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17 **UNITED STATES DISTRICT COURT**  
18 **EASTERN DISTRICT OF CALIFORNIA**

19 CORYLN DUNCAN and BRUCE  
20 DUNCAN,

21 Plaintiffs,

22 v.

23 THE ALIERA COMPANIES, INC., *et al.*,

24 Defendant.

Case No. 2:20-CV-00867-TLN-KJN

**NOTICE OF PLAINTIFFS' UNOPPOSED  
MOTION TO AMEND COMPLAINT TO  
EFFECTUATE SETTLEMENT**

Hearing

Date: June 29, 2023

Time: 2:00 p.m.

Courtroom: 2

Hon. Troy L. Nunley

1 **TO THE HONORABLE COURT, ALL PARTIES, AND COUNSEL OF RECORD:**

2 PLEASE TAKE NOTICE THAT on June 29, 2023, at 2:00 p.m., or as soon thereafter as this  
3 matter may be heard, Plaintiffs will and hereby do respectfully move the Court, in the  
4 courtroom of the Honorable Troy L. Nunley, Courtroom 2, 15th Floor of the United States  
5 District Court for the Eastern District of California, located at 501 I Street, Sacramento, CA  
6 95814, for an order granting Plaintiffs' motion to amend their complaint to effectuate the  
7 settlement agreement they have reached with Defendant OneShare Health, LLC.

8 This motion is based on the notice of motion and motion to amend the complaint, the  
9 following memorandum of points and authorities, the attached proposed amended complaint,  
10 the arguments of counsel, and any other matters in the record or that properly come before the  
11 Court.

12  
13 Dated: May 25, 2023

/s/ Nina Wasow

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16 UNITED STATES DISTRICT COURT  
17 EASTERN DISTRICT OF CALIFORNIA

18 CORLYN DUNCAN and BRUCE  
19 DUNCAN, individually and on behalf of all  
20 others similarly situated,

21 Plaintiffs,

22 v.

23 THE ALIERA COMPANIES, INC., et al.,

24 Defendants.

Case No.: 2:20-cv-00867-TLN-KJN

[Assigned to the Hon. Troy L. Nunley]

**PLAINTIFFS' UNOPPOSED MOTION  
FOR LEAVE TO AMEND  
COMPLAINT TO EFFECTUATE  
SETTLEMENT**

[Action Filed: April 28, 2020]

**I. INTRODUCTION/RELIEF REQUESTED**

1 Plaintiffs move for leave to file the proposed Second Amended Complaint  
2 (“SAC”), attached in redline format to this Motion as *Appendix A*, pursuant to Federal  
3 Rules of Civil Procedure 15 (a)(2) and 16.  
4

**II. FACTS**

**A. Procedural History**

5  
6  
7 The initial Complaint in this matter was filed in April 2020. ECF No. 1. Plaintiffs  
8 filed an Amended Complaint on or about June 26, 2020. ECF No. 19. Defendants then  
9 moved to compel arbitration or dismiss. *See* ECF Nos. 36-38. After briefing was  
10 completed but before any decision on the pending motions occurred, Defendant Trinity  
11 Healthshare filed a notice of bankruptcy on July 9, 2021. ECF No. 88. *See In re Sharity*  
12 *Ministries, Inc.*, No. 21-BK-11001 (Bankr. D. Del.). This Court stayed the entire case, given  
13 the bankruptcy proceedings, but allowed that the case could be reopened at the request  
14 of the parties. ECF No. 88, at 5.

15 Plaintiffs incorporate by reference the facts identified in their Motion to Lift Stay,  
16 filed concurrently with this Motion.

17 At present, two of the Defendants in this case have filed for bankruptcy. *See* ECF  
18 No. 91; *In re The Alieria Companies, Inc.*, No. 21-BK-11548 (Bankr. D. Del. July 19, 2022).  
19 The third Defendant, OneShare Health LLC, has reached a nationwide settlement with  
20 Plaintiffs in this case and in two other cases: *Smith v. Alieria Cos.*, No. 20-CV-2130 (D.  
21 Colo.), and *Albina v. Alieria Cos.*, No. 20-CV-496 (E.D. Ky.). A copy of the proposed  
22 settlement agreement is attached to Plaintiffs’ Motion for Certification of Settlement  
23 Class and for Preliminary Approval of Settlement Agreement, filed concurrently with  
24 this Motion and the Motion to Lift Stay. In order to effectuate the settlement agreement,  
25 the Complaint must be amended to provide for nationwide class claims. Then Plaintiffs  
26

1 have sought to obtain certification of the settlement class and preliminary approval of  
2 the proposed settlement agreement.

3 The proposed SAC simply amends the pleadings to conform to the proposed  
4 Settlement Agreement.

5 **B. Proposed Changes in the Second Amended Complaint**

6 The proposed changes in the Second Amended Complaint (“SAC”) are as follows:

- 7 (1) A paragraph is added explaining that the SAC is required to facilitate  
8 settlement. SAC ¶ 1;
- 9 (2) The named Plaintiffs are expanded to include the named plaintiffs in the *Smith*  
10 and *Albina* cases, adding Named Plaintiffs Rebecca White, Ellen Larson, Jaime  
11 and Jared Beard, Hanna Albina, and Austin Willard. *Id.* ¶¶ 3-7;
- 12 (3) The SAC limits the California class definition to only Alera and Trinity and  
13 establishes a separate nationwide class definition and allegations for the  
14 purposes of settlement, related to Unity/ Alera enrollees. *Id.* ¶¶ 26, 36-43;
- 15 (4) Additional factual allegations are included related to the additional named  
16 Plaintiffs. *Id.* ¶¶ 96-125; and
- 17 (5) The SAC adds a new nationwide claim against OneShare of “illegal contract.”  
18 *Id.*, ¶¶ 166-169.

19 While disputing the allegations in the SAC, consistent with the terms of the  
20 Settlement Agreement, defendant OneShare does not oppose Plaintiffs’ motion for leave  
21 to file the SAC in order to facilitate the class settlement. *See* Motion for Preliminary  
22 Approval, Appendix A, Settlement Agreement, § 2.2.1. Defendant Alera is not presently  
23 represented in this matter. *See* ECF No. 90. Defendant Trinity has been dissolved as part  
24 of the Court-approved Plan of Liquidation. *See* Hamburger Decl., ¶11.

### III. ARGUMENT

1  
2 Fed. R. Civ. P. 15 (a)(2) provides that “a party may amend its pleading only with  
3 the opposing party’s written consent or the court’s leave. The court should freely give  
4 leave when justice so requires.” The policy favoring amendment of pleadings “should  
5 be applied with extreme liberality.” *DCD Programs, Ltd. V. Leighton*, 833 F.2d 183, 186  
6 (9th Cir. 1987). A court may deny a motions to amend are only based on the presence of  
7 four factors: bad faith, undue delay, undue prejudice to the opposing party and futility  
8 of amendment. *Id.* None of these factors are present here. Importantly, although it  
9 disputes the allegations set forth in Plaintiffs’ SAC, Defendant OneShare, the only  
10 solvent Defendant, does not object to Plaintiffs’ motion for leave to file the SAC because  
11 it will facilitate the class settlement. “Where the parties have agreed to file  
12 an amended complaint as part of the class settlement, judges in this district have granted  
13 leave to amend, subject to the terms of settlement.” *McCabe v. Six Continents Hotels, Inc.*,  
14 No. 12-cv-04818 NC, 2015 U.S. Dist. LEXIS 85084, at \*12-13 (N.D. Cal. June 30, 2015)  
15 (citing cases). *See e.g., Stemple v. RingCentral, Inc.*, No. 18-cv-04909-LB, 2019 U.S. Dist.  
16 LEXIS 138520, at \*3 (N.D. Cal. Aug. 15, 2019) (settlement agreement provided for an  
17 amendment to the complaint, including the class definition, in order to effectuate the  
18 agreement).

### IV. CONCLUSION

19  
20 This Motion should be granted and Plaintiffs directed to submit the Second  
21 Amended Complaint in order to facilitate the Court’s review of the proposed settlement  
22 in this matter.  
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1 DATED: May 25, 2023

Respectfully submitted,

2 /s/ Nina Wasow

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7  
 8 UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF CALIFORNIA  
 9

10 CORLYN DUNCAN, ~~and~~ BRUCE DUNCAN,  
REBECCA WHITE, f/k/a REBECCA SMITH,  
 11 ELLEN LARSON; JARED BEARD, JAIME  
BEARD, HANNA ALBINA, AND AUSTIN  
 12 WILLARD, individually and on behalf of all others  
 similarly situated,  
 13

Plaintiffs,

v.

14  
 15  
 16 THE ALIERA COMPANIES, INC., f/k/a ALIERA  
 HEALTHCARE, INC., a Delaware corporation;  
 17 TRINITY HEALTHSHARE, INC., a Delaware  
 corporation; and ONESHARE HEALTH, LLC,  
 18 formerly known as UNITY HEALTHSHARE, LLC  
 and as KINGDOM HEALTHSHARE MINISTRIES,  
 19 LLC, a Virginia limited liability corporation,  
 20

Defendants.  
 21

Civil Case No. 2:20-cv-00867-TLN-KJN

[Assigned to the Hon. Troy L. Nunley]

**SECOND AMENDED**  
**CLASS ACTION COMPLAINT**

Action Filed: April 28, 2020

22 **SECOND AMENDED CLASS ACTION COMPLAINT**

23 **I. INTRODUCTION**

24 1. Plaintiffs amend this Complaint as to OneShare Health, LLC only to facilitate  
 25 settlement between OneShare Health, LLC and a nationwide class of purchasers of OneShare's  
 26

1 prior healthcare sharing ministry product, sold under the name of Unity HealthShare.<sup>1</sup> This  
2 Second Amended Complaint does not amend the allegations or claims against defendants The  
3 Aliera Companies, Inc. or Trinity Healthshare, Inc., the prosecution of which was stayed pending  
4 their bankruptcies.

