

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Case Type: Other Civil
(Consumer Protection)

State of Minnesota, by its Attorney General,
Keith Ellison,

Court File No. _____

Plaintiff,

COMPLAINT

vs.

Center for COVID Control, LLC and
Doctors Clinical Laboratory, Inc.

Defendants.

The State of Minnesota, by its Attorney General, Keith Ellison, for its Complaint against Defendants Center for COVID Control, LLC and Doctors Clinical Laboratory, Inc. alleges as follows:

INTRODUCTION

1. In late fall 2021, at the beginning of the largest surge in infections of the deadly COVID-19 pandemic in Minnesota, Defendants, Center for COVID Control, LLC and its associated independent laboratory, Doctors Clinical Laboratory, Inc., began advertising pop-up COVID-19 testing sites throughout Minnesota. Defendants advertised and represented their testing sites as free, walk-in facilities where Minnesota consumers could obtain: (1) rapid antigen tests with results “verbally given within 15 minutes and an email confirmation is given within 3 hours;” and (2) more sensitive RT-PCR tests processed by a lab with results provided “within 24 to 48 hours.”

2. Defendants' advertisements and representations are deceptive and misleading. Numerous Minnesota consumers have not received any test results from Defendants after submitting samples, let alone within the timeframes promised by Defendants. Even when Minnesota consumers do receive untimely test result reports from Defendants, the reports are often deceptively riddled with inaccurate and false information including listing the wrong test type and false dates and times for when samples were collected from consumers to be tested. Most disturbingly, Defendants have sometimes fraudulently represented that Minnesota consumers have tested negative for COVID-19, despite the consumer never having submitted a sample for Defendants to be tested. Defendants' conduct violates Minnesota's consumer protection laws. As a result, the State brings this action to enforce Minnesota law as well as fully remediate and protect Minnesota consumers.

PARTIES

3. Keith Ellison, the Attorney General of the State of Minnesota, is authorized under Minnesota Statutes chapter 8 and has common law authority, including *parens patriae* authority, to bring this action to enforce Minnesota's laws, to vindicate the State's sovereign and quasi-sovereign interests, and to remediate all harm arising out of—and provide full relief for—violations of Minnesota's laws.

4. Defendant Center for COVID Control, LLC, is an Illinois limited liability company with its principal office address at 1685 Winnetka Circle, Rolling Meadows, Illinois 60008 and is owned and/or managed by Akbar Syed and Aleya Siyaj. Center for COVID Control, LLC has done business in the State of Minnesota by marketing, promoting, selling, and/or providing COVID-19 rapid tests and polymerase chain reaction ("PCR") tests to Minnesota residents. Despite these activities, Center for COVID Control does not hold a

certificate of authority issued by the Minnesota Secretary of State to transact business in the State of Minnesota.

5. Defendant Doctors Clinical Laboratory, Inc. is an Illinois corporation with its principal office address at 1685 Winnetka Circle, Rolling Meadows, Illinois 60008. The registered president of Doctors Clinical Laboratory, Inc. is Mohammed Shujauddin. Doctors Clinical Laboratory, Inc. is a Clinical Laboratory Improvement Amendments (“CLIA”) certified independent laboratory that has done business in the State of Minnesota by marketing, promoting, selling, and/or providing COVID-19 rapid tests and RT-PCR tests to Minnesota residents. Despite these activities Doctors Clinical Laboratory, Inc. does not hold a certificate of authority issued by the Minnesota Secretary of State to transact business in the State of Minnesota.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action pursuant to Minnesota Statutes sections 8.01; 8.31; 303.20; 325D.43 to 325D.48; 325F.67; 325F.68 to 325F.69; and under common law.

7. This Court has personal jurisdiction over Defendants pursuant to Minnesota Statutes section 543.19 because it has conducted business in Minnesota and committed acts in Minnesota causing injury to Minnesota consumers.

8. Venue in Hennepin County is proper under Minnesota Statutes section 542.09 because the cause of action arose, in part, in Hennepin County. Among other things, Defendants represented through advertisements and provided pop-up COVID-19 testing sites throughout the State of Minnesota, including at least three testing sites in Minneapolis.

