

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR
THE NORTHERN DISTRICT OF ILLINOIS**

**OCT 28 2010
Oct 28 2010
UNITED STATES DISTRICT COURT
JUDGE WILLIAM T. HART**

FRANCIS J. SAVARIRAYAN, M.D.) Caption: CLASS ACTION SUIT

(Pronounced as 'SAVA RYAN'))
Plaintiff, a Veteran Commanding) **Case No.: 1:10-CV-04723**
Officer of the USAF)

v.) **JURY TRIAL DEMANDED**

Neil A. Brunetz, JD., of the Law Firm-
MARTIN & MILLER, LAW and ATTORNEY
For BLUE CROSS BLUE SHIELD OF TENNESSEE),
BLUE CROSS BLUE SHIELD OF TENNESSEE,
BLUE CROSS BLUE SHIELD OF)
ILLINOIS , Brian Cummings JD et al., DOE #1, DOE#2, DOE#3, DOE#4)

First Amended Complaint

COMES NOW the Plaintiff, Francis J. Savarirayan MD., A Veteran Commanding Officer of the USAF, proceeding as Pro Se, and Attorney-in- fact, as his personal attorney who was willing to provide legal representation in the US District Court for the Northern District of Illinois, on a Pro Hac Vici basis had to move to North Carolina due to urgent Family matter and the law firms he referred to in Chicago have informed the Plaintiff it will take about 4-6 weeks for them to review and make a determination.

Hence, to meet the deadline specified in the Federal EEOC Notice of right to sue, (Exhibit#1, Exhibit #2 & 3, original Complaint) and Exhibit A, EEOC charge against BCBS of IL with this First Amended Complaint is being filed today, by the Lead Plaintiff of the group, Francis J. Savarirayan MD., a Board certified Urologic Surgeon and a Foreign Medical Graduate, who has been a registered voter and resident of Illinois since 2007 This action is filed under Federal Rules of Civil Procedure (FRCP), Rule 23 and other Federal Rules, local rules, other applicable rules of the FRCP , Federal Laws that specifically address the EEOC Notice of Right to Sue, per Common Law and per Amendment VII and Article V of the US Constitution-the Supreme Law of the United States of America.

PREAMBLE

1. Blue Cross Blue Shield (BCBS) is the largest Health Insurance Company in the

- USA and most Americans have their health insurance through Blue Cross Blue shield or its many affiliate plans. Hence most of the physicians in private practice in the USA are paid for their services, by the Blue Cross Blue shield, of the state they practice, thus making Blue Cross Blue Shield, the de facto-employer of physicians in private practice. (Exhibit 7 of the Original Complaint)
2. Thus Blue Cross Blue Shield, though it shares the same policies and has one powerful cash heavy PAC (Political Action Committee) representing the interests of BCBS as a whole, does business as a separate corporate entity in each of the 50 states in the US.
 3. The most recent review of the AMA (American Medical Association) statistics show that there are 814,000 licensed physicians in the USA.
 4. 30% of these physicians, are graduates of Foreign Medical Schools, collectively known as Foreign Medical Graduates (FMGs.), who are mostly , non-Caucasian and non-white. Most of the FMGs. are Board certified and have also completed their postgraduate specialty training at Ivy league Universities in the US like Harvard, Boston University, etc. The lead Plaintiff of the class-Francis Savarirayan MD -is Boston University trained and Board certified by the American Board of Urology. (Refer CV& References in Exhibit#8-of Complaint)
 5. Blue Cross Blue Shield in the various states including the states of TN and IL, paid the FMGs considerably less for their services performed to patients insured with BCBS, when compared to payments received by white ethnic American Medical graduates.
 6. In many instances less qualified, non-Board certified, white ethnic physicians were paid more for their professional services than higher qualified, Board certified FMG physician.
 7. In one instance in Nashville TN, a white ethnic non-Board certified American Medical School graduated physician, TN MD License #7673 a Urologist who showed gross negligence and incompetence, by removing his patient's only normal kidney, and leaving her cancer kidney inside her, Blue Cross Blue Shield promptly paid the bill for this physician's botched up surgery, while denying all payments to a Board certified FMG Urologist, with 20 years of exemplary practice experience, with no Malpractice settlements or awards, and excellent references from his preceptors, colleagues and patients!
 8. The lead Plaintiff, Savarirayan MD., has practiced in Tennessee for two years, from 2003 to 2004. Prior to this he has practiced in Illinois, for 16 years, from 1975 to 1991 and was subjected to similar discriminatory practices by Blue Cross Blue Shield of Illinois, but was unaware of it.
 9. Having immigrated from India, the World's largest Democracy, with a highly effective legal and judicial system, it was unthinkable for him that BCBS of Illinois could indulge in such practices and not be held accountable. Since all payments as well bills submitted by physicians are pegged to their Social Security numbers and all physicians' services and procedures coded (CPT Coding), it will be easy to retrieve this information from the archives of BCBS of Illinois, to prove or disprove the above allegations.
 10. This class action is accordingly brought by present and former physicians who participated with or who had applied for participation with Blue Cross Blue