5 **I.II. PARTIES**

6 2. \_\_\_\_\_ Plaintiffs CORLYN DUNCAN and BRUCE DUNCAN, husband and wife, are  
7 citizens of California who reside in Benicia, Solano County. Mr. and Ms. Duncan were enrolled  
8 in a health care plan from Defendants Aliera Healthcare, OneShare Health, LLC, and/or Trinity  
9 Healthshare from January 1, 2018 through December 31, 2019.

10 3. \_\_\_\_\_ Plaintiff Rebecca White, formerly known as Rebecca Smith, is a citizen of  
11 Colorado who was enrolled in a health care plan from Defendants Aliera Healthcare and OneShare  
12 Health, LLC, from May 1 2018 to April 30, 2019. She asserts her claim here against OneShare  
13 Health, LLC only.

14 4. \_\_\_\_\_ Plaintiff Ellen Larson is a citizen of Colorado who was enrolled in a health care  
15 plan from Defendants Aliera Healthcare and -OneShare Health, LLC from July through December  
16 2018. She asserts her claim here against OneShare Health, LLC only.

17 5. \_\_\_\_\_ Plaintiffs Jaime and Jared Beard, husband and wife, are citizens of Colorado. They  
18 were enrolled in a health care plan from Defendants Aliera Healthcare and OneShare, LLC from  
19 August 15, 2018 through June 15, 2019. They assert their claim here against OneShare Health,  
20 LLC only.

21 6. \_\_\_\_\_ Plaintiff Hanna Albina is a citizen of Kentucky who was enrolled in a health care  
22 plan from Defendants Aliera Healthcare and OneShare Health, LLC from August 1, 2018 through  
23 November 19, 2019. He asserts his claim here against OneShare Health, LLC only.

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<sup>1</sup> While this amended complaint is being filed to facilitate that settlement reached by the parties, this amended complaint is a unilateral filing of Plaintiffs, and the allegations and claims asserted herein continue to be disputed by OneShare.

1           ~~1-7.~~ Plaintiff Austin Willard is a citizen of Kentucky who was enrolled in a health care  
2 plan from Defendants Alera Healthcare and OneShare Health, LLC from March 15, 2018 through  
3 June 14, 2019. He asserts his claim here against OneShare Health, LLC only.

4           ~~2-8.~~ Defendant THE ALIERA COMPANIES, INC. (“Alera”) is a Delaware  
5 corporation headquartered in Atlanta, Georgia. It is incorporated as a for-profit business, without  
6 any express religious affiliation. It changed its name in 2019 from ALIERA HEALTHCARE,  
7 INC.

8           ~~3-9.~~ Defendant TRINITY HEALTHSHARE, INC. (“Trinity”) is a Delaware  
9 corporation headquartered in Atlanta, Georgia and purports to be a nonprofit entity. Trinity was  
10 incorporated on or about June 27, 2018. Alera and Trinity are collectively referred to as  
11 “Defendants.”

12           ~~4-10.~~ Defendant ONESHARE HEALTH, LLC (“OneShare”) is a Virginia limited  
13 liability corporation. On information and belief, it is headquartered in Irving, Texas, and was  
14 previously headquartered in Atlanta, Georgia. OneShare was formerly known as KINGDOM  
15 HEALTHSHARE MINISTRIES, LLC, and before that as UNITY HEALTHSARE, LLC.  
16 Because the majority of the actions described in this Complaint occurred when OneShare was  
17 known as Unity Healthshare, LLC, it will be referred to as “Unity” in this Complaint. Unity is a  
18 subsidiary of Anabaptist Healthshare.

19           ~~5-11.~~ Alera created, marketed, sold, and administered insurance plans for Unity and was  
20 solely responsible for the development of plan designs, pricing, marketing materials, vendor  
21 management, recruitment and maintenance of a sales force, and administration of claims on behalf  
22 of Unity. The Unity plans were sold nationwide between November 1, 2016 and August 10, 2018.

23           ~~6-12.~~ Alera markets, sells, and administers insurance plans for Trinity and is solely  
24 responsible for the development of plan designs, pricing, marketing materials, vendor  
25 management, recruitment and maintenance of a sales force on behalf of Trinity.  
26

1           ~~7.13.~~ Neither Alieria, Trinity nor Unity holds a certificate of authority from the California  
2 Department of Insurance as required by Cal. Ins. Code § 700, and neither is authorized or licensed  
3 to provide any type of insurance plan in California.

4                           ~~H.III.~~ **JURISDICTION AND VENUE**

5           ~~8.14.~~ This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a) and  
6 § 1367 because there is diversity of citizenship and the amount in controversy related to the  
7 proposed class claims exceeds \$75,000.

8           ~~9.15.~~ Alternatively, jurisdiction of this Court arises pursuant to 28 U.S.C. § 1332(d)(2)  
9 and § 1367 because there is diversity of citizenship, the proposed Class that Plaintiffs seek to  
10 represent consists of hundreds, if not thousands of individuals and, based on information and  
11 belief, the amount in controversy related to the proposed class claims exceeds \$5,000,000.00.

12           ~~10.16.~~ Venue is proper because some of the acts or omissions occurred in the Eastern  
13 District of California, and the named Plaintiffs and many of the proposed class members reside in  
14 that District.

15                           ~~III.IV.~~ **NATURE OF THE CARE**

16           ~~11.17.~~ Defendants sold inherently unfair and deceptive health care plans to California  
17 residents, and failed to provide them with the coverage the purchasers believed they would  
18 receive. Defendants claimed the health care plans were not “insurance” in order to avoid both  
19 oversight by the state insurance commissioner and minimum requirements mandated by the  
20 Patient Protection and Affordable Care Act (“ACA”). At the same time, Defendants created the  
21 health care plans to look and feel like health insurance that would provide meaningful coverage  
22 for the purchasers’ health care needs.

23           ~~12.18.~~ When Congress passed the ACA in 2010, it required all individuals to be covered  
24 by health insurance or pay a penalty. Congress allowed for a handful of exceptions to that  
25 requirement, set out in 26 U.S.C. § 5000A. One of those exceptions was for members of existing  
26 Health Care Sharing Ministries (“HCSMs”). In order to qualify as an HCSM under the ACA, an

1 entity must meet rigid requirements, including: (1) it must be recognized as a 501(c)(3) tax  
2 exempt organization; (2) its members must “share a common set of ethical or religious beliefs and  
3 share medical expenses among members according to those beliefs;” and (3) it must have “been  
4 in existence at all times since December 31, 1999, and medical expenses of its members [must]  
5 have been shared continuously and without interruption since at least December 31, 1999.” 26  
6 U.S.C. § 5000A(d)(2)(B)(ii). At no time has for-profit Alieria ever met the definition of an HCSM.

7 ~~13-19.~~ Alieria, in an attempt to exploit this exception, convinced Unity’s parent to create  
8 defendant Unity as a sham HCSM. When Alieria’s relationship with Unity’s parent soured, it  
9 created Defendant Trinity as a sham HCSM to replace Unity.

10 ~~14-20.~~ Although Alieria and Unity represented Unity as a “recognized” HCSM, Unity did  
11 not meet the requirements of an HCSM under 26 U.S.C. § 5000A(d)(2)(B)(ii) because, for  
12 example, it was not in existence until 2016 and it had no members before then. Unity and Alieria  
13 falsely claimed that Unity had been “recognized” as an HCSM based on recognition of Unity’s  
14 parent, Anabaptist Healthshare (“Anabaptist”) as an HCSM, even though Anabaptist’s  
15 recognition was based on service of a different religious community, and Anabaptist was not  
16 Unity’s “predecessor.” Similarly, although Alieria and Trinity represented that Trinity had been  
17 “recognized” as an HCSM, Trinity did not meet the requirements of 26 U.S.C.  
18 § 5000A(d)(2)(B)(ii) because it was not in existence continuously since 1999, and because it did  
19 not require its members to adhere to its stated ethical or religious beliefs. It was never, and could  
20 not have been, “recognized” as an HCSM because the federal agency that had at one time provided  
21 letters of recognition stopped doing so in 2016, before Trinity was created.

22 21. Alieria was authorized by Unity to sell healthcare products nationwide, while  
23 representing those plans as from a “recognized” HCSM. Alieria sold, at the instance of Unity,  
24 illegal health insurance plans to thousands of individuals across the country. These plans did not  
25 comply with minimum basic requirements for health care plans under state or federal law, and  
26

1 have resulted in purchasers nationwide: (1) paying for an illegal contract; and (2) being denied  
2 coverage for medical care required to be provided.

3 ~~15~~.22. Alieria was authorized by Unity and then by Trinity to sell illegal health insurance  
4 plans to California residents, while representing those plans as from “recognized” HCSMs. Alieria  
5 sold, at the instance of Unity and Trinity, illegal health insurance plans to hundreds, if not  
6 thousands, of California residents. These plans did not comply with the minimum basic  
7 requirements for authorized health care plans under state or federal law, and have resulted in  
8 California residents (1) paying for an illegal contract, and (2) being denied coverage for medical  
9 care required by law to be provided. Defendants, and their principals, however, have realized  
10 exorbitant profits. On information and belief, Alieria takes over 83% of all payments made by  
11 individuals, while refusing to pay claims.

12 ~~16~~.23. Defendants’ representations that the insurance plans were HCSM plans and would  
13 provide members with meaningful coverage were fraudulent, misleading, unfair and/or deceptive  
14 in violation of California’s Unfair Competition Law, False Advertising Law, and Unfair Insurance  
15 Practices Act. At no relevant time did the Defendants’ plans meet the requirements for HCSMs  
16 under federal law as represented, meet the requirements of health insurance plans under federal  
17 or California law, or provide the coverage that was represented.