FACTUAL BACKGROUND

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

9. Minnesota's fight against COVID-19 represents one of the greatest public health challenges this state has handled in its nearly 164-year history. Although more than 70% of eligible Minnesotans are fully vaccinated against COVID-19, Minnesota is currently experiencing an increase in COVID-19 infections due to the highly transmissible omicron variant. In early January 2022, known active cases of COVID-19 have increased 40% to nearly 47,000—the highest number since November 2020. COVID-19 test positivity rates are currently more than 7%, which is well over the 5% threshold level that Minnesota Department of Health officials indicate is troubling. Hospitals are being overwhelmed by COVID-19 patients and the Centers for Disease Control and Prevention presently show that *all* Minnesota counties currently are experiencing a high level of COVID-19 virus transmission.¹

10. In Minnesota, as of January 19, 2022, COVID-19 has already caused at least 11,000 deaths. Nearly two years into the pandemic, over 1.1 million positive cases have been reported across the state, with newly reported infections topping 10,000 per day, which is the highest reported daily infection rate since the pandemic began.²

11. Along with vaccination and masking, testing is a critical tool in the fight against COVID-19. If testing is conducted in an orderly, accurate, and timely manner, infected individuals can promptly self-isolate and thereby prevent transmission to others in their

¹ Centers for Disease Control and Prevention, *COVID Data Tracker* (Jan. 11, 2022), available at https://perma.cc/GEC6-M7LW#county-view?list_select_state=Minnesota&data-type=Risk.

² Tim Nelson, *Minnesota Sets Another Grim Stat: Record-Setting COVID Infection*, MPRNEWS.COM (Jan. 12, 2022) available at <https://perma.cc/MJ58-QF5X>.

community. It is important for the community to have trust in the testing process, so that people actually get tested for the virus and take preventative measures if they receive a positive result. There are two different types of “viral” or “diagnostic” tests that exist to detect if a person has SARS-CoV-2, the virus that causes COVID-19: (1) a molecular diagnostic test; and (2) an antigen test.

12. Molecular amplification diagnostic testing is the most sensitive method of detecting the presence of the virus that causes COVID-19 in an individual. Such testing includes the reverse transcription polymerase chain reaction (“RT-PCR”) test,³ which is a test designed to detect the presence of the genetic material from the virus. Typically, RT-PCR and other molecular amplification diagnostic tests are conducted by an individual first providing a nasal, throat, or saliva sample. The sample may then be tested by a federally certified lab, with results typically reported to the individual in 24 to 72 hours. A positive RT-PCR or other molecular amplification diagnostic test is considered a confirmed case of COVID-19 by the Minnesota Department of Health.

13. Antigen diagnostic tests are also sometimes referred to as “rapid” tests and check for the presence of specific proteins on the surface of the COVID-19 virus. Typically, antigen tests are conducted by an individual providing a nasal swab or saliva sample that can then be immediately tested by a federally certified lab, which can report positive or negative results within minutes or hours. While antigen rapid tests produce quick results, they are not as sensitive—especially for individuals who are not presently exhibiting symptoms from the virus. As a result, a positive antigen rapid test result is considered a probable case of COVID-19 by the Minnesota Department of Health.

³ RT-PCR COVID-19 tests are sometimes referred to as PCR tests.

14. It is critical that labs providing testing for COVID-19 provide prompt and accurate results because test results give people information on how they can act appropriately. It is important that test results are accurate because someone with a false negative may not take appropriate steps, like self-isolation and masking, when they are contagious. It is important that test results be provided promptly because individuals with COVID-19 are infectious for only a short period, and opportunity for intervention is limited, so any delay in test results can have a negative impact on public health. Infectious individuals waiting for results are not aware of the need to self-isolate and take other precautionary measures until they receive results.

15. Whenever someone exhibiting symptoms of COVID-19 receives a negative rapid antigen test, it is important that they also obtain the results of a RT-PCR test to confirm the negative result. Without the results from the more-sensitive RT-PCR test, an infectious individual with a false negative rapid antigen test result may incorrectly believe they do not need to self-isolate or take other preventative measures before interacting with the public or vulnerable individuals.

II. DEFENDANTS ADVERTISE AND PROVIDE RAPID AND RT-PCR COVID-19 TESTING TO MINNESOTA RESIDENTS AT MULTIPLE TESTING SITES IN MINNESOTA, BUT FAIL TO REPORT RESULTS TO THE MINNESOTA DEPARTMENT OF HEALTH.