Shield of the various states, on behalf of themselves and all others similarly situated, who have been subjected to Blue Cross Blue Shield's continuing policies and practices of discrimination based on Race, Color, National Origin and Age.

11. Such practices are prohibited and are unlawful in the USA.
12. This action seeks an end to Blue Cross Blue Shield's discriminatory practices, make whole relief for the class, and punitive damages.

JURISDICTION, VENUE AND STATUTE OF LIMITATIONS

13. This is an action pursuant to Title VII of the Civil Rights Act of 1964, involving Race, Color, National Origin and Age (Ref. Exhibit#1, page 1)

14. The amount in controversy exceeds \$75,000.00

15. There is diversity of citizenship.

16. The venue is proper since the lead plaintiff has been a resident of Illinois since 2007. (Exhibits#3 & 4) and also has practiced Urology for 16 years in Illinois.

17. Statute of Limitations does not apply since the Discriminatory Acts of Blue Cross Blue Shield are continuing. (Ref. EEOC Notice-Exhibit 1, page 1. Of Original Complaint and Exhibit A of the First Amended Complaint)

PARTIES

18. Plaintiff, Francis Savarirayan, is an Asian American, a resident of Will County, Illinois. He is currently licensed in Illinois, (Exhibit#9) but unable to practice, since legal opinion he had obtained from prestigious Law Firms in Illinois, could not guarantee, that Blue Cross Blue Shield of Illinois may also follow the TN BCBS example and arbitrarily refuse to pay him. They were also unaware of any law enforcement agency that will step in and prevent such white collar fraud and theft of his funds.

19. They suggested the best course would be to Initiate a Class Action suit in Illinois and await its outcome.

20. The lead plaintiff is in the process of contacting FMGs in TN, Illinois and in other states, through the various FMG organizations. When this data is available, Savarirayan plans to file an Amended Complaint, with additional plaintiffs identified.

21. The Defendant Blue Cross Blue Shield is a National entity, with Regional

Corporate offices in almost all the 50 states of the US, including Illinois.

* 22. The Defendant attorney, Neil A. Brunetz, JD., of the Law Firm- MARTIN & MILLER, LAW and ATTORNEY For BLUE CROSS BLUE SHIELD (BCBS) OF TENNESSEE. When Mr. Brunetz was made aware by his employer that Dr. Savarirayan may file a Federal Suit in the Nashville Federal Court, to recover his funds illegally withheld from him. BCBS, then quickly filed a frivolous law suit against Dr. Savarirayan, a resident of White County, TN for Defamation, in the Hamilton County Court, TN, which has no venue or jurisdiction in the case except, the presiding judge, Judge Hollingsworth has received and continued to receive large sums of money from Brunetz JD Law firm Miller & Martin. Please see Exhibit # 1, page 4 of the Original Complaint, the campaign disclosure statement of Judge Hollingsworth.