18 ~~17~~.24. Plaintiffs, on behalf of the class they seek to represent, filed this lawsuit to obtain  
19 declaratory and injunctive relief to prevent Defendants from continuing to arbitrarily and in bad  
20 faith deny or delay payment of claims that should be covered under legitimate health insurance  
21 plans. On behalf of the proposed class and on their own behalf, Plaintiffs also seek either  
22 rescission of their plans and return of premiums paid, or reformation of the plans to provide  
23 coverage for uncovered health care expenses that should have been paid had the plans sold been  
24 authorized and legal rather than sham health insurance plans.

25 25. Plaintiffs, on behalf of the class they seek to represent, also seek disgorgement,  
26 imposition of a constructive trust, and/or restitution of Defendants’ unlawful profits. Defendants

1 have breached their fiduciary duties to class members and have been unjustly enriched by taking  
2 unreasonable fees and commissions, while arbitrarily and unreasonably refusing to pay claims.  
3 They have profited from payments class members made believing, based on Defendants'  
4 representations, that they would be covered for medical expenses.

5 ~~18.~~

6 **IV.V. CLASS ALLEGATIONS**

7 ~~19-26.~~ ***Definition of Class as to Alera and Trinity***: Pursuant to Fed. R. Civ. P. 23,  
8 Plaintiff brings this action on behalf of herself and all persons similarly situated. The proposed  
9 Class is defined as follows:

10 All California residents who purchased a plan from Alera and ~~either~~  
11 ~~Unity Healthshare LLC~~ or Trinity Healthshare, Inc. that purported to  
12 be a “health care sharing ministry” at any time since September 11,  
13 2017 or the relevant statute of limitations.

14 ~~27.~~ ***Size of the Class***: The Plaintiffs’ proposed class is so numerous that joinder of all  
15 members is impracticable. On information and belief, at least 11,000 individuals in California are  
16 or have been covered by Defendants’ plans.

17 ~~20-28.~~ ***Common Questions of Fact and Law***: There are questions of law and fact that  
18 are common to all class members including: (1) whether the healthcare products that the  
19 Defendants created, marketed, sold, and administered to class members met the legal  
20 requirements of an HCSM under 26 U.S.C. § 5000A; (2) whether plans sold were “insurance”  
21 under California insurance law; (3) whether California insurance law and regulations forbid the  
22 creation, marketing, sale, and administration of health care products in the “business of insurance”  
23 without authorization or other legal exception; (4) whether Defendants failed to obtain proper  
24 authorization for the creation, marketing, sale, and administration of an insurance product in  
25 California; (5) whether class members are entitled to (a) rescission of the plan(s) and refunds of  
26 all premiums paid and/or (b) reformation of the plans to comply with the minimum insurance  
coverage requirements of California and federal law, and re-processing of all claims for expenses



1 and costs incurred that would have been covered had the plan(s) properly complied with those  
2 laws; (6) whether Defendants' actions were unfair, deceptive, untrue or misleading, and likely to  
3 deceive consumers, in violation of California's Unfair Competition Law, False Advertising Law,  
4 and/or Unfair Insurance Practices Act; (7) whether Defendants owed a fiduciary duty to their  
5 members, and whether they breached that fiduciary duty; (8) whether Defendants have been  
6 unjustly enriched by collecting members' payments while failing to pay claims, and by paying  
7 themselves unreasonable fees and commissions; (9) whether a constructive trust should be  
8 imposed; and (10) whether class members are entitled to other relief resulting from Defendants'  
9 unfair and/or deceptive acts.

10 21-29. ***Class Representative:*** The claims of the named Plaintiffs are typical of the claims  
11 of the proposed class as a whole resulting from Defendants' sale of unauthorized and illegal  
12 insurance plans. The named Plaintiffs will fairly represent and adequately protect the interests of  
13 the class members because they have been subjected to the same practices as other class members  
14 and suffered similar injuries. The named Plaintiffs do not have interests antagonistic to those of  
15 other class members as to the issues in this lawsuit.

16 22-30. ***Separate Suits Would Create Risk of Varying Conduct Requirements.*** The  
17 prosecution of separate actions by class members against Defendants would create a risk of  
18 inconsistent or varying adjudications with respect to individual class members that would  
19 establish incompatible standards of conduct. Certification is therefore proper under Fed. R. Civ.  
20 P. 23(b)(1).

21 23-31. ***Defendants Have Acted on Grounds Generally Applicable to the Class.***  
22 Defendants have uniformly created, marketed, approved, sold and/or administered unauthorized  
23 health insurance plans in California. They have misrepresented the plans as HCSM plans under  
24 federal and state law. Defendants have acted on grounds generally applicable to the proposed  
25 class, rendering declaratory and injunctive relief appropriate respecting the whole class.  
26 Certification is therefore proper under Fed. R. Civ. P. 23(b)(2).

1            24.32. *Questions of Law and Fact Common to the Class Predominate Over Individual*  
2 *Issues.* The claims of the individual class members are more efficiently adjudicated on a class-  
3 wide basis. Any interest that individual members of the class may have in individually controlling  
4 the prosecution of separate actions is outweighed by the efficiency of the class action mechanism.  
5 Upon information and belief, no class action suit is presently filed or pending against Defendants  
6 for the relief requested in this action. Issues as to Defendants’ conduct in applying standard  
7 marketing, sales and administration practices towards all members of the class predominate over  
8 questions, if any, unique to members of the class. Certification is therefore additionally proper  
9 under Fed. R. Civ. P. 23(b)(3).

10            25.33. *Venue.* This action can be most efficiently prosecuted as a class action in this  
11 jurisdiction, where Defendants do business and where Plaintiffs reside.

12            26.34. *Amount in Controversy.* Based upon the premium/contribution payments made by  
13 the named plaintiffs, the anticipated size of the proposed class, and defendants’ statements that  
14 they are unable to pay all share requests/claims submitted, Plaintiffs anticipate that the amount in  
15 controversy is greater than \$5,000,000.00. Specifically, Defendants have received more than \$100  
16 million in “premiums” and sign-up fees from its members nationwide, including those in  
17 California. Based on the population of California, far more that \$5 million of these receipts would  
18 be expected to have been received from members of the putative class at issue in this case.

19            27.35. *Class Counsel.* Named Plaintiffs have retained experienced and competent class  
20 counsel.

21            **VI. CLASS ALLEGATIONS AS TO THE UNITY SETTLEMENT CLASS**

22            36.    *Definition of Unity Settlement Class: As to OneShare/Unity only, the proposed*  
23 *“Unity Settlement Class” is defined as:*

24                    All individuals who purchased a program from both Alieria Healthshare, Inc. and  
25                    Unity Healthshare LLC at any time on or before August 10, 2018.

1           37. *Size of the Unity Settlement Class.* The proposed Unity Settlement Class includes  
2 over 60,000 members nationwide who purchased Unity plans during the Unity Settlement Class  
3 period, and is so numerous that joinder of all members is impracticable.

4           38. *Common Questions of Fact and Law:* There are questions of law and fact that  
5 are common to all class members including: (1) whether the Unity healthcare products that were  
6 sold to class members met the legal requirements of an HCSM under 26 U.S.C. § 5000A;  
7 (2) whether plans sold were “insurance” under the laws of the states in which they were sold;  
8 (3) whether the plans were sold without proper authorization under the insurance laws of the  
9 states; (4) whether the plans sold complied with the ACA; (5) whether class members are entitled  
10 to (a) rescission of the plan(s) and refunds of all premiums paid and/or (b) reformation of the plans  
11 to comply with the minimum insurance coverage requirements of federal law, and re-processing  
12 of all claims for expenses and costs incurred that would have been covered had the plan(s)  
13 properly complied with those laws; (6) whether Unity’s actions were illegally unfair, deceptive,  
14 untrue or misleading, and likely to deceive consumers, (7) whether Unity owed a fiduciary duty  
15 to its members, and whether it breached that fiduciary duty; (8) whether Unity was unjustly  
16 enriched by collecting members’ payments while failing to pay claims, and by paying themselves  
17 unreasonable fees and commissions; (9) whether a constructive trust should be imposed; and  
18 (10) whether class members are entitled to other relief resulting from Unity’s unfair and/or  
19 deceptive acts.

20           39. *Class Representative:* The claims of the named Plaintiffs are typical of the claims  
21 of the proposed class as a whole resulting from the sale of Unity’s unauthorized and illegal  
22 insurance plans. The named Plaintiffs will fairly represent and adequately protect the interests of  
23 the class members because they have been subjected to the same practices as other class members  
24 and suffered similar injuries. The named Plaintiffs do not have interests antagonistic to those of  
25 other class members as to the issues in this lawsuit.

1           40. Questions of Law and Fact Common to the Class Predominate Over Individual  
2 Issues. The claims of the individual class members are more efficiently adjudicated on a class-  
3 wide basis. Any interest that individual members of the class may have in individually controlling  
4 the prosecution of separate actions is outweighed by the efficiency of the class action mechanism.  
5 Upon information and belief, only two class action suits are presently filed or pending against  
6 OneShare for the relief requested in this action, those claims have been stayed, and the claims  
7 against OneShare in those two lawsuits will be dismissed upon approval of the settlement in this  
8 case. Issues as to Unity’s conduct towards all class members in connection with the marketing,  
9 sales and administration of the Unity plans predominate over questions, if any, unique to members  
10 of the class. Certification is therefore additionally proper under Fed. R. Civ. P. 23(b)(3).

11           41. Venue. This action can be most efficiently prosecuted as a class action in this  
12 jurisdiction, where OneShare does business, where Plaintiffs Corlyn and Bruce Duncan reside,  
13 and where this case has been pending since 2020.

14           42. Amount in Controversy. The amount in controversy is greater than \$5,000,000.00.  
15 Specifically, members paid a total of approximately \$297,000,000 in “premiums” and up-front  
16 enrollment fees nationwide.

17           43. Class Counsel. Named Plaintiffs have retained experienced and competent class  
18 counsel.