16. Center for COVID Control is an Illinois based company, which was organized in December 2020, and represents on its website that it has established over 300 locations across the United States where consumers can obtain rapid antigen and RT-PCR tests for COVID-19. Center for COVID Control represents that it partners with a CLIA certified independent laboratory, Doctors Clinical Laboratory, Inc., which performs the diagnostic testing and reports positive and negative results to consumers. The address listed on Doctors Clinical Laboratory's

website is also the principal office address for Center for COVID Control—1685 Winnetka Circle, Rolling Meadows, Illinois 60008.

17. On information and belief, Defendants began offering pop-up COVID-19 testing sites in Minnesota beginning in the late fall of 2021. Defendants have advertised eight (8) testing sites in Minnesota at the following addresses: (1) 2144 44th Ave., Minneapolis, MN 55412; (2) 2700 39th NE Ave., Suite E114, Anthony, MN 55421; (3) 801 Nicollet Mall, Minneapolis, MN 55402⁴; (4) 4727 Hiawatha Ave. SW, Minneapolis, MN 55406; (5) 729 E. 7th Street, St. Paul, MN 55106; (6) 5463 Mountain Iron Drive, Virginia, MN 55792; (7) 1004 Diffley Road, Eagan, MN 55123; and (8) 1218 7th Street NW, Rochester, MN 55901.

18. Defendants advertise their services as free, walk-in COVID-19 rapid antigen and RT-PCR testing sites that do not require an appointment. When a consumer arrives at one of Defendant's Minnesota testing sites, they are typically asked to scan a QR code with their phone, which directs them to an online form to fill out that collects their personal identifying information, including name, address, date of birth, phone, email, sex, driver's license number, insurance information, and an image of their driver's license or other photo identification. Within this form, Defendants state that they will seek reimbursement for the tests they perform from Minnesota consumers' insurers or the federal government (for the uninsured):

Reimbursement for COVID-19 testing is covered 100% by all insurance payors with no deductible, co-pays, coinsurance, or any other out of pocket expense. Individuals will need to provide a copy of medical insurance at the time of testing. Reimbursement for the uninsured individuals COVID-19 testing is provided by the Department of Health and Human Services' Health Resources and Services Administration (HRSA). HRSA requires individuals to provide a copy of state issued identification card and signed attestation that they do not have any medical insurance at the time of testing.

⁴ Minnesota consumers report that while Center for COVID Control lists 801 Nicollet Mall as this testing site's location on its website, it is actually located at 800 Marquette Avenue in Minneapolis.

19. After completing the online form, the consumer waits in line and then submits a sample for one or both of the following COVID-19 viral diagnostic tests: (1) a COVID-19 nasal swab rapid antigen test; and (2) a COVID-19 nasal swab RT-PCR test. Numerous consumers have reported that Defendants do not employ basic COVID-19 safety protocols at their Minnesota testing sites including appropriate social distancing of at least six feet between consumers, masking, and regular sanitization of testing stations.

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

21. On information and belief, Defendants have obtained and/or intend to obtain reimbursement payments for the COVID-19 tests they have provided to Minnesota consumers from both Minnesota consumers' insurers and the federal Department of Health and Human Services' Health Resources and Services Administration (HRSA) for uninsured Minnesota consumers. Indeed, upon information and belief, Doctors Clinical Laboratory, has billed the federal government over \$113 million for COVID-19 tests provided to allegedly-uninsured patients across the nation, including Minnesota consumers.

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

23. Defendants' drop-down menu did not contain most, if not all, Minnesota insurance companies. Defendants instructed their employees in such cases to simply select "uninsured," which Defendants used to support submitting a claim to the federal government for reimbursement.

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

25. In December 2021, the Minnesota Department of Health ("MDH") began receiving complaints from Minnesotans about Defendants' St. Louis County testing site. Complaints included not getting test results, getting test results without submitting a specimen for testing, and lack of proper infection control in an enclosed space.

26. After receiving those complaints, MDH observed that it had not received any COVID-19 test results from Defendants. The lack of reports was highly unusual both because of the incidence of COVID-19 in Minnesota—making it unlikely that Defendants had not processed a positive test—and because labs in Minnesota, which are aware of the importance to public health of reporting positive results, are generally diligent about reporting test outcomes to MDH.

27. On December 22, 27, and 29, 2021, and on January 3 and 11, 2022, MDH sent correspondence to Defendant Doctors Clinical Laboratory, requesting that it set up a secure connection to send test results to MDH. As of January 14, 2022, no connection has been set up,

but Doctors Clinical Laboratory did send two batches of results for the time period between December 7, 2021, and January 10, 2022. In those batches, Doctors Clinical Laboratory did not provide results for any RT-PCR tests, only results for rapid antigen tests.