23 The alleged defamation resulted from Dr. Savarirayan filing a Complaint against Blue Cross Blue Shield of TN, with the National Practitioner Data Bank, (NPDB) in Chantilly, VA. For practicing disparate and discriminatory credentialing against US citizens who are graduates of foreign Medical Schools. Any citizen has a right to complain to the State Licensing Board or the NPDB against a physician or a medical organization.

24. The NPDB after careful review of Dr. Savarirayan's complaint determined that the BCBS of TN was practicing apartheid credentialing of physicians in that state. (Exhibit# 2 of the Complaint). They also gave an opportunity to Blue Cross Blue Shield to respond, to this charge if disagreed with its findings.

25. BCBS indicated it agreed with the NPDB findings and the Complaint filed by Dr. Savarirayan, by not checking the box in page 3 of the NPDB report. (Exhibit# 2 . P3 of the Complaint) Hence there was no defamation, and the complaint against Dr. Savarirayan was a frivolous complaint.

26. The Hamilton County Judge, Judge Hollingsworth's court acted more like an extension of the law offices of Miller & Martin and prevented this case from going before a jury, but awarded massive damages- damages in excess of quarter million dollars- against the Defendant, Dr. Savarirayan. This Order was dismissed, by the TN Appellate Court on Dr. Savarirayan's appeal as Pro Se, for lack of Jurisdiction.

27. Mr. Brunetz, subverted Federal Court proceedings, by filing Judge Hollingsworth's tainted Order with the Nashville Federal Court where Dr. Savarirayan has filed an action against some defendants to recover sums owed to him. Brunetz JD and Miller & Martin Law firm filed a motion of 'Res Judicata', to dismiss his Federal suit, against them.

28. When Mr. Brunetz realized that Dr. Savarirayan will appeal the Nashville Federal trial Court's Order in its favor, outside the state of TN, to the Ohio 6th circuit, where they do not have that much influence or control, along with attorney Brian Cummings, attorney for one of the defendants in Savarirayan's Federal suit, entered the Federal Court building in the early hours of the day, before regular court hours, and destroyed evidence filed by the Plaintiff, damaging to their clients and substituted documents in their possession. This certainly is not the normal service attorneys perform for their clients.

This is well explained in Savarirayan's filing with the Ohio Federal Appellate Court (Exhibit#3 of Complaint) Dr. Savarirayan has also filed a complaint with the FBI Director, Washington, DC and recommended that arrest warrants be issued against Brunetz JD. Brian Cummings JD and other officers of the Court, to prevent additional destruction and

tampering of Federal Court Documents in the Nashville Federal Court, also known as the US District Court for the Middle District of TN, in Nashville, TN.

29. With reference to Brian Cummings JD, in addition to criminal destruction of Court Documents, referenced in item #28, he and his law firm and its employees 'contributed' large sums of money to State and Federal Judges, above the table and under the table. FBI complaint with supporting documents have been filed with the Washington DC head office.

CLASS ALLEGATIONS

30. Plaintiffs bring this action pursuant to Rule 23 of the Federal Rules of Civil Procedure, on behalf of a class of all past, present and future minority ethnic foreign medical graduates who provide medical services to patients insured with Blue Cross Blue Shield, in the various states in the US.

31. The members of the class are sufficiently numerous, that joinder of all members is impracticable. Plaintiffs are informed and believe that there are about 814000 licensed physicians in the US, out of which 30% are minority ethnic foreign medical graduates (FMGs), which computes the number of FMGs in USA to exceed 240,000.

32. There are questions of law and fact common to the class, and these questions predominate over individual questions. Such questions include, without limitation, whether defendant's physician reimbursement practices and procedures discriminate against the minority ethnic foreign medical graduates; whether defendant's policies have an adverse impact upon the class and if so, whether said impact can be justified by business necessity; and whether injunctive and other equitable remedies and punitive damage relief for the class is warranted.