19                            **V.VII. FACTUAL BACKGROUND**

20 **A. Alieria Seeks Out an HCSM to Avoid Insurance Requirements, and Sells**  
21 **Sham HCSM Products through Unity**

22           28-44. Defendant Alieria was incorporated in the State of Delaware by Timothy Moses, a  
23 convicted felon, his wife Shelley Steele, and their son Chase Moses, in December 2015. Before  
24 forming Alieria, Timothy Moses was the president and CEO of International BioChemical  
25 Industries, Inc., a company that declared bankruptcy in 2004 after he was charged with felony  
26 securities fraud and perjury. As a result of the case, titled *United States v. Moses*, 1:04-cr-00508-

1 CAP-JMF (N.D. Ga.), Moses was sentenced to over 6 years in prison, and ordered to pay \$1.65  
2 million in restitution.

3 ~~29.45.~~ Alieria is a for-profit entity. Its stated scope of business is “to engage in the business  
4 of providing all models of Health Care to the general public” and “to cultivate, generate or  
5 otherwise engage in the development of ideas or other businesses, to buy, own or acquire other  
6 businesses, to market and in any way improve the commercial application to the betterment and  
7 pecuniary gain of the corporation and its stockholders....” The formation documents of Alieria  
8 Healthcare, Inc. do not include any discussion of religious or ethical purposes or missions.

9 ~~30.46.~~ Alieria began selling its healthcare products in late 2015. At the time it was formed,  
10 it only sold “direct primary care medical home (DPCMH)” plans. DCPMH plans generally cover  
11 limited services such as some doctors’ visits and basic lab services. These plans provide no  
12 hospitalization or emergency room coverage and are not ACA-complaint.

13 ~~31.47.~~ Alieria realized that it could greatly increase the sales of its healthcare products if  
14 it could take advantage of the federal statute that exempted taxpayers who purchased HCSMs  
15 from the ACA’s individual mandate.

16 ~~32.48.~~ Non-party Anabaptist Healthshare (“Anabaptist”) was a small Mennonite entity  
17 located in Virginia with about 200 members. Anabaptist had been recognized by the federal  
18 Department of Health & Human Services’ Centers for Medicare & Medicaid Services (“CMS”) as an HCSM. CMS had provided a letter to Anabaptist that it met the requirements under 26  
19 U.S.C. § 5000A to operate an HCSM. Specifically, CMS found that Anabaptist had been “in  
20 existence at all times since December 31, 1999 and medical expenses of its members have been  
21 shared continuously and without interruption since December 31, 1999.”

22  
23 ~~33.49.~~ In 2016, Timothy Moses convinced Anabaptist to permit Alieria to market its own  
24 DCPMH plan “side by side” with Anabaptist’s sharing program using Anabaptist’s HCSM  
25 designation. Anabaptist created Unity, a wholly-owned subsidiary, for that purpose. Under the  
26

1 proposal, Alieria would market both its own plan and the Unity HCSM together as a healthcare  
2 product it claimed would be exempt from the ACA's mandates.

3 34.50. Alieria entered into a contract with Unity on or about February 1, 2017. Under that  
4 contract, Alieria would offer its own health products to the public that did not meet coverage  
5 requirements under the ACA and did not independently qualify for the HCSM exemption under  
6 26 U.S.C. § 5000A. In return, Alieria's customers would join Unity, which claimed to be an  
7 HCSM, providing revenue to Unity and its parent Anabaptist.

8 35.51. Although Alieria marketed the plans to consumers throughout the country as  
9 HCSM plans through Unity, in reality, Unity was merely a shell with an HCSM designation. Unity  
10 delegated all authority and responsibility to Alieria to create, design, market, and administer  
11 products sold under the Unity name. All those who purchased the Alieria/Unity products became  
12 members of both Alieria and Unity. Alieria, a for-profit entity that was never an HCSM, could push  
13 its own DCPMH plans, while also designing, marketing, selling, administering, and controlling  
14 the Unity HCSM plans. For example:

- 15 (a) All member payments were paid directly to Alieria.
- 16 (b) The purported "sharing" component of the HCSM was delegated to Alieria.
- 17 (c) Alieria handled all member claims for health care coverage.
- 18 (d) Alieria served as the program administrator for the Unity HCSM plans.
- 19 (e) Members interfaced only with Alieria, not Unity.
- 20 (f) Alieria personnel made the final decision whether a claim would be paid.
- 21 (g) Alieria controlled the Unity member list.
- 22 (h) Alieria developed all plans and programs for the HCSM component of the  
23 Alieria products.
- 24 (i) Alieria controlled the Unity website.

25 36.52. In selling the Unity-branded products, Alieria did not require members to attest to  
26 any common religious belief. It required only an agreement to adhere to generic spiritual and

1 ethical beliefs that “personal rights and liberties originate from God,” “every individual has a  
2 fundamental right to worship God in his or her own way,” there is a moral obligation “to assist  
3 our fellow man when they are in need,” there is a duty to “maintain a healthy lifestyle,” and a  
4 fundamental right of conscience to direct one’s own healthcare exists. *See Appendix E*, at 13-14.

5 37-53. On September 11, 2017, Alera registered to do business in the state of California.  
6 On information and belief, Alera began selling its health plans to California residents on or  
7 around that date, claiming they were plans exempt from the ACA because of the Unity affiliation.

8 38-54. The healthcare plans marketed under Unity’s name that Alera designed, marketed,  
9 administered and controlled, and sold to California residents and nationwide were sham HCSM  
10 products that did not exempt them from California insurance regulation or regulations of other  
11 states or the ACA.

12 **B. After Alera’s Relationship with Unity Soured, It Created Trinity, a Sham**  
13 **HCSM, Converted the Unity Products to Trinity Products, and Continued**  
14 **to Sell to California Consumers through Trinity**

15 39-55. In 2018, after thousands of Alera/Unity plans had been sold nationwide,  
16 Anabaptist/Unity discovered that Mr. Moses had written himself approximately \$150,000 worth  
17 of checks from Unity funds without board approval, and had not properly maintained assets for  
18 payment of benefits to members. Unity terminated the relationship with Alera in summer 2018.  
19 A lawsuit between Alera and Anabaptist Health Share/Unity was filed in Superior Court of Fulton  
20 County Georgia in late 2018. *See Alera Healthcare v. Anabaptist Health Share et al.*, No. 2018-  
21 cv-308981 (Hon. Alice D. Bonner, Ga. Sup. Ct.). The court found that administrative fees paid to  
22 Alera under its agreement with Unity amounted to millions of dollars. *See Appendix A*, Order  
23 Entering Interlocutory Injunction and Appointing Receiver dated April 25, 2019, at 8, ¶¶ 45-46.

24 40-56. With its relationship with Unity terminating, Alera would have no affiliation with  
25 any HCSM. Therefore, Alera and its principals created Defendant Trinity on June 27, 2018 as a  
26 purported nonprofit entity. William Rip Theede, III became the CEO of Trinity. Mr. Theede is a

1 former Alera employee. He is also a close family friend of the Moses family and officiated at  
2 Chase Moses' wedding.

3 41-57. Trinity could not qualify as an HCSM because it was created after December 31,  
4 1999, and had no members when it was created. In order to qualify as an HCSM under federal  
5 law, the entity or a predecessor of the entity must, among other requirements, have “been in  
6 existence at all times since December 31, 1999, and medical expenses of its members [must] have  
7 been shared continuously and without interruption since at least December 31, 1999.” 26 U.S.C.  
8 § 5000A(d)(2)(B)(IV). Trinity has not had members who have shared medical expenses  
9 “continuously and without interruptions since at least December 31, 1999,” and it had no  
10 predecessor entity.

11 42-58. In addition, in order to qualify as an HCSM under federal law, the members of the  
12 entity must “share a common set of ethical or religious beliefs and share medical expenses among  
13 members in accordance with those beliefs....” 26 U.S.C. § 5000A(d)(2)(B)(III). Although  
14 Trinity's bylaws set forth a specific set of religious beliefs, it has never restricted its membership  
15 to those individuals who affirm the specific common religious beliefs. Instead, it has continued to  
16 use the identical set of generic spiritual and ethical “beliefs” that Alera had devised for the Unity  
17 plans. *Appendix D*, at 18.

18 43-59. While prospective agents must take a training assessment before selling the Trinity  
19 plans, the questions asked in the assessment do not address any religious or ethical motivation.  
20 Defendants' advertisements for prospective agents, and the training materials for agents do not  
21 mention a religious or ethical component for purchasers of these plans. In a training video posted  
22 on YouTube on November 1, 2018, an Alera trainer explains that the “statement of faith”

23 basically is saying that you believe in a higher power. It doesn't  
24 necessarily have to be a Christian God, or a Buddhist God, or a  
25 Jewish God. It doesn't ... matter as long as we all believe that there  
26 is a higher power and we're all living our life that the best way that  
we possibly can. We're maintaining a healthy lifestyle. We're trying  
to avoid those types of foods, behaviors, habits – things that, you  
know, cause us illness that are in our control.



1 As long as we're doing those types of things, we're all like-minded  
2 individuals. So if you feel that way, and you are a like-minded  
3 individual, that's all we're trying to find out. And, if you are, you're  
4 gonna say, "Yes," you believe in the five same statement of beliefs  
5 that we all do.

6 44.60. Agents in California have represented Trinity as being the most flexible in terms  
7 of belief statement and as having the "most relaxed statement of beliefs and qualifications" of  
8 purported HCSMs. *Appendix B*, at 24. It represents that it "welcomes members of all faiths."  
9 *Appendix C*, at 11.

