

<p>DISTRICT COURT, LARIMER COUNTY, COLORADO Court Address: Larimer County Courthouse 201 Laporte Avenue Fort Collins, CO 80521</p>	
<p><b>Plaintiff:</b>  BABAK MIRIN</p> <p><b>Defendants:</b>  STRATEGIC BEHAVIORAL HEALTH, LLC, a Delaware Limited Liability Company; JAMES DUFF, individually; and COMPASS HEALTH SYSTEMS, PA, a Florida Corporation</p>	
<p><b>Plaintiff's Counsel:</b> LAW OFFICES OF J.M. REINAN, P.C. Jerome M. Reinan, #22031 Jordana Griff Gingrass, #38195 1437 High Street Denver, CO 80218 (303) 894-0383 (303) 894-0384 (FAX) <a href="mailto:jreinan@reinanlaw.com">jreinan@reinanlaw.com</a> <a href="mailto:jgingrass@reinanlaw.com">jgingrass@reinanlaw.com</a></p>	<p>◆ COURT USE ONLY ◆</p> <hr/> <p>Case No.:</p> <p>Division</p>
<p style="text-align: center;"><b>VERIFIED COMPLAINT AND JURY DEMAND</b></p>	

**COMES NOW** the Plaintiff, Babak Mirin, by and through counsel, the Law Offices of J.M. Reinan, P.C., and for his Verified Complaint and Jury against Defendants Strategic Behavioral Health, a Delaware Limited Liability Company, James Duff, Individually, and Compass Health Systems, PA, a Florida Corporation, states and avers as follows:

**I. PARTIES AND VENUE**

1. Plaintiff Babak Mirin is a physician and psychiatrist who practices in and resides in Colorado. At times relevant, Plaintiff had a contract with SBH-North Denver, LLC, d/b/a Clear

View Behavioral Health, to provide medical director and psychiatry services at its hospital located in Larimer County, Colorado.

2. Defendant Strategic Behavioral Health, LLC is a Delaware Limited Liability Company that provides management or operational services for a number of psychiatric hospitals nationwide, including Clear View.

3. Defendant James Duff, "Duff," is the regional vice president of operations for Strategic Behavioral Health. He is sued individually for his illegal and tortious conduct, as described further herein.

4. Defendant Compass Health Systems, PA, is a Florida Corporation that has a physician services contract with Clear View.

5. Venue is proper in Larimer County District Court as the acts and omissions complained of herein occurred within Larimer County, Colorado and because the amount in controversy exceeds the jurisdiction of the Larimer County Court.

## **II. FACTUAL BACKGROUND**

6. As of early 2020, Plaintiff was a psychiatrist practicing as the Chief of Psychiatry at the Hawaii State Hospital.

7. In mid-2020, Plaintiff and his family decided to explore the possibility of moving back to the mainland United States.

8. As a result of his inquiries, Plaintiff came in contact with Monica Tatum, who was the CEO of Clear View.

9. Ms. Tatum arranged meetings between herself, Plaintiff and Duff to discuss the possibility of Plaintiff relocating to Colorado and assuming the role of Clear View's Medical Director and also to become a staff psychiatrist.

10. Duff and Tatum informed Plaintiff that Clear View had been having a number of regulatory and care issues in the past several years. Among other things, Clear View had been

cited with a number of care deficiencies by the Colorado Department of Public Health and Environment, “CDPHE,” based on systems and care failures at the hospital.

11. Tatum and Duff told Plaintiff that Clear View was interested in hiring a new medical director for the express purposes of fixing systemic problems with Clear View’s care; hiring new staff and psychiatrists; implementing new policies and procedures designed to ensure good care and regulatory compliance; and to ensure that the care and services provided by Clear View were reasonable, appropriate and within legal requirements.

12. Duff and Tatum specifically and repeatedly told Plaintiff that if he would agree to become Clear View’s new medical director, he would be given fairly free reign to fix Clear View’s problems.

13. In addition to providing medical directorship for Clear View, Duff and Tatum told Plaintiff that he would also be the primary inpatient psychiatrist at Clear View.