33. The claims alleged by the plaintiffs are typical of the claims of the class.

34. The named plaintiffs will fairly and adequately represent and protect the interests of the class.

35. This action is properly maintained under both FRCP Rule 23(b)(2) and (3), because defendant has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declarative relief with respect to the class as a whole; and because questions of law and fact common to the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of this case. This action is also properly maintainable under Rule 23 (c)(4)(A) for all class issues alleged herein.

BLUE CROSS BLUE SHIELD'S OPERTION AND ITS GENERAL PRACTICE OF DISCRIMINATION AGAINST MINORITY ETHNIC FOREIGN MEDICAL GRADUATES

36. Blue Cross Blue Shield (BCBS) is the largest Health Insurance company in the US.

37. Though organizationally they are incorporated as individual businesses in each of the 50 states they do business, politically and structurally they come under one umbrella

with uniform policies.

38. These policies involve systematic discrimination against foreign medical graduates (FMGs) in its processing of physician application for 'participation', so that they can be paid for services performed on patients insured with BCBS.

39. The minority ethnic foreign medical graduates' applications were processed via a slow track, tabled or never acted upon, so that most often they are not paid for their service to patients insured with BCBS.

40. In instances where the FMG is allowed to participate, BCBS paid these FMG physicians less than what it paid for similar physician services performed by white ethnic American Medical Graduates.

41. Often BCBS paid, less qualified, non-board certified, white ethnic American Medical Graduates more, for their services, than it paid for similar services, to more qualified, Board certified minority ethnic foreign medical graduates (FMGs.)

42. Often payments to FMGs., were considerably delayed as compared to the time frame in which white ethnic American Medical Graduates were paid for their services performed to their patients insured with BCBS.

ALLEGATIONS OF NAMED PLAINTIFFS

Francis Savarirayan

43. Lead Plaintiff, Francis Savarirayan is an Asian American Boston University trained Board certified Urologic surgeon. He is also a Veteran Commanding Officer of the USAF. (Ref:Exhibit#8)

44. Francis Savarirayan MD. has practiced in Illinois, for 16 years, from 1975 to 1991 and was subjected to similar discriminatory practices by Blue Cross Blue Shield of Illinois, but was unaware of it.

45. Having immigrated from India, the World's largest Democracy, with a highly effective legal and judicial system, it was unthinkable for him that BCBS of Illinois could indulge in such practices and not be held accountable.

46. Since all payments as well as bills submitted by physicians are pegged to their Social Security numbers and all physicians' services and procedures coded (CPT Coding), it will be easy to retrieve this information from the archives of BCBS of Illinois, to prove or disprove the above allegations

47. Savarirayan also noticed undue delay in receiving payments from BCBS for services performed on their Insured. He did not notice any appreciable delay in payments that are received by his white ethnic physician colleagues from BCBS for services performed by them.

48. This combination delayed payments and reduced payments to Savarirayan forced him to close his practice and move out of Illinois.

49. Savarirayan did well in his practice until he moved to Tennessee in 2003 and got involved with Blue Cross Blue Shield of that state.

50. The Discriminatory and unlawful practice of BCBS are well delineated hereunder:

51 Lead Plaintiff, Savarirayan MD., has practiced in Tennessee for two years, from 2003 to 2004. He was interviewed by the local hospital CEO, and members of the

Credentials and the Executive Committee consisting of about six Board certified Medical and Surgical Specialists and his application to become a staff urologist, was unanimously approved.

52. Along with the commencement of his practice, he applied for participation with Blue Cross Blue Shield of Tennessee, which capriciously tabled his application to 'participate' for over six months.

53. Thus Savarirayan was seeing more and more patients- the hospital data showed a 600% increase in Urologic patient load as compared to the previous year. However due to the discriminatory and unlawful actions of Blue Cross Blue Shield, none of his bills for service performed on patients insured with BCBS were paid resulting in precipitous fall in his income forcing him to close his practice.

54. This discriminatory and unlawful action of BCBS also resulted in the loss of jobs for two very dedicated and capable white collar, white ethnic workers, in Savarirayan's Clinic.