10 45.61. Defendants represent that Trinity is "recognized" as a qualified HCSM. *See*  
11 *Appendix C*, at 3. It was, in fact, impossible for Trinity to be "recognized" as such because the  
12 rule that provided such recognition was eliminated years before Trinity was even created. In 2013,  
13 the United States Department of Health and Human Services ("HHS") promulgated a rule under  
14 which it certified HCSMs by issuing a certificate of exemption to the entity. However, the rule  
15 was eliminated in 2016. *See* 81 Fed. Reg. 12281 (final rule eliminates the issuance of exemptions  
16 for HCSMs). Trinity has never appeared on any list of recognized HCSMs developed by HHS.

17 46.62. Likewise, the Internal Revenue Service ("IRS") does not and has never recognized  
18 any entities as HCSMs. Its role is limited to accepting tax returns from individuals who may claim  
19 that they are entitled to an HCSM exemption on their individual tax returns. Individual members,  
20 in turn, rely on the plan provider to notify them whether the plan is from a legitimate HCSM. The  
21 IRS has never recognized Defendants as a qualified HCSM under 26 U.S.C. § 5000A(d)(2)(B).  
22 Defendants' representations to the contrary are false and misleading.

23 47.63. On or about August 13, 2018, Alieria signed an agreement with Trinity to provide  
24 the marketing, sale and administration of purported HCSM plans. The contract allowed Alieria to  
25 use Trinity's non-profit status to sell health care plans purporting to be HCSM plans, while  
26 keeping complete control over the money, the administration of the plans and benefits paid, and  
the membership roster. The agreement provides that all member "contribution" payments are  
made directly to Alieria, which then allocates 30-40% (depending on the plan) of every payment

1 as commissions, and that Alera will be paid substantial additional administrative fees. The  
2 agreement provides that, for the AleraCare plan class Plaintiffs purchased here, only about 15.5%  
3 of the members' contributions are actually placed into a Trinity "Sharebox" account for payment  
4 of claims.

5 48-64. Many of the plans Alera had sold through the Unity brand, including those sold  
6 to the Plaintiffs, were then transferred to the Trinity brand, and pending claims were transferred  
7 to Trinity who assumed responsibility for "sharing" them. Throughout the time Alera sold either  
8 Unity or Trinity plans purporting to be HCSMs to California residents, Alera maintained control  
9 of the sales of the plans, the member lists, the claims, and the claims administration, and  
10 commingled the funds of the members in an account or accounts it controlled.

11 **C. The Products Alera Creates, Markets, Sells, and Administers Are Health**  
12 **Insurance**

13 49-65. Plaintiffs and members of the class have been, are, or will be enrolled in healthcare  
14 insurance products created, marketed, sold, and administered by Defendant Alera either through  
15 Unity and/or through Trinity, that Defendants claimed were HCSM plans.

16 50-66. The terminology Defendants use in connection with these plans is directly  
17 analogous to terminology health insurers use, and the plans are designed to look and feel like a  
18 health insurance policy. For example:

19 (a) The healthcare plans marketed, sold, and administered charge "members"  
20 a "monthly contribution" to participate. Defendants described the "contributions" members pay  
21 as "premiums." *See, e.g., Appendix C*, at 3-4. The amount of the premium or "contribution"  
22 charged is based on the plan selected by the insured. *Id.*, at 1.

23 (b) The plans require a member to pay a deductible, which Defendants call a  
24 "Member Shared Responsibility Amount," or "MSRA." *Id.*, at 4. The higher a member's MSRA,  
25 the lower the member's "contribution."

26 (c) Once the MSRA has been paid, medical bills are paid in accordance with a  
benefits booklet or "Member Guide" for the selected program. These benefit booklets contain the

1 “membership instructions” which detail the “eligible medical expenses,” “limits of sharing,” and  
2 exclusions. *See Appendix D, E.*

3 (d) The plans require pre-authorization for certain non-emergency surgeries,  
4 procedures or tests, as well as for certain types of cancer treatments. *See, e.g., Appendix D, at 30;*  
5 *E, at 18.*

6 (e) Defendants offer different health plans, with different levels of coverage,  
7 including “Basic,” “Catastrophic,” “Standard,” and “Comprehensive.” *See Appendix C, at 3-4.*  
8 The amount members are expected to pay depends on the plan chosen.

9 (f) The standard and comprehensive plans are offered at different benefit  
10 levels. “Standard” is offered at “Value,” “Plus” and “Premium” levels. “Comprehensive” is  
11 offered at “Bronze,” “Silver,” and “Gold” levels. The plans at the higher levels charge more and  
12 therefore claim to provide more robust benefits for covered medical conditions. *Id., at 27.*

13 (g) The plans may require members to pay a “co-expense,” analogous to a  
14 “copay.” *Id., at 4.*

15 (h) The plans provide for “maximum out of pocket” expenses. *Id.*

16 ~~51-67.~~ The plans provide coverage for medical expenses. Among other things, the plans  
17 claim to provide coverage for preventive care, primary care, urgent care, labs and diagnostics, x-  
18 rays, prescription benefits, specialty care, surgery, and emergency room services. *Appendix D, at*  
19 *33-35; E, at 25-30.*

20 ~~52-68.~~ The plans have established preferred provider networks (“PPOs”).

21 ~~53-69.~~ The plans contain exclusions and lifetime limits, including a lower lifetime limit  
22 for cancer treatment.

23 ~~54-70.~~ Payments are made directly to health care providers on behalf of members who are  
24 current on their monthly premiums in the event they experience a covered loss, have met their  
25 deductible or MSRA, and otherwise meet the coverage requirements set forth in the Member  
26

1 Guides. These payments are expressly contingent upon the occurrence of a covered medical need  
2 by the participating member.

3 55-71. Like insureds in traditional health plans, members receive an “Explanation of  
4 Benefits (EOB)” when a claim is submitted. The EOBs are substantially similar in look and form  
5 to EOBs received from traditional health plans. *See Appendix L.*

6 56-72. Although Defendants claim that they administer “voluntary sharing of healthcare  
7 needs for qualifying members,” *Appendix D*, at 14, *E*, at 11, there is nothing voluntary about the  
8 insurance plans Defendants market, sell, and administer. Payment from the program upon the  
9 occurrence of a covered loss is determined exclusively by Defendants, purportedly according to  
10 the terms in the Member Guide. Members do not decide who gets paid benefits. Instead, according  
11 to the Member Guide, the members must accept Trinity’s adjudication of benefits: “The  
12 contributors instruct [Trinity] to share clearinghouse funds in accordance with the membership  
13 instructions....” “By participation in the membership, the member accepts these conditions.” *Id.*,  
14 at 21. The members, however, have no input into the “membership instructions.” According to  
15 the Trinity Member Guide, Trinity, and not the members, is the “final authority for the  
16 interpretation” of the membership instructions, and Trinity directs payment to providers on behalf  
17 of members who have submitted medical claims that are covered under the benefits booklet. *Id.*  
18 The Member Guide Alera created for Unity contains largely identical language. *See Appendix E*,  
19 at 15.

20 57-73. Members’ “contributions” (i.e. premiums) are not refundable. Although the  
21 member “contributions” are called “voluntary,” if members fail to make the premium payment,  
22 they are not entitled to coverage for medical expenses. *Appendix D*, at 16; *E*, at 13.

23 58-74. Defendants represent that the health programs “provide members with options that  
24 look and feel like more traditional health care plans but at a fraction of the price.” *Appendix C*, at  
25 26. They explain that the reason the plans are cheaper is that they are “based on cost sharing....  
26 The trade-off is the member shared responsibility (MSRA) [i.e., the deductible] is high.” *Id.*

1           ~~59.75.~~ The plans Defendants sell or have sold are contracts whereby Defendants Alieria  
2 and Trinity undertook to indemnify its members against loss, damage, or liability arising from a  
3 contingent or unknown event, and are insurance under Cal. Ins. Code § 22. Defendants are  
4 required to comply with California and federal law governing health insurers and producers.

5       **D.     The Health Insurance Plans Defendants Create, Market, Sell, and**  
6       **Administer Are Illegal**

7           ~~60.76.~~ None of the Defendants has a certificate of authority as required by Cal. Insurance  
8 Code § 700 to issue insurance within this state and they are not authorized insurers under  
9 California law. Each of Defendants have issued illegal and unauthorized insurance products to  
10 Plaintiffs and other members of the class.

11           ~~61.77.~~ Defendants' plans are not ACA-compliant because they do not meet the minimum  
12 coverage requirements or Essential Health Benefits required under the ACA and Cal. Insurance  
13 Code § 10112.27. For example:

14           (a)     The plans impose a 24-month waiting period on coverage, or significantly  
15 limit benefits for, preexisting conditions, which is illegal under the ACA. *See* 42 U.S.C.  
16 § 300gg-3.

17           (b)     The plans exclude coverage for abortion and/or contraception.

18           (c)     The plans do not comply with the Mental Health Parity Act,

19           (d)     The plans impose lifetime caps.

20           ~~62.78.~~ Defendants' plans purport to require binding arbitration, even though Defendants  
21 fail to disclose the arbitration as a separate article prominently displayed in the enrollment form,  
22 as required by Cal. Insurance Code § 10123.19(a).

23           ~~63.79.~~ The Member Guide, which has never been reviewed or approved, contains  
24 inconsistent and contradictory coverage terms and conditions. For example:

25           (a)     The Member Guide provides the amounts and types of benefits that are  
26 covered, but then suggest Defendants are not required to pay any benefits whatsoever, and

1 provides members with no basis to enforce Defendants’ promises, even after the members have  
2 paid all required “contributions.”

3 (b) The Member Guide states the plan is an “opportunity for members to care  
4 for one another in a time of need, [and] to present their medical needs to other members,” but in  
5 fact Defendants—like an insurance carrier—make all coverage decisions without ever presenting  
6 one member’s needs to other members.

7 (c) Defendants assert that over 1,000,000 providers are in their Preferred  
8 Provider Network, and provide lists of in-network preferred providers whose claims they will pay,  
9 but then assert providers are not on the list provided.