14. In anticipation of reaching agreements with Clear View to provide medical director and psychiatric services, Plaintiff obtained his Colorado Medical license.

15. Plaintiff told Duff and Tatum that he did not wish to take on a position that would result in him being away from his family for excessive periods of time. Duff and Tatum assured Plaintiff that Clear View had enough physician coverage that he would not be expected to stay late or be on call for excessive periods of time.

16. In May, 2020, Plaintiff and Clear View executed two contracts, attached as **Exhibits 1 and 2**<sup>1</sup>.

17. Plaintiff relocated to Colorado and assumed his role as Clear View’s medical director and staff psychiatrist on or about June 15, 2020.

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<sup>1</sup> Exhibit 1 is the physician services contract. Exhibit 2 is the medical director services contract.

18. After Plaintiff arrived at Clear View, he observed that the care, conditions and systems at Clear View were in much worse shape than Duff and Tatum had promised and represented in contract negotiations.

19. Just a few days after Plaintiff started working at Clear View, Clear View's director of nursing was fired by Clear View and physically escorted out of the building, leaving Clear View without a nursing director.

20. Plaintiff also learned, around this time, that Clear View did not have a clinical director, despite having been previously told that it did.

21. Within two weeks of starting at Clear View, the other primary psychiatrist in the building, Dr. Jeffrey Warren, an employee of Compass, left Clear View and did not return.

22. After Dr. Warren's departure, Plaintiff was asked to assume patients who were placed on short-term certification, "STC," pursuant to C.R.S. § 27-65-107. These patients were involuntarily committed to Clear View pursuant to that statute ostensibly because they were gravely ill or were a danger to themselves or others.

23. Upon being assigned Clear View's STC patients, Plaintiff realized that Clear View and its providers were not following Colorado statutes or proper medical procedures in their short-term certifications.

24. Among other things, Plaintiff learned that many of Clear View's STC patients were certified by Compass physicians, including Dr. Warren, Dr. Sohail Punjwani and Dr. Scott Segal without having been seen or assessed by those physicians.

25. Instead, Clear View and Compass' typical practice was to certify patients over the phone without a proper assessment or consultation with the patient.

26. In his research, Plaintiff determined that actual STC forms were usually filled out by one of Compass's nurse practitioners or medical assistants, and not by a physician.

27. Plaintiff also observed that Clear View's electronic medical records system could be easily manipulated by staff or providers to change electronic signatures upon admission, certification or also medication orders.

28. As a result, Plaintiff noticed that patients who were supposedly admitted to Clear View by one provider were switched to the name of another provider several days later through the changing of names in the electronic chart. The chart did not record the fact that the provider names had been changed.

29. For instance, Plaintiff noticed that Dr. Warren's name was identified on a patient chart as an admitting physician even though another Compass physician was actually on call the day the admission took place, and Dr. Warren was thus not present.

30. Plaintiff brought these concerns to the attention of Duff, Tatum and Lori Billington, who was an employee of Clear View.

31. Plaintiff advised Duff, Tatum and Billington that the practice of admitting patients to the facility without the patient having been seen or assessed was improper, as was altering the name of the admitting physician.

32. Duff and Tatum, in particular, told Plaintiff that they would help him correct this process, but they did not.

33. As a result of Dr. Warren's departure, and as a result of Plaintiff's refusal to permit Compass physicians to admit patients, certify patients or give treatment orders without seeing, assessing or talking to the patients, Plaintiff ended up being the lone physician on-call at Clear View during July, 2020.

34. Plaintiff determined that this would be the only way to prevent Clear View and Compass from continuing to admit patients, certify patients or give treatment orders without the patients being seen or assessed by physicians.

35. In addition to taking call all nights and weekends, Plaintiff was also the full-time psychiatrist seeing and treating in patients at Clear View during this period of time.

36. As a result of this abusive and unworkable environment, Plaintiff renegotiated his provider contract with Clear View. **Exhibit 3.**

37. However, Clear View did not appropriately or adequately compensate Plaintiff for the amount and time he spent on-call and seeing patients during July, 2020.