55. During this same period, a white ethnic non-Board certified American Medical School graduated physician, TN MD License #7673 a Urologist, in Nashville, TN, who showed gross negligence and incompetence, by removing his patient's only normal kidney, and leaving her cancer kidney inside her,

56. Blue Cross Blue Shield promptly paid the bill for this physician's botched up surgery, while denying all payments to Plaintiff Savarirayan, a Board certified FMG Urologist, with 20 years of exemplary practice experience, with no Malpractice settlements or awards, and excellent references from his preceptors, colleagues and patients!

57. In 2007, Savarirayan moved to Illinois and became a registered voter and a permanent citizen of Illinois.

58. On or about April 8, 2010, Savarirayan filed a charge of discrimination with the United States Equal Opportunity Commission (EEOC), a copy of which is attached as Exhibit#2.

59. On May 3, 2010 (Exhibit#3), Savarirayan received the Notice of Right to Sue from the EEOC office in Chicago (Exhibit#1&1a.) and commenced this action in a timely manner.

60. Other Plaintiffs will be added as we receive responses from them.

FIRST CLAIM FOR RELIEF
Violation of Title VII

61. Plaintiffs incorporate paragraphs 1 through 60.

62. This claim is brought on behalf of all Plaintiffs and the class they represent.

63. The foregoing conduct violates Title VII of the Civil Rights Act of 1964, 42 USC. Section 2000(e) et. seq.

64. Blue Cross Blue Shield(BCBS), has intentionally discriminated against minority ethnic Foreign Medical Graduates through a two tier system of processing and paying bills for services performed on patients insured with BCBS,-One tier for white ethnic American Medical Graduates, which involves routine and automatic and rapid approval of application for 'participation', and prompt and increased payments for services as referenced in the CPT codes, as compared with Foreign Medical Graduates, providing similar services as referenced in the CPT codes.

65. The tier to which the FMGs were assigned, without their knowledge or consent, resulted in slow processing or tabling of their application.

66. This also resulted in the Foreign Medical Graduates, providing similar services as referenced in the CPT codes, receiving reduced payments, as compared to American Medical Graduates who are mostly white, providing similar services as referenced in the CPT codes.

67. Blue Cross Blue Shield systematically retaliated against minority ethnic physicians who complained against these practices of the BCBS to their state's Insurance Commissioners or their Congressional representatives, by further reducing their payments or stopping them altogether.

68. The Defendant's retaliatory practices have resulted in the closure of medical practices for class members.

69. The Defendant's retaliatory practices have resulted in impeding or curtailing the professional and financial advancement of class members.

70.. Plaintiffs request relief as provided in the Prayer for relief below.

SECOND CLAIM FOR RELIEF

Violation of Title VII

71. Paragraphs 1-52 are incorporated by reference. This claim is brought on behalf of the named plaintiffs individually for their non-class claims.

72.. Defendant discriminated against named plaintiffs on the basis of their race, color, national origin and age and paid them less for their services performed on their insured, than they paid white ethnic physicians for similar services

73. Defendant's discriminatory and retaliatory practices have resulted in the strange phenomenon of the FMGs. seeing more and more patients, providing more and more services, and getting less and less payments from the Defendant, resulting in lost income, closure of their practices, and have caused plaintiffs to suffer humiliation, embarrassment and emotional distress.

74. Plaintiffs request relief as provided in the Prayer for Relief below.

RELIEF ALLEGATIONS

75.. Plaintiffs and the class they represent have no plain, adequate or complete

remedy at law to redress the wrongs alleged herein, and the injunctive relief sought in this action is the only means of securing complete and adequate relief. Plaintiffs and the class they represent are now suffering and will continue to suffer irreparable injury from Defendant's discriminatory acts and omissions.

76. The actions on the part of the Defendant have caused and continue to cause Plaintiffs and class members substantial loss in income, professional advancement and even the loss of their medical practice and other professional benefits, in an amount to be determined according to proof.