10 64-80. Defendants have never maintained the 80% medical loss ratio of medical expenses  
11 paid to premiums received required by the ACA. 42 U.S.C. § 300gg-18.

12 65-81. Defendants’ plans purport to require multiple levels of appeal in violation of 42  
13 U.S.C. § 300gg-19(a)(2)(b) and 45 C.F.R. §147.136(b)(3)(G).

14 **E. California and Multiple Other States Have Found that Alieria and Trinity**  
15 **Are Illegally Marketing, Selling and Administering Insurance Products**  
16 **That Do Not Qualify as HCSMs**

17 66-82. On March 8, 2020, the Insurance Commissioner of the State of California issued a  
18 Cease and Desist Order against Alieria and Trinity, ordering that they cease transacting insurance  
19 business or receiving any payment in connection with any insurance transaction in the state.

20 *Appendix F.* The Order was based on the Commissioner’s findings that Alieria and Trinity are  
21 acting as insurers in California without a certificate of authority and “make, issue and circulate  
22 misleading advertisements and other materials to California consumers,” in violation of Insurance  
23 Code § 790.03(a) and (b). *Id.*, at 5, ¶ 24. The Commissioner also found that they did not meet the  
24 definition of an HCSM. *Id.*, ¶ 27.

25 67-83. Multiple other states have taken similar action against Alieria and Trinity.  
26 *Appendix G.* Those states include:

1 (a) **Texas.** The Texas Attorney General filed suit against Alera, claiming it  
2 engaged in the business of insurance without a license, and the court entered a TRO on July 12,  
3 2019, prohibiting it from accepting new customers in Texas. Alera later agreed to accept no new  
4 customers during the pendency of the lawsuit.

5 (b) **Washington.** The Insurance Commissioner entered cease and desist orders  
6 against Alera and Trinity on May 3, 2019, finding Alera acted as an unlicensed healthcare  
7 service contractor and Trinity was not an HCSM. Trinity entered into a consent order on  
8 December 30, 2019, agreeing not to enroll any new Washington residents, and to pay a \$150,000  
9 fine. On March 31, 2020, the Insurance Commissioner found that Defendant Unity, now known  
10 as OneShare Health, LLC, was not a legitimate HCSM and was acting as an unauthorized insurer  
11 in the state of Washington. It issued a cease and desist order prohibiting it from continuing to  
12 solicit or sell insurance in Washington. *Appendix N.* On May 5, 2020, a Washington  
13 Administrative Law Judge denied a motion to stay the order, citing sufficient prima facie evidence  
14 that OneShare was unlawfully transacting in insurance and did not qualify as an HCSM.  
15 *Appendix O.*

16 (c) **Colorado.** Colorado Division of Insurance found Defendants sold  
17 insurance products and issued cease and desist orders on August 12, 2019. Final Agency Orders  
18 dated January 17, 2020, prohibit Alera from selling the plans in Colorado, and prohibit Trinity  
19 from doing business in Colorado.

20 (d) **New Hampshire.** The Insurance Commissioner entered a Cease and Desist  
21 Order on October 30, 2019 against Alera and Trinity, prohibiting the sale or renewal of illegal  
22 health insurance in New Hampshire.

23 (e) **Connecticut.** The Insurance Commissioner issued a Cease and Desist  
24 Order on December 2, 2019, against Alera and Trinity, finding they were acting as insurers in  
25 Connecticut without a certificate of authority  
26

1 (f) *Maryland*. On February 27, 2020, the Insurance Commissioner entered an  
2 Order revoking Alieria's insurance producer license because it violated a 2018 consent order not  
3 to solicit membership in unauthorized insurance plans.

4 **F. Plaintiffs Were Sold Sham Products by Defendants That Did Not Provide**  
5 **the Benefits Promised**

6 **1. Plaintiffs Corlyn and Bruce Duncan**

7 ~~68~~84. Plaintiffs Corlyn and Bruce Duncan enrolled in an AlieriaCare Comprehensive  
8 Gold plan on or about November 28, 2017, while Alieria was selling Unity plans. Before they  
9 enrolled, the plan was represented to them by their insurance agent to be like a BlueCross  
10 insurance plan, but cheaper. Their membership effective date was January 1, 2018, and they  
11 received what they believed was an insurance card showing they had hospital, in-patient, out-  
12 patient, emergency room, specialty visit, preventive, and X-ray and imaging, with certain co-pays  
13 and a \$1,000 MSRA. *Appendix H*.

14 ~~69~~85. They received a Member Guide from Alieria/Unity after they filled out the  
15 enrollment form and made their initial payment. *Appendix E*.

16 ~~70~~86. Their membership enrollment form did not disclose that they would be obligated  
17 to arbitrate disputes.

18 ~~71~~87. In 2019, the Duncans were advised that their plan through Alieria/Unity was being  
19 transferred to Alieria/Trinity, with the same benefits and the same monthly contribution amount  
20 as the Alieria/Unity plan. *Appendix I*. Alieria, for itself and as agent for Trinity, represented that  
21 "all Medical history and historical claims" would "continue to track" after the Duncans' plans  
22 were transferred to Alieria/Trinity. *Id.* The Duncans filled out a new enrollment form. That  
23 enrollment form did not disclose that they would be obligated to arbitrate any disputes.  
24 *Appendix J*.

25 ~~72~~88. The Duncans received a new Member Guide that purported to be from Alieria and  
26 Trinity. *Appendix D*. Trinity assumed responsibility for claims made under the Unity brand.



1            73-89. After they filled out the new enrollment form, they received new insurance cards  
2 for AlierCare TrinityGold, reflecting an effective date of January 2018. The card falsely states  
3 that they were members of an HCSM “*recognized pursuant to 26 U.S.C. § 5000A(d)(2)(B)*” even  
4 though neither Trinity nor AlierCare was ever certified or “recognized” by any government agency  
5 as an HCSM. *Appendix K.*

6            74-90. The Duncans paid \$1,287.56 per month for their AlierCare Comprehensive Gold  
7 plan while AlierCare partnered with Unity, and \$1,612.91 per month for their AlierCare  
8 Comprehensive Gold plan while it partnered with Trinity. They also paid \$125 in application fees.

9            75-91. The AlierCare Comprehensive Gold plan sold to the Duncans was insurance  
10 under California law. However, the plan failed to comply with California and federal law in its  
11 provisions of benefits.

12            76-92. On March 16, 2018, Ms. Duncan required surgery. Before the surgery, she  
13 contacted AlierCare for approval, and AlierCare approved both the surgery and the facility where the  
14 surgery was performed.

15            77-93. Nevertheless, AlierCare, as agent for Unity and/or Trinity, has paid only a fraction of  
16 the cost of the surgery, leaving her with a hospital bill of over \$70,000. *Appendix L.*

17            78-94. The Duncans made repeated attempts to appeal AlierCare’s decision, but each time  
18 they called, they were either left on hold, and/or given inconsistent answers about whether, how  
19 much, and which charges would be covered. After authorizing the surgery, and despite written  
20 verification from the surgeon to the contrary, AlierCare then insisted the surgery was for a “pre-  
21 existing condition” and refused to pay it. *See Appendix L, M.* The Duncans have submitted  
22 additional information in support of their appeal, but neither AlierCare/Unity nor AlierCare/Trinity has  
23 paid.

24            95. They have suffered damages by paying for the Unity plan and for the Trinity plan,  
25 which are both illegal insurance products, and by being denied health care coverage for their  
26

1 needed medical expenses. The Duncans continue to be pursued for their hospital debt, which has  
2 adversely affected their credit.

3 **2. Plaintiff Rebecca White**

4 96. Plaintiff White enrolled in an AlierCare PLUS plan in May 2018 while AlierCare  
5 partnered with Unity.

6 97. She made a payment of \$530.10 per month in premium payments to AlierCare for the  
7 AlierCare/Unity plan, plus an upfront \$125 enrollment fee.

8 98. She received what she believed to be an insurance card, and a Member Guide,  
9 similar to the ones received by the Duncans.

10 99. After being told by AlierCare that a medical procedure would be covered, AlierCare  
11 denied coverage of the procedure, and refused to pay anything toward the procedure, requiring  
12 Plaintiff White to pay \$1,156.23 out of pocket for the procedure.

13 100. She has suffered damages by paying for an illegal insurance products, and by being  
14 denied health care coverage for her needed medical expenses.

15 101. Ms. White is a named plaintiff in *Smith, et al v. The AlierCare Companies, Inc., et al.*,  
16 No. 1:20-cv-02130-RBJ, in the United States District Court for the District of Colorado  
17 (the "Colorado Lawsuit"), which asserts claims on behalf of herself and those similarly situated,  
18 against AlierCare, OneShare, and Trinity for the actions alleged in this Amended Complaint. The  
19 Colorado Lawsuit is currently stayed as to all defendants. Ms. White asserts her claim here only  
20 against OneShare, and will dismiss her claim against OneShare in the Colorado Lawsuit upon  
21 approval of a settlement against OneShare in this case.

22 **3. Plaintiff Ellen Larson**

23 102. Plaintiff Larson enrolled in AlierCare Premium in July 2018, while AlierCare was  
24 partnered with Unity.

25 103. She made monthly payments of \$352.44 per month for each month from August  
26 through December 2018 for payment of her plan, plus an upfront \$125 enrollment fee.

1           104. She received a card that she believed was an insurance card, and a Member Guide,  
2 similar to the ones received by the Duncans.

3           105. Ms. Larson was assaulted on August 3, 2019, while covered by the  
4 AlierCare/Unity Premium Plan. She was attacked and knocked unconscious, and taken to the  
5 hospital with serious injuries, including a skull fracture, cervical spine fracture, and intercranial  
6 bleeding. Her medical bills were submitted to Alier for payment, but Alier denied her claim  
7 and never paid any portion of it.

8           106. She has suffered damages by paying for an illegal insurance product, and by being  
9 denied health care coverage for her needed medical expenses.

