law firm, Stanzler Levine, actively aided and abetted CHA in its attempt to threaten Dr Bharani and force him to leave the country. The basis of Stanzler Levine's lawsuit threat totally matches CHA's exclusive false claim that Dr Bharani does not know MS and that CHA's MRI reports are correct, the exact same false claim that CHA is corruptly pursuing via EOHHS. Stanzler Levine consciously acted as CHA's agents in this retaliation. Liam Floyd and Stanzler Levine further corruptly ambushed Dr Bharani with an immediate Tribunal Order in conscious violation of his due process rights in order to aid and abet CHA's ongoing retaliation via EOHHS.

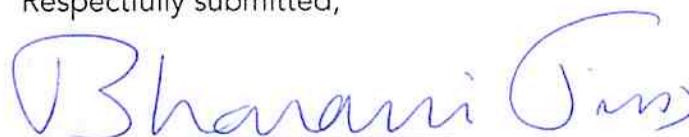
In SUMMARY, the City of Cambridge through its Public Health Commission (dba CHA) terminated Dr Bharani unlawfully, destroyed his professional record with Government agencies, published and uttered conscious falsehoods to Government agencies, defamed to patients and colleagues his integrity and professional commitment, persecuted him using the power of the Government through 2 other Government agencies acting corruptly under color of law, persecuted him via 2 identical fraudulent malpractice claims, forced him to live without being able to earn a living for almost 4 years and destroyed his ability to seek a J-1 waiver position in some other state in a clear effort to drive Dr Bharani completely out of both the profession of medicine and the United States so he would be unable to sue them in Court over their conscious fraud.

WHEREFORE, Dr Bharani respectfully requests that this Court,

- a) Enter judgement in his favor on ALL Counts including an award of damages to be determined at trial, based on Dr Bharani's demand that the damages approach closely the \$363 Million awarded to Dr Poliner by a Texas jury as a strong warning to other hospitals corruptly engaging in malicious "peer review" and acting against the public interest (even though Dr Poliner's suspension had been reviewed within 14 days); and based on the fact that even an \$8 Million judgement entered against the City of Cambridge by Middlesex Superior Court has not been enough to cure the City of it's "conscious disregard for the law" despite that cure being the Court's explicitly stated intention after Cambridge maliciously drove Ms Malvina Monteiro physically out of the United States. This monetary demand is made pursuant to Section 13B of Chapter 231 of the General Laws as amended on August 6th, 2014.
- b) Enjoin the Defendants from further violations of the Massachusetts Healthcare Whistleblower Statute with strict transparent monitoring by the new Attorney General
- c) Award such other and further relief as the Court deems appropriate

THE PLAINTIFF DEMANDS A JURY TRIAL ON ALL COUNTS SO TRIABLE.

Respectfully submitted,



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17 October 2014