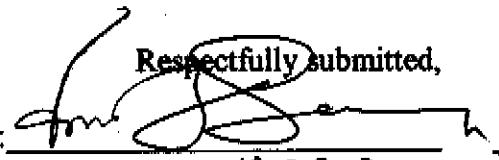
77. Defendant acted or failed to act as herein alleged with malice or reckless indifference to the protected rights of Plaintiffs' and class members. Plaintiffs and class members are thus entitled to recover punitive damages in an amount to be determined according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the class pray for relief as follows:

1. Certification of the case as a class action on behalf of the Plaintiff class
2. Pray that this court appoint a counsel, since legal representation for the Plaintiff class as well as its lead plaintiff was denied in the State of Tennessee and Illinois. Please also refer to Motion for appointment of Counsel, filed with this complaint.
3. The appointed counsel may also be designated as counsel of record, as Class Counsel;
4. All damages which individual plaintiffs and the class have sustained as a result of Defendant's conduct, including withheld payments, general and special damages for lost practice income, and the projected practice income that they would have received but for the discriminatory practices of Defendant;
5. For Plaintiff's individual non-class claims, all damages they have sustained as a result of Defendant's conduct, including withheld payments, general and special damages for lost practice income, and the projected practice income that they would have received but for the discriminatory practices of Defendant, damages for emotional distress, and punitive damages, according to proof;
6. Exemplary and punitive damages in an amount commensurate with Defendant's ability to pay and to deter future conduct;
7. A preliminary and permanent injunction against Defendant and its directors, officers, agents, successors, employees and representatives and any and all persons acting in concert with them, from engaging in each of the unlawful practices, policies, customs and usages set forth herein;
8. A declaratory judgment that the practices complained of in this complaint are unlawful and violate 42 U.S.C. section 2000(e), et seq., Title VII of the Civil Rights Act of 1964;
9. Costs incurred including reasonable attorney's fees. To the extent allowable by law;
10. Pre-Judgment and Post-Judgment interest, as provided by law; and


11. Such other further legal and equitable relief as this Court deems necessary, just and proper.

Respectfully submitted,
By: 
10-28-2010

Francis J. Savarirayan MD., Veteran Major-USAF
Pro Se and Attorney-in-fact
P.O.Box 67
Plainfield, IL 60544
Tel: 931-544-0077
Email: savariray@aol.com

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial as provided by Rule 38(a) of the Fed. Rules of Civ. Procedure., Amendment VII and Article V of the US Constitution.

BY: 
Francis J. Savarirayan
10-28-2010

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA
 EEOC

440-2011-00061

Illinois Department Of Human Rights

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Dr. Francis J. Savarirayan, MD

Home Phone (Incl. Area Code)

(931) 544-0077

Date of Birth

08-13-1937

Street Address

City, State and ZIP Code

14826 S Penn Rd, Plainfield, IL 60544

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

BLUE CROSS BLUE SHIELD OF ILLINOIS

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(312) 653-5600

Street Address

City, State and ZIP Code

300 East Randolph, 14th Floor, Chicago, IL 60601

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

DATE(S) DISCRIMINATION TOOK PLACE

RACE COLOR SEX RELIGION NATIONAL ORIGIN
 RETALIATION AGE DISABILITY GENETIC INFORMATION
 OTHER (Specify)

Earliest

Latest

10-12-2010

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I began my medical practice in Illinois in 1975. I applied for participation with BCBS of Illinois so that my bills for services performed on there insured can be paid. I was subjected to non-payment of my bills based on the contractual agreement that was initiated BCBS and signed by me.

I believe that I have been discriminated against because of my race, Asian, national origin, Indian, color, dark complexion, in violation of Title VII of the Civil Rights Act of 1964.

I also believe that have been discriminated against because of my age, 72 (DOB: August 13, 1937), in violation of the Age Discrimination of Employment Act of 1967, as amended.

RECEIVED EEOC

OCT 12 2010

CHICAGO DISTRICT OFFICE

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Oct 12, 2010

Date

Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)