10           107. Ms. Larson is a named plaintiff in the Colorado Lawsuit, which asserts claims on  
11 behalf of herself and those similarly situated, against Alier, OneShare, and Trinity for the actions  
12 alleged in this Amended Complaint. The Colorado Lawuit is currently stayed as to all defendants.  
13 Ms. Larson asserts her claim here only against OneShare, and will dismiss her claim against  
14 OneShare in the Colorado Lawsuit upon approval of a settlement against OneShare in this case.

15           **4. Plaintiffs Jaime and Jared Beard**

16           108. The Beards enrolled themselves and their two dependent children in an  
17 AleiraCare/Unity Premium plan in August 2018, while Alier partnered with Unity.

18           109. They paid \$654.32 per month for each month from August 2018 through May 2019  
19 for their AlierCare/Unity plan, plus an upfront \$125 enrollment fee.

20           110. They received what they believed to be an insurance card, and a Member Guide,  
21 similar to the ones received by the Duncans

22           111. In January 2019, the Beards' minor child was taken by ambulance to a hospital for  
23 a medical emergency, but Alier refused to pay any part of the ambulance bill, claiming the  
24 ambulance was not "in network." The Beards were forced to pay they bill out of pocket to avoid  
25 it being sent to collections.

1           112. In April 2019, the Beards' other minor child required surgery. Their child's  
2 provider contacted Alera for preauthorization of the surgery, but Alera denied the request,  
3 inaccurately claiming that it was to treat a "pre-existing condition." Despite appeals, Alera  
4 continued to wrongfully withhold approval of the surgery. As a result, the Beards had to postpone  
5 their child's needed surgery.

6           113. The Beards have been damaged by having to pay medical bills that should have  
7 been covered, and paid premiums for worthless health insurance.

8           114. The Beards are named plaintiffs in the Colorado Lawsuit, which asserts claims on  
9 behalf of themselves and those similarly situated, against Alera, OneShare, and Trinity for the  
10 actions alleged in this Amended Complaint. The Colorado Lawuit is currently stayed as to all  
11 defendants. The Beards assert their claim here only against OneShare, and will dismiss their claim  
12 against OneShare in the Colorado Lawsuit upon approval of a settlement against OneShare in this  
13 case.

14           **5. Hanna Albina**

15           115. Mr. Albina enrolled his family in an Alera/Unity Plus plan in July 2018, effective  
16 August 1, 2018, when Alera was partnered with Unity.

17           116. Mr. Albina paid \$757.27 per month for his AleraCare/Unity plan, plus an upfront  
18 enrollment fee of \$125.

19           117. He received what he believed to be an insurance card, and a Member Guide, similar  
20 to the ones received by the Duncans.

21           118. Medical bills his family members incurred while covered under the plan went  
22 unpaid, despite repeated efforts to submit the claims for payment.

23           119. He has suffered damages by paying for an illegal insurance product, and by being  
24 by paying medical bills out of pocket that should have been covered under the plan.

25           120. Mr. Albina is a named plaintiff in *Albina, et al. v. The Alera Companies, Inc., et*  
26 *al.*, No. 5:20-cv-00496-DCR, in the United States District Court for the Eastern District of

1 Kentucky, Central Division (the “Kentucky Lawsuit”), which asserts claims on behalf of himself  
2 and those similarly situated, against Alera, OneShare, and Trinity for the actions alleged in this  
3 Amended Complaint. The Kentucky Lawsuit is currently stayed as to all defendants. Mr. Albina  
4 asserts his claim here only against OneShare, and will dismiss his claim against OneShare in the  
5 Kentucky Lawsuit upon approval of a settlement against OneShare in this case.

6 **6. Plaintiff Austin Willard**

7 121. Mr. Willard enrolled himself and his family in an AleraCare/Unity Premium plan  
8 effective March 1, 2018, when Alera was partnered with Unity.

9 122. Mr. Willard paid \$631.20 per month for his AleraCare/Unity plan for every month  
10 Alera partnered with Unity, plus an upfront enrollment fee of \$125.

11 123. He received what he believed to be an insurance card, and a Member Guide, similar  
12 to the ones received by the Duncans.

13 124. Mr. Willard made these payments in reliance on express representations that a  
14 preexisting condition would be covered after 24 months, but he was then denied coverage for his  
15 condition after paying the premiums for the requisite. He would not have made the premium  
16 payments if he had known that he would not be covered after paying in for the requisite amount  
17 of time. He has been damaged by being induced to pay for a plan that did not provide coverage  
18 as promised.

19 79.—Mr. Willard is a named plaintiff in the Kentucky Lawsuit, which asserts claims on  
20 behalf of himself and those similarly situated, against Alera, OneShare, and Trinity for the actions  
21 alleged in this Amended Complaint. The Kentucky Lawsuit is currently stayed as to all  
22 defendants. Mr. Albina asserts his claim here only against OneShare, and will dismiss his claim  
23 against OneShare in the Kentucky Lawsuit upon approval of a settlement against OneShare in this  
24 case.

**VI.VIII. CLAIMS FOR RELIEF**

**A. First Claim: Illegal Contract Against All Defendants**

80.125. Plaintiffs reallege all prior allegations as though fully stated herein.

81.126. Defendants marketed, issued, delivered and administered unauthorized and illegal health insurance plans in violation of California law to Plaintiffs and all members of the Class, based on the following issues, among others:

(a) The plans were insurance, *see* ¶¶ 49-58 above, but were sold without authorization in California.

(b) The plans failed to provide the Essential Health Benefits and imposed waiting periods, excluded coverage for pre-existing conditions, and imposed caps in violation of the ACA and California law. *See* ¶ 60, above.

(c) The Member Guide contains inconsistent and contradictory coverage terms and conditions that allow Defendants to arbitrarily deny coverage.

(d) The plans included a binding arbitration provision that was not disclosed and is illegal under California Ins. Code § 10123.19(a).

(e) Defendants fail to maintain the medical loss ratio required under the ACA.

(f) The plans failed to comply with legal requirements for a reasonable grievance and appeals process.

82.127. Plaintiff and all members of the proposed class are entitled to either (a) rescission of the illegal contract(s) and return of the insurance premiums paid; or (b) reformation of the illegal contract(s) to comply with the mandatory minimum benefits and coverage required under California and federal law.

**B. Second Claim: Violation of California's Unfair Competition Law Against All Defendants**

83.128. Plaintiffs reallege all prior allegations as though fully stated herein.

84.129. Defendants' creation, marketing, sale and administration of unauthorized health insurance plan(s) to class members are illegal under California's Unfair Insurance Practices

1 Act, Ins. Code § 790 *et seq.*, and constitute unfair, unlawful, and/or fraudulent acts under  
2 California’s Unfair Competition Law (UCL), Cal. Bus. and Prof. Code § 17200 *et seq.*

3 85-130. Defendants have committed unfair acts or practices that are deceptive or  
4 misleading or have the capacity to be deceptive or misleading. These acts or practices include,  
5 but are not limited to, the following:

6 (a) Defendants have consistently represented that their healthcare products are  
7 “not insurance.” This representation appears in the Member Guides, in advertising material, in  
8 training material and on its webpages. This representation, however, is false. Under California  
9 law, Defendants are offering unregulated insurance to members of the public. *See* ¶¶ 49-58, above.  
10 The California Insurance Commissioner has so found as to Defendants Alera and Trinity.  
11 *Appendix F.*

12 (b) While claiming their products are “not insurance,” Defendants’ deceptively  
13 advertise and market their products as a viable substitute for insurance. Specifically, the  
14 advertisements and solicitations deceive or mislead, or have the capacity to deceive or mislead,  
15 members of the class that they were purchasing a legitimate health insurance product. The look  
16 and feel of the advertising material suggest that the plans are the same as health insurance  
17 products, and their agents represent the products to be comparable to health insurance. They claim  
18 their products are “not insurance,” however, so that they can avoid state consumer protection and  
19 solvency regulation. By claiming their products are “not insurance,” they also avoid providing the  
20 minimal Essential Health Benefits required under the ACA. *See* ¶¶ 60-63, above.

21 (c) Defendants have advertised and represented that Unity and Trinity are each  
22 a “Health Care Sharing Ministry recognized pursuant to 26 U.S.C. § 5000A(d)(2)(B).” This is  
23 false. *See* ¶¶ 40-45, above. Defendants Alera and Trinity have falsely represented, either directly  
24 or through sales agents in California, that Trinity is an “administrator for one of the HCSMs that  
25 has been around since before 1999,” and that “Trinity has been helping people cover health care  
26 costs for years.” *Appendix B.* These misrepresentations deceived consumers into believing that

1 their healthcare plans were faith-based and would be administered in an ethical manner for the  
2 benefit of members, rather than for the benefit of for-profit Alera.

3 (d) While representing that Unity and Trinity each serve as a “neutral  
4 clearinghouse” for the payment of claims, Defendants fail to disclose that only a fraction of the  
5 funds they receive as member contributions are paid out in claims, that the ACA requires that an  
6 insurer pay 80% of the premiums collected as benefits, or that for-profit Alera takes most of the  
7 member contributions as fees, while arbitrarily deciding whether benefits should be paid.  
8 Consumers were led to believe that their premiums would primarily be used to pay claims of its  
9 members. In fact, most of the contributions were used to pay Alera and its owners.

10 (e) Defendants misrepresent that members’ monthly contributions are put into  
11 a cost-sharing account with either Unity or Trinity, which “acts as an independent and neutral  
12 clearing house, dispersing [sic] monthly contributions as described in the membership instructions  
13 and guidelines.” *Appendix D*, at 14; *E*, at 11. Defendants misrepresent that either Unity or Trinity,  
14 because it is a nonprofit with “nothing to gain or lose financially by determining if a need is  
15 eligible or not” is the entity to whom members delegated coverage decision authority.  
16 *Appendix D.*, at 21; *E*, at 15. In fact, contributions are not placed into a cost-sharing account with  
17 either Unity or Trinity, but are paid directly to for-profit Alera which maintains complete control  
18 over payments for medical expenses and maintained exclusive access to and control over the  
19 Unity or Trinity membership list.