38. After renegotiating his provider contract with Clear View, Plaintiff continued to insist that Clear View make fundamental changes to its systems, operations and practices.

39. In particular, Plaintiff advised Tatum and Duff that Clear View was not obtaining consent from its patients for new medications or treatments.

40. The treatments that Compass physicians were ordering during nights and weekends were during periods of time Plaintiff was not physically in the building.

41. Plaintiff advised Tatum that it was essential that patients were provided with descriptions of the risks and benefits of medications or treatments that were ordered for them, and that unless they were under an involuntary or emergency medication or treatment order, the patients must give consent.

42. Plaintiff also told Duff and Tatum that he had observed nurses writing in the charts that patients had consented to medications or treatments when no such consent was actually obtained.

43. Plaintiff also advised Duff and Tatum that it was inappropriate for Clear View to document in a chart that a patient had been admitted the day before the actual admission took place. Plaintiff had observed several instances in which a patient's chart documented that a patient had been admitted the day before the actual admission, during circumstances where the admission actually occurred in the early morning hours the following day.

44. Plaintiff also advised Duff and Tatum that it was inappropriate to have an electronic medical records system that permitted providers to change provider names, add co-signatures to patients the provider had never seen, or to add modifications or addendum to a chart that did not show up as a modification or addendum.

45. Plaintiff also advised Duff and Tatum that it was inappropriate for Clear View to admit patients who were medically unstable, including patients with extremely high blood alcohol

contents or patients with medical conditions that Clear View was unable to appropriately care for. Plaintiff noted that Clear View's practice at the time was to admit medically unstable patients without an actual physician assessment by and through staff not adequately trained for potential medical emergencies.

46. During the course of his tenure at Clear View, Plaintiff also learned that Clear View had a contract with Compass in which Compass was paid substantial amounts of money to provide professional on-call coverage nights, weekends and other times in which a physician was not physically present on the Clear View campus.

47. Plaintiff learned, from speaking to Compass employees Dr. Warren and Peter Taulbee, NP, that Compass paid its professional employees what Plaintiff believes to be excessive salaries based on market conditions and insurance reimbursement.

48. In a conversation he had with Compass's owner, Scott Segal, MD, Dr. Segal told Plaintiff that Clear View and Compass were only able to bill minimal amounts to patients' insurance and third-party payors due to contracts Clear View had with these insurance companies and third-party payors.

49. Yet, Dr. Warren told Plaintiff that Compass paid him \$250,000.00 per year, plus generous benefits.

50. Peter Taulbee, NP, another Compass employee, told Plaintiff that Compass pays him \$150,000.00 per year plus generous benefits.

51. Based upon Plaintiff's knowledge of the marketplace for psychiatric services, Plaintiff believes that these salaries are excessive and did not reflect an arm's length deal between Clear View and Compass. In particular, Plaintiff believes that Compass' payment of excessive salaries to its employees is a *quid pro quo* for those employees' tacit agreements to admit patients to Clear View without seeing them in person, talking to them in person or properly assessing them prior to admitting those patients.

52. Plaintiff further believes, based upon his education, experience and observation, that Compass' payment of these excessive salaries to Compass employees is a *quid pro quo* for providers' agreements to sign short-term certifications for patients they did not see, talk to or properly assess, which in turn resulted in a situation where Clear View was able to obtain short-term certifications of patients who did not meet statutory certification criteria. This benefited Clear View and Strategic, whose profits and revenues depend on long inpatient stays.

53. By mid to late August, 2020, it became apparent to Plaintiff that his repeated complaints to Duff and Tatum were not resulting in changes to Clear View's policies, procedures, systems or care.

54. Moreover, by this time, Duff had effectively stripped Plaintiff of his medical director duties at Clear View.

55. During mid-late August, 2020, Clear View held regular operations meetings in which Clear View's policies and procedures were supposed to be discussed and in which Clear View's responses to ongoing regulatory issues were supposed to be discussed.