28. Of the 3,142 results Doctors Clinical Laboratory reported to MDH, 2,312 were reported as positive, which would indicate a 74% positivity rate. That rate is over ten times higher than the statewide positivity rate during that time period. This could indicate any number of issues, from problems with the lab's testing to simply not reporting to MDH all of their negative results.

29. As of January 14, 2022, MDH has not received any other reports from Defendants indicating any positive or negative COVID-19 tests results of Minnesota consumers they have tested.

III. DEFENDANTS HAVE MISREPRESENTED THEIR SERVICES.

A. Defendants Misrepresent When Minnesota Consumers Will Receive Their RT-PCR and Rapid Antigen COVID-19 Test Results.

30. Center for COVID Control represented to Minnesota consumers on its website that the results of its RT-PCR test “will be emailed within 48 hours” and that the results of its rapid antigen test “are verbally given within 15 minutes and an email confirmation is given within 3 hours.” Likewise, Doctors Clinical Laboratory represents on its website that:

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

31. Center for COVID Control similarly represents on social media that its COVID-19 test results are quickly provided to consumers. For example, in its Twitter account bio, Center for COVID Control boasts “results in 24 to 48 hours.” Center for COVID Control has also tweeted that the results from its rapid antigen tests are “emailed in 1 hour.”

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

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

34. Defendants' representations about when Minnesota consumers will receive the results of their COVID-19 RT-PCR and rapid antigen tests are deceptive and misleading. Indeed, numerous consumers have not received any RT-PCR test results from Defendants—let alone within the promised window of 24 to 72 hours after having taken the test. For example, 31-year-old **A.I.** completed a RT-PCR COVID-19 test at Defendant's 4727 Hiawatha Avenue location in

Minneapolis in late November 2021, and to date, still has not received any reported result from Defendants. As a result of Defendants' misrepresentations, A.I. was not only unable to cross the border into Canada to attend a funeral but also was forced to pay another company to be re-tested. Similarly, **E.R.** took a RT-PCR COVID-19 test at Defendant's 4727 Hiawatha Avenue location in Minneapolis on November 29, 2021, and over a month later, still has not received the RT-PCR test results from Defendants. Minnesota consumers **L.S.** and L.S.'s daughter, as well as consumer **N.F.'s daughter**, all took RT-PCR tests at this same Hiawatha location in November 2021 and to date have not received RT-PCR test results from Defendants. Minnesota consumer **D.J.'s son** submitted a sample for an RT-PCR test at Defendants' 729 East 7th location in St. Paul in November 2021, and, to date, has not received his RT-PCR results from Defendants. Minnesota consumer **D.T.** had a similar experience at Defendant's 2700 39th Avenue NE location in St. Anthony: In late December 2021, D.T. provided a sample for RT-PCR testing, but has never received a test result from Defendants for that sample.

35. Defendants have also falsely represented when consumers will receive their rapid antigen COVID-19 results via email. For example, **O.B. and O.B.'s partner** each took a rapid antigen test at Defendants' Rochester location on December 22, 2021, and were told by Defendants that the results would be provided via email within three hours. Contrary to Defendants' representations, no results were provided within three hours. Indeed, to date, O.B. still has not received any results from the test. Similarly, **M.W.'s partner** needed a negative rapid test result to fly to Germany and visited Defendants' 4727 Hiawatha Avenue location in Minneapolis on January 2, 2022. Defendants represented that he would receive the rapid test results via email that same evening, but Defendants did not provide the results as promised. In fact, the results were not received until four (4) days later and after M.W.'s partner was already

in Germany, having resorted to re-taking a rapid test at another facility and testing negative. Minnesota consumer **A.S.** and her daughter also did not receive their rapid antigen test results from Defendants as promised and had to re-take rapid tests at a CVS to catch their flight to the United Kingdom. **L.B.** took a rapid antigen test at Defendants' 4727 Hiawatha Avenue location in Minneapolis in late December and still has not received a test report from Defendants. Despite taking rapid tests on January 11, 2022, **H.P.** and H.P.'s partner likewise has not received test results from Defendants.

