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**WHATLEY KALLAS OBTAINS CRITICAL RULING FOR HEALTHCARE PROVIDERS IN  
BLUE CROSS BLUE SHIELD (“BCBS”) ANTITRUST LITIGATION**

Today, Federal District Court Judge R. David Proctor issued a Memorandum Opinion and Order granting in part and denying in part the BCBS Defendants’ Motion Regarding the Antitrust Standard of Review Applicable to Provider Plaintiffs’ Section 1 Claims in the *In re Blue Cross and Blue Shield Antitrust Litigation*.

Significantly, the Court ruled in favor of Healthcare Providers in denying the Defendants request to retroactively apply the “rule of reason” standard of review instead of the more stringent “*per se*” standard of review. The Court found that Providers’ Section 1 Market Allocation Conspiracy claims involving the aggregation of Exclusive Service Areas and National Best Efforts (“NBE”) remain subject to the *per se* standard of review. Today’s ruling is consistent with the Court’s standard of review decision made prior to the elimination of NBE. The practical effect of today’s ruling is that the jury must now consider Providers’ entire damage claims from 2008 until at least the start of the COVID pandemic in 2020 under the more favorable *per se* standard.

The Court also ruled that the elimination of NBE, as a part of the 2.67-billion-dollar settlement with the Subscriber Plaintiffs, means that the market allocation scheme, *after* the April 2021 elimination of NBE, would be subject to the rule of reason standard going forward. In a separate Order, the Court ruled that on the current record, the Court could not find that Provider Plaintiffs’ Blue Card “group boycott” claims were appropriate for *per se* treatment.

Co-Lead Counsel for the Healthcare Provider Plaintiffs, Edith Kallas and Joe Whatley of Whatley Kallas stated that “We are very pleased that the Court denied the Blues’ request to apply the “rule of reason” standard to the Providers’ very substantial “*per se*” past damages. Our Provider Plaintiffs have always been prepared to litigate this case, under both the “rule of reason” standard and the “*per se*”

standard for historical damages as provided in today's Order. We look forward to continuing to represent the interests of Healthcare Providers throughout the country in remedying the Blues' continuing anticompetitive conduct."

The lawyers of Whatley Kallas, LLP have been repeatedly recognized in legal publications, such as The National Law Journal and American Lawyer, by their peers and by leaders of organized medicine for their work in the healthcare field. For more information, go to: <http://www.whatleykallas.com/>.