56. As Clear View's medical director, Plaintiff's contract required him to be involved in these meetings, to participate in these discussions, and to lead changes to Clear View's medical policies, procedures and protocols.

57. By mid-late August, 2020, Duff had deliberately circumvented Plaintiff's participation in these meetings by giving him intentionally false information about meeting dates and times to prevent him from attending.

58. Instead, Duff installed Compass physicians, including Segal and Punjwani, to act as Clear View's *de facto* medical directors and to perform the tasks required of Plaintiff.

59. After determining that Duff and others were holding these meetings without his participation, Plaintiff arrived unexpectedly and observed one of the meetings being held remotely via video conferencing.

60. Plaintiff observed that this meeting was indeed being conducted by Segal, Punjwani, Duff and others.

61. In late August, 2020, Clear View employees, upon information and belief under the direction of Duff, began disregarding Plaintiff's discharge orders.

62. On at least two occasions, Plaintiff evaluated his patients, determined that they were ready for discharge, discharged the patients, and dictated a discharge summary and post-discharge orders.

63. Thereafter, Plaintiff arrived for his next shift and found that these patients had not been discharged but rather were still in the building.

64. Instead of following the discharge order, a member of Clear View's professional staff placed these patients on an emergency M-1 hold after Plaintiff had left the building, thus preventing the patients' discharge.

65. Plaintiff believes that the M-1 holds were placed not because the patients met M-1 hold criteria, but because Duff had pressured Clear View employees to increase patient census, and thus revenues, at all costs.

66. During this same period time, Plaintiff observed that members of Clear View's staff were issuing M-1 holds on patients so that they could be given involuntary injections of medication. When Plaintiff complained to Duff and Clear View administration about this issue, he was rebuffed and told that this was Clear View's policy.

67. By September 1, 2020, Plaintiff had determined he could no longer be involved with Clear View due to Duff and Strategic's refusal to cause Clear View to comply with Colorado laws and medical standards. As a result, Plaintiff was compelled to tender his resignation as medical director.

68. Plaintiff gave Clear View 30 day's notice.

69. Duff immediately retaliated against Plaintiff for resigning as medical director by cancelling his call schedule and reassigning all of his patients to Dr. Warren, who Duff and Compass brought back to succeed Plaintiff.

70. Duff also ordered Clear View to lock Plaintiff out of its medical records system to further prevent him from continuing to see and treat his patients at Clear View.

71. Duff's conduct prevented Plaintiff from performing the terms of his physician's provider contract, Exh. 1.

72. After Plaintiff had been locked out of the medical records, he learned that Clear View had continued to fraudulently admit new patients under his name.

73. As a result of the conduct set forth herein, Plaintiff was prevented from performing the terms and conditions of his provider contract and medical records contract with Clear View. This in turn has caused Plaintiff to suffer injuries, damages and losses in an amount to be determined by the jury at trial.

**III. FIRST CLAIM FOR RELIEF: TORTIOUS INTERFERENCE WITH  
CONTRACT**  
**(against all Defendants)**

74. Plaintiff hereby incorporates each and every averment set forth herein as if each and every averment were set forth verbatim herein.

75. Plaintiff had binding contracts with Clear View for the provision of medical director services and physician services.

76. Defendants were all aware of Plaintiff's contracts with Clear View.

77. Each of the Defendants wrongfully, intentionally and tortiously interfered with Plaintiff's execution of those contracts.

78. Duff interfered with Plaintiff's execution of contracts by engaging in the acts and omissions described above and by, *inter alia*:

- a) Causing Clear View and its employees to engage in illegal, wrongful and unethical behavior that made it impossible for Plaintiff to ethically, legally and reasonably perform the terms of the contracts;
- b) By preventing Clear View from curing its regulatory and care issues; and
- c) By conspiring with Compass to transfer Plaintiff's patients to Dr. Warren and other Compass employees thereby depriving Plaintiff of a patient base.