36. Similarly, in late November Minnesota consumer **D.M.** as well as D.M.'s partner and son were all feeling sick and went to Defendants' 4727 Hiawatha Avenue location in Minneapolis to be tested. Everyone took both rapid antigen and RT-PCR tests at the site, and a staff person loudly announced D.M. had tested positive for COVID-19. Subsequently, while D.M.'s son received a rapid test report from Defendants, neither D.M. nor D.M.'s partner have received their rapid test results. Moreover, to date no one has received RT-PCR test results from Defendants. Consequently, despite having tested positive for COVID-19 in a rapid test, D.M. and D.M.'s partner and son had to visit another testing facility—potentially exposing others to the virus—to obtain prompt written results, which confirmed they had tested positive for COVID-19.

37. Ex-employees report regularly finding in trash bags strewn around the office test samples that were more than 48 hours old. Many of these samples had never been refrigerated, let alone tested by their lab.

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

38. Not only do Defendants fail to promptly deliver test results to Minnesota consumers as they promise, when they do untimely provide COVID-19 test results to consumers

their reports are often deceptively riddled with inaccurate and false information. For example, 31-year-old C.W. visited Defendants' Nicollet Mall location in Minneapolis in December 2021, and took a RT-PCR test. She did not timely receive test results from Defendants, and C.W. complained over the phone, social media, and email. Shortly thereafter, C.W. received an email from Defendants deceptively stating her rapid antigen test result was negative. However, she never took rapid antigen test and only completed a RT-PCR test for which Defendants never provided results. Because C.W. did not trust Defendants inaccurate report and was continuing to feel COVID-19 symptoms, she re-tested with her physician and only then learned she had tested positive for COVID-19.

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

40. As Defendants fell behind on processing incoming test samples, they began to receive numerous consumer complaints about tardy or non-existent test results. Call waits were, at times, over three hours long. When consumers did finally get through the queue to ask about their results, Defendants' employees looking up consumers' tests often found that the tests had not yet been processed, even though more than 48 hours had passed. Defendants instructed their employees to deceptively tell consumers in this situation that the consumers' results were

coming in 24 hours, even if the employees had no idea where the sample was or if the lab would ever test it. If a consumer called multiple times, employees were instructed to falsely tell consumers that the test result had been inconclusive and that they needed to take another test. That way, not only could Defendants bill for the test that was not processed or was processed late, Defendants encouraged the patient to send yet another sample to Defendants for Defendants to bill.

41. Minnesota consumers **A.S.** and her daughter took rapid antigen tests at Defendants' downtown Minneapolis testing site on December 29, 2021. They received an email from Defendants the next day on December 30, 2021, with the rapid antigen test results, which falsely stated that the "collection date" of their rapid test samples occurred December 30, 2021, at 11:12 a.m., which was only five (5) minutes before they received the report email from Defendants. In reality, the samples were collected the previous day on December 29, 2021. The rapid antigen report consumer **E.R.** received from Defendants also falsely listed the "collection date" as having occurred on November 30, 2021, at 12:50 p.m., which was only five (5) minutes before she received the report email from Defendants. In reality, E.R. had provided a test sample at Defendants' 4727 Hiawatha Avenue location the previous day on November 29, 2021. On information and belief, the "collection date" listed in Defendants' result reports to Minnesota consumers routinely does not correspond with the date the consumer provided a test sample to Defendants but instead, often falsely and deceptively is simply an irrelevant date and time that is generated by Defendants, often five minutes before the report is generated and emailed to Minnesota consumers.

42. Even more disturbingly, Defendants have fraudulently represented that Minnesota consumers have tested negative for COVID-19, despite consumers never having submitted

samples for Defendants to test. For example, on January 2, 2022, consumer **E.S.** visited Defendants' 4727 Hiawatha Avenue testing site in Minneapolis and filled out the online form to be tested. After completing this online form, E.S. decided the line to be tested was too long and left the test site without ever submitting a sample for Defendants to test. Nevertheless, later that night Defendants emailed E.S. a report falsely representing that E.S. had taken a rapid antigen test, which tested negative for COVID-19. Just as was the case for many other Minnesota consumers, the report falsely stated a "collection date" that was five (5) minutes before the report was generated and emailed to E.S.:



1685 Winnetka Cir, Rolling Meadows
IL 60008
PHONE: 844-777-1237

CLIA ID NUMBER: 14D0988472

ReqID: [REDACTED]	DOB: [REDACTED]	COLLECTION DATE: 01/02/2022 8:25 pm
PATIENT NAME: E [REDACTED] S [REDACTED]	SEX: [REDACTED]	REPORTED DATE: 01/02/2022 8:30 pm

TEST	RESULT	FLAG
ANTIGEN COVID-19 SARS-COV19 - NP	NEGATIVE	NORMAL

43. Similarly, Minnesota consumer **E.H.** and his daughter visited Defendants' 4727 Hiawatha Avenue location in Minneapolis on December 29, 2021, and both filled out the online form to be tested. However, after observing a lack of COVID-19 safety protocols and unprofessional behavior at the site, they decided to leave without submitting any test samples. Defendants later emailed E.H. and his daughter reports falsely representing that they had taken rapid antigen tests, which tested negative for COVID-19. Again, the reports falsely listed a "collection date" that was five (5) minutes before the reports were generated and emailed.

Minnesota consumer **H.M.** brought her nieces and nephews to Defendants' 4727 Hiawatha Avenue location in Minneapolis. Due to the behavior of the site's employees, three of H.M.'s nieces and nephews filled out information, but were not tested. Nevertheless, Defendants provided negative test results for those children who never supplied a sample.

44. On December 27, 2021, consumer **H.S.** took a rapid antigen test at Defendant's 4727 Hiawatha Avenue location but was not emailed a test result report from Defendants. On January 3, 2022, she completed Defendants' online form to take another rapid antigen test at the same testing site location but left the site without submitting a sample. Later that day, Defendants emailed H.S. a report falsely representing that she had taken a rapid antigen test, which tested negative for COVID-19. Moreover, a few days later, on January 6, 2022, Defendants sent H.S. four more emails attaching reports falsely representing that she had taken rapid antigen tests, which tested negative for COVID-19 on dates and times that she did not take tests. Defendants similarly emailed Minnesota consumer **D.P.** a negative rapid test result before he ever submitted a sample for them to test.

45. Minnesota consumer **M.W.**'s partner took a rapid antigen test at Defendants' 4727 Hiawatha Avenue location in Minneapolis on January 2, 2022, and flew to Germany the next day after testing negative at another facility. Subsequently, after he was already back in Germany, on January 6, 2022, he received two separate test result emails from Defendants—despite only having taken one test. The first email falsely stated his sample was collected on January 5, 2022 at 10:09 p.m., and the second email falsely stated it had been collected on January 5, 2022 at 10:51 p.m., despite the fact that he was already in Germany on January 5, 2022. Both reports stated his rapid antigen test was negative for COVID-19. Likewise, consumers **L.S.** and **E.R.** both took a rapid antigen test and RT-PCR test when visiting

Defendants' 4727 Hiawatha Avenue testing site in Minneapolis. Subsequently, neither L.S. nor E.R. received any RT-PCR test results from Defendants, but both received two different rapid antigen result emails from Defendants. Despite both L.S. and E.R. having only taken a single rapid antigen test, Defendants' reports falsely listed both consumers as having taken at least two different rapid antigen tests at different times of the day.

46. This Complaint contains examples of Defendants' representations and interactions with Minnesota consumers to exemplify Defendants' pattern and practice of deceptive and fraudulent conduct alleged herein. As these illustrative examples make clear, Defendants' misrepresentations and deceptive conduct is widespread and has injured numerous Minnesotans. The State is pursuing relief based on Defendants' widespread deceptive practices and its case is not limited to the illustrative examples that are included in this Complaint solely for the purpose of exemplifying the company's course of prohibited conduct.

COUNT I
PREVENTION OF CONSUMER FRAUD ACT
MINN. STAT. § 325F.69

47. Plaintiff re-alleges all prior paragraphs of this Complaint.

48. Minnesota Statutes section 325F.69, subdivision 1, states:

The act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoined as provided in section 325F.70.

49. The term "merchandise" within the meaning of Minnesota Statutes section 325F.69 includes services such as Defendants' COVID-19 testing services. Minn. Stat. § 325F.68, subd. 2.

50. The term “person” includes “any natural person or legal representative, partnership, corporation (domestic and foreign) company, trust, business entity, or association, and any agent, employee, salesperson, partner, officer, director, member, stockholder, associate, trustee, or cestui que thereof.” Minn. Stat. § 325.68, subd. 3. Defendants are “persons” within the meaning of the statute.

51. Defendants have repeatedly violated and/or threatened to violate Minn. Stat. § 325F.69, subdivision 1, by engaging in the deceptive and fraudulent practices described in this Complaint, with the intent that others rely thereon in connection with the sale of its COVID-19 testing services. This conduct includes, but is not limited to:

- a. Misrepresenting the timeframe in which Defendants will communicate and report the results of its COVID-19 RT-PCR and rapid antigen tests to Minnesota consumers;
- b. Misrepresenting that Defendants’ will promptly report the results of its COVID-19 RT-PCR and rapid antigen tests to Minnesota consumers but then failing to report such results;
- c. Falsely and inaccurately listing in its result reports the date and time when test samples were collected or received from Minnesota consumers, which do not correspond to the actual date and time Defendants collected or received test samples from such Minnesota consumers;
- d. Deceptively telling complaining Minnesota consumers that their test results were coming in 24 hours or that their test results were inconclusive without knowing the present status or condition of their test samples;
- e. Deceptively providing rapid antigen test results to Minnesota consumers who only provided Defendants with RT-PCR test samples;
- f. Falsely producing and communicating result reports to Minnesota consumers that never provided samples for Defendants to test; and
- g. Falsely reporting test results to Minnesota consumers whose tests had not been processed.

52. Due to the deceptive and fraudulent conduct described in this Complaint, Defendants have obtained and/or intend to obtain payments from Minnesota consumers’ insurers

and the federal Department of Health and Human Services' Health Resources and Services Administration (HRSA) for services that Minnesota consumers would not otherwise have chosen to receive. Moreover, due to the deceptive and fraudulent conduct described in this Complaint, Minnesota consumers have suffered harm, including by, for example, missing work and paying for additional COVID-19 testing from other companies. There is a causal relationship between these injuries to Minnesota consumers and the wrongful conduct Defendants have engaged in that violates Minnesota Statutes section 325F.69, subdivision 1.

53. Defendants' conduct, practices, and actions described in this Complaint constitute multiple separate violations of Minnesota Statutes section 325F.69.

COUNT II
UNIFORM DECEPTIVE TRADE PRACTICES ACT
MINN. STAT. § 325D.44

54. Plaintiff re-alleges all prior paragraphs of this Complaint.

55. Minnesota Statutes section 325D.44, subdivision 1, provides in part that:

A person engages in a deceptive trade practice when, in the course of business, vocation, or occupation, the person:

(5) represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have;

(7) represents that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(9) Advertises goods or services with intent not to sell them as advertised;

(13) engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.

56. Defendants have repeatedly violated Minnesota Statutes section 325D.44, subdivision 1, by, in the course of business, engaging in the deceptive and fraudulent conduct described in this Complaint, including by making false, deceptive, fraudulent and/or misleading representations to Minnesota consumers about its COVID-19 testing services. These misrepresentations include but are not limited to:

- a. Misrepresenting the timeframe in which Defendants will communicate and report the results of its COVID-19 RT-PCR and rapid antigen tests to Minnesota consumers;
- b. Misrepresenting that Defendants' will promptly report the results of its COVID-19 RT-PCR and rapid antigen tests to Minnesota consumers but then failing to report such results;
- c. Falsely and inaccurately listing in its result reports the date and time when test samples were collected from Minnesota consumers, which do not correspond to the actual date and time Defendants collected test samples from such Minnesota consumers;
- d. Deceptively telling complaining Minnesota consumers that their test results were coming in 24 hours or that their test results were inconclusive without knowing the present status or condition of their test samples;
- e. Deceptively providing rapid antigen test results to Minnesota consumers who only provided Defendants with RT-PCR test samples;
- f. Falsely producing and communicating result reports to Minnesota consumers that never provided samples for Defendants to test; and
- g. Falsely reporting test results to Minnesota consumers whose tests had not been processed.

57. Due to the deceptive and fraudulent conduct described in this Complaint, Defendants have obtained and/or intend to obtain payments from Minnesota consumers' insurers and the federal Department of Health and Human Services' HRSA for services that Minnesota consumers would not otherwise have chosen to receive. Moreover, due to the deceptive and fraudulent conduct described in this Complaint, Minnesota consumers have

suffered harm, including by, for example, missing work and paying for additional COVID-19 testing from other companies. There is a causal relationship between these injuries to Minnesota consumers and the wrongful conduct Defendants have engaged in that violates Minnesota Statutes section 325D.44, subdivision 1.

58. Defendants' conduct, practices, and actions described in this Complaint constitute multiple, separate violations of Minnesota Statutes section 325D.44.

COUNT III
FALSE ADVERTISING
MINN. STAT. § 325F.67

59. The State of Minnesota re-alleges all prior paragraphs in this Complaint.

60. Minnesota Statutes section 325F.67 provides that:

Any person, firm, corporation, or association who, with intent to sell or in anywise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation, or association, directly or indirectly, to the public, for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, label, price tag, circular, pamphlet, program, or letter, or over any radio or television station, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, for use, consumption, purchase, or sale, which advertisement contains any material assertion, representation, or statement of fact which is untrue, deceptive, or misleading, shall, whether or not pecuniary or other specific damage to any person occurs as a direct result thereof, be guilty of a misdemeanor, and any such act is declared to be a public nuisance and may be enjoined as such.

61. Defendant has repeatedly violated Minnesota Statute section 325F.67 by engaging in the deceptive and fraudulent practices described in this Complaint, including by making materially false, deceptive and/or misleading assertions and representations to Minnesota

consumers about its COVID-19 testing services. These materially false, deceptive, and/or misleading assertions and representations include but are not limited to:

- a. Misrepresenting that the results of its RT-PCR test will be emailed within 24 to 48 hours and that the results of its rapid antigen test are verbally given within 15 minutes and an email confirmation is given within 3 hours.
- a. Misrepresenting that Defendants' will promptly report the results of its COVID-19 RT-PCR and rapid antigen tests to Minnesota consumers but then failing to report such results.

62. Defendant's conduct, practices, and actions described in this Complaint constitute multiple, separate violations of Minnesota Statutes section 325F.67, and the State is entitled to monetary relief, including damages, restitution and/or disgorgement, civil penalties, costs, reasonable attorneys' fees, and injunctive relief, as a result.

**COUNT IV
FOREIGN CORPORATIONS ACT
MINN. STAT. CHAPTER 303**

63. The State re-alleges all prior paragraphs of this Complaint.

64. Minn. Stat. § 303.03 provides, in relevant part, that “[n]o foreign corporation shall transact business in this state unless it holds a certificate of authority to do so” from the Minnesota Secretary of State.

65. Defendant Center for COVID Control is organized as a limited liability company under Illinois law. Center for COVID Control has repeatedly violated Minn. Stat. § 303.03 by transacting business in Minnesota without first obtaining a certificate of authority from the Minnesota Secretary of State.

66. Defendant Doctors Clinical Laboratory, Inc. is organized as a corporation under Illinois law. Doctors Clinical Laboratory, Inc. has repeatedly violated Minn. Stat. § 303.03 by

transacting business in Minnesota without first obtaining a certificate of authority from the Minnesota Secretary of State.

67. Defendants' conduct described in this Complaint constitutes multiple, separate violations of Minn. Stat. § 303.03.

PRAYER FOR RELIEF

WHEREFORE, the State of Minnesota, by its Attorney General, Keith Ellison, respectfully asks this Court to enter judgment against Defendants awarding the following relief:

1. Declaring that Defendants' actions, as described in this Complaint constitute multiple, separate violations of Minnesota Statutes sections 325F.69, *et seq.*, 325D.44, *et seq.*, 325F.67, and Minnesota Statutes Chapter 303;

2. Enjoining Defendants and their employees, officers, directors, agents, successors, assignees, affiliates, merged or acquired predecessors, parents or controlling entities, subsidiaries, and all other persons acting in concert or participation with them, from engaging in any conduct in violation of Minnesota Statutes sections 325F.69, *et seq.*, 325D.44, *et seq.*, 325F.67, and Minnesota Statutes Chapter 303;

3. Awarding judgment against Defendants for restitution, disgorgement, and/or damages to the State under the *parens patriae* doctrine, the general equitable powers of this Court, Minnesota Statutes section 8.31, and any other authority, for all violations described in this Complaint;

4. Awarding judgment against Defendants for civil penalties pursuant to Minnesota Statutes sections 8.31, subdivision 3, and 303.20, for each separate violation of Minnesota law;

5. Awarding the State its costs, including litigation costs, costs of investigation, and attorneys' fees, as authorized by Minnesota Statutes section 8.31, subdivision 3a; and

6. Granting such further relief as provided by law or equity or as the Court deems appropriate and just.

Dated: January 19, 2022

KEITH ELLISON
Attorney General
State of Minnesota

/s/ Noah Lewellen
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MINN. STAT. § 549.211 ACKNOWLEDGMENT

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minn. Stat. § 549.211.

/s/ Noah Lewellen
NOAH LEWELLEN