20 (f) Defendants misrepresent that the reason the plans are cheaper than ACA-  
21 compliant plans is merely that they have higher deductibles, or “MSRAs.” *Appendix C*, at 26. In  
22 fact, the reason the plans are cheaper is that Defendant Alera asserts the unilateral discretion to,  
23 and does, arbitrarily deny claims.

24 (g) Defendants Alera and Trinity claim they have a “growing nationwide PPO  
25 network of more than 1,000,000 healthcare professionals and more than 6,000 facilities,”  
26 *Appendix D*, at 13; *E*, at 9. Defendants provided lists of professionals and facilities, but then



1 denied claims on the basis that those professionals and facilities were not in-network, or that the  
2 providers were charging too much.

3 (h) Defendants systematically engage in unfair claims handling practices by  
4 arbitrarily denying claims. Even though Defendants represent that the coverage provisions are not  
5 legally binding upon them and that they are not legally obligated to pay claims, they then insist  
6 members are legally obligated to follow the multilevel Dispute Resolution Procedure outlined in  
7 the Member Guides. *Appendix D*, at 31-32; *E*, at 19-20. This burdensome Procedure is not  
8 disclosed to consumers in the marketing materials before they commit to enrolling in the plans,  
9 and ultimately requires binding arbitration, in violation of California law. Defendants deceptively  
10 use the multilevel Procedure to subject members to Kafkaesque delays and false and inconsistent  
11 promises, to delay payment of legitimate claims, and to shield Defendants from legal action.

12 86-131. Members of the public are and have been deceived by these unfair and  
13 unlawful practices.

14 87-132. Alieria acted on its own behalf and as an express and apparent agent for  
15 Unity and Trinity, when it created, marketed, sold, and administered virtually identical plans  
16 under both the Unity and Trinity brands, and committed the above unfair and deceptive acts while  
17 acting for both entities.

18 88-133. Plaintiffs and the class have been injured as a direct result of Defendants'  
19 conduct. They suffered economic injury by paying for unregulated insurance products that are  
20 illegal under California law. The products provide less coverage than permitted under law, thereby  
21 rendering the policies less valuable than products that do comply with the law. Plaintiff and the  
22 class have been denied care, or limited in care, due to illegal caps, exclusions and limitations.  
23 Plaintiff and the class have foregone coverage under the ACA, including subsidized benefit  
24 packages that would provide legal, comprehensive, and secure health insurance coverage.  
25 Defendants' policies were overpriced for the coverage they purported to provide given that over  
26 80% of the contributions were paid in fees and commissions, rather than to benefits, causing

1 Plaintiff and the class to overpay for the illegal and unregulated policies. They purchased the  
2 products with the reasonable belief that their medical bills would be paid, but Defendants have  
3 devised excuses not to pay those claims, or to unreasonably delay in payment of the claims.

4 **C. Third Claim: Violation of California’s False Advertising Law**

5 ~~89.134.~~ Plaintiffs reallege all prior allegations as though fully stated herein.

6 ~~90.135.~~ Defendants have made untrue and/or misleading statements to residents of  
7 California with an intent to induce them to forego legitimate health insurance coverage and to  
8 purchase Defendants’ sham insurance coverage instead, in violation of California’s False  
9 Advertising Law (FAL), Bus. & Prof. Code § 17500, *et seq.*

10 ~~91.136.~~ These untrue and/or misleading statements include:

11 (a) Advertising and representing Unity and Trinity each as a “Health Care  
12 Sharing Ministry recognized pursuant to 26 U.S.C. § 5000A(d)(2)(B).”

13 (b) Consistently and repeatedly misrepresenting that AlierCare/Trinity and  
14 AlierCare/Unity and their related products are “not insurance.”

15 (c) Misrepresenting that the health care plans they sold were like insurance but  
16 cheaper, or were a form of legitimate health insurance.

17 (d) Misrepresenting the plans as a “sharing” program that provides members  
18 with a role in determining whether claims should be paid, when in fact all coverage decisions  
19 were made arbitrarily by Alier, and in Alier’s best interest.

20 (e) Misrepresenting that Trinity and Unity, because are nonprofits with  
21 “nothing to gain or lose financially by determining if a need is eligible or not” are the entities to  
22 whom members delegated coverage decision authority.

23 (f) Misrepresenting that Defendants provided coverage for medical expenses.

24 (g) Misrepresenting that there are over 1,000,000 providers and 6,000 facilities  
25 within Defendants’ PPO, and then denying claims from those providers and facilities listed as  
26 within the PPO.

1           ~~92.137.~~\_\_\_\_\_ Members of the public are and have been deceived by these unfair and  
2 unlawful practices.

3           ~~93.138.~~\_\_\_\_\_ Plaintiffs and the class have been injured as a direct result of Defendants’  
4 conduct by paying for sham insurance products that did not provide either the benefits offered or  
5 that should have been offered under a legitimate healthcare plan. They have been further injured  
6 when, as a direct result of Defendants’ conduct, they lost the opportunity to enroll in legitimate  
7 health plans either during open enrollment or special enrollment periods.

8 **D. Fourth Claim: Breach of Fiduciary Duty – Alieria and Trinity**

9           ~~94.139.~~\_\_\_\_\_ Plaintiffs reallege all prior allegations as though fully stated herein.

10           ~~95.140.~~\_\_\_\_\_ Defendant Trinity and its exclusive agent Alieria represent that members  
11 “voluntarily submit monthly contributions into a cost-sharing account,” and that Trinity “act[s] as  
12 a neutral clearing house between members.” *Appendix D*, at 3. While disclaiming that there is any  
13 legally binding agreement to reimburse members for medical needs, those Defendants claim  
14 Trinity will serve as the “neutral” intermediary to allow members to share “voluntary”  
15 contributions with one another in accordance with “the membership instructions.” *Appendix D*, at  
16 14.

17           ~~96.141.~~\_\_\_\_\_ Defendants Alieria and Trinity further represent their trustworthiness by  
18 claiming Trinity is a “faith based” or religious organization.

19           ~~97.142.~~\_\_\_\_\_ Defendants Alieria and Trinity represent that “since Trinity HealthShare has  
20 nothing to gain or lose financially by determining if a need is eligible or not, the contributor  
21 designates Trinity HealthShare as the final authority for the interpretation of these guidelines.”  
22 *Appendix D*, at 21.

23           ~~98.143.~~\_\_\_\_\_ Defendants have complete control over the financial “contributions”  
24 members pay, and complete control over the coverage decisions.

25           ~~99.144.~~\_\_\_\_\_ As a result of these representations and their control over members’  
26 “contributions,” Defendants owe a fiduciary duty to the members.

1           ~~100.145.~~ Defendant Alieria has admitted in court filings and testimony in connection  
2 with the Georgia Case that it has a fiduciary duty to the members.

3           ~~101.146.~~ Defendants Alieria and Trinity have breached their fiduciary duty. Trinity  
4 has delegated sole control of members' funds, and all coverage decisions, to for-profit Alieria,  
5 which has commingled members' funds with other funds. Coverage decisions are made solely by  
6 the for-profit Alieria, and in order to secure its profits, not to provide coverage for members'  
7 medical needs. Plaintiffs and the class members have been arbitrarily denied claims for medical  
8 expenses in order to enrich Defendants.

9           ~~102.147.~~ On information and belief, approximately 84% of the member  
10 contributions are paid to Alieria in fees and administrative expenses, and not to cover the medical  
11 needs of the members.

12           ~~103.148.~~ Plaintiffs and the member class have been injured by Defendants' breaches  
13 of fiduciary duty. The funds that should have been used to pay their claims (including the claims  
14 of Unity enrollees who were induced to switch to Trinity based upon the representation that  
15 Trinity would be responsible for all past claims) have instead been used to enrich Defendants. The  
16 excess payments should be disgorged, and held in constructive trust for the benefit of the Plaintiffs  
17 and the class to pay their claims or reimburse their premiums.

18 **E. Fifth Claim: Breach of Fiduciary Duty – Alieria and Unity**

19           ~~104.149.~~ Plaintiffs reallege all prior allegations as though fully stated herein.

20           ~~105.150.~~ Defendant Unity, through its exclusive agent Alieria, represented that  
21 members voluntarily submit monthly contributions or gifts into an escrow account, and that Unity  
22 “acts as a neutral clearing house between members.” *Appendix E*, p.3. While disclaiming that  
23 there is any legally binding agreement to reimburse members for medical needs, Alieria and Unity  
24 claim Unity will serve as “a clearing house” distributing monthly contributions as described in  
25 the membership instructions and guidelines. *Id.*, p. 15.  
26

1           ~~106.151.~~\_\_\_\_\_ Alieria and Unity further represented their trustworthiness by claiming  
2 Unity is “faith based,” and is based on a “tradition of mutual aid, neighborly assistance and burden  
3 sharing.” *Id.*, pp. 2-3, 11.

4           ~~107.152.~~\_\_\_\_\_ Alieria and Unity represented that “since Unity HealthShare has nothing to  
5 gain or lose financially by determining if a need is eligible or not, the contributor designates Unity  
6 HealthShare as the final authority for the interpretation of these guidelines.” *Id.*, p. 15.

7           ~~108.153.~~\_\_\_\_\_ Alieria and Unity represented that monthly contributions are “voluntarily  
8 given” to Unity to hold as an escrow agent and to disburse “in accordance with the membership  
9 instructions.” *Id.*, p. 15.

10           ~~109.154.~~\_\_\_\_\_ Unity, and its exclusive agent Alieria, have complete control over the  
11 financial “contributions” members pay, and complete control over the coverage decisions. *