79. Defendant Strategic is vicariously liable for the acts and omissions undertaken by Duff that were within the scope of his employment with Strategic. To the extent that Duff's conduct is deemed to have been outside the course and scope of his employment with Strategic, Strategic independently interfered with Plaintiff's performance of the two contracts by directing, acquiescing to or ratifying Duff's illegal, unethical, intentional and tortious conduct.

80. Defendant Compass interfered with Plaintiff's performance of the two contracts by engaging in the acts and omissions described above and by, *inter alia*:

- a) Agreeing to engage in the illegal, unethical or tortious conduct directed by Duff so as to gain Duff's confidence in replacing Plaintiff with Compass physicians;
- b) Acting to undermine Plaintiff in his roles as Clear View's medical director and staff physician by surreptitiously performing Plaintiff's medical director and physician provider roles without Plaintiff's knowledge, agreement or permission; and
- c) Agreeing to force Plaintiff out of his roles as medical director and staff physician.

81. Defendants' interference with Plaintiff's contractual obligations prevented Plaintiff from performing the terms of his contract, caused the breach of his contract, and resulted in Plaintiff suffering contract damages, special damages and other damages to be determined by a jury at trial.

#### **IV. SECOND CLAIM FOR RELIEF: CIVIL CONSPIRACY** **(as against all Defendants)**

82. Plaintiff hereby incorporates each and every averment set forth herein as if each and every averment were set forth verbatim herein.

83. The Defendants conspired with one another to interfere with Plaintiff's performance of his medical director and physician provider contracts, as set forth above and by, *inter alia*:

- a) Agreeing with one another to prevent Plaintiff from fulfilling his role and duties as Clear View's medical director by holding meetings without him and by making decisions on medical policies, procedures and protocols without his advice or input;
- b) Agreeing with one another to have Compass physicians take over Plaintiff's psychiatric patients without his knowledge, permission or consent;
- c) Agreeing to engage in the conduct described above, including having Compass admit patients who did not meet the criteria for inpatient admission or by certifying patients who did not meet statutory criteria, knowing that this unlawful and unethical conduct would force Plaintiff to abandon his roles as the medical director and physician provider at Clear View;
- d) By agreeing to undermine Plaintiff's authority as medical director; and
- e) By agreeing to circumvent medical orders made by Plaintiff knowing and intending this conduct would cause Plaintiff to abandon his roles as Clear View's medical director and psychiatric provider.

84. Defendants' agreements and conspiracy to engage in these wrongful goals and/or their agreement to engage in proper goals through wrongful or unlawful conduct have caused Plaintiff to suffer injuries, damages and losses in an amount to be determined by the jury.

85. Plaintiff reserves the right to amend this complaint to include additional claims for relief and remedies based upon Defendants' willful, wanton and intentional conduct.

**V. PRAYER FOR RELIEF**

WHEREFORE for the reasons set forth herein, Plaintiff prays that this Honorable Court enter judgment in his favor and against the Defendant on all claims set forth above and, following trial to a jury, award the following damages:

- a) Special damages;
- b) Non-economic damages;
- c) Economic damages;
- d) Pre and post judgment interest;
- e) Court costs.
- f) Plaintiff reserves the right to amend the Complaint to include additional remedies and damages pursuant to Colorado law.

**PLAINTIFF DEMANDS TRIAL TO A JURY OF SIX**

**This matter is exempt from C.R.C.P. 16.1 as the damages claimed herein exceed \$100,000.**

Respectfully submitted this 7<sup>th</sup> day of October, 2020.

LAW OFFICES OF J.M. REINAN, P.C.

s/ Jerome M. Reinan

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**VERIFICATION**

I, Babak Mirin, hereby state and certify that the facts and information contained herein are true and accurate to the best of my knowledge.

Babak Mirin  
Printed Name

SUBSCRIBED AND SWORN TO before me this 7<sup>th</sup> day of October, 2020, by Babak Mirin.

Briana J.  
Notary Public

My commission expires on: 9.23.23

**Plaintiff's Address:** 432 Tahoe Drive  
Loveland, Colorado 80538

Briana J. Diefenbach  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20114020401  
MY COMMISSION EXPIRES September 23, 2023

Babak Mirin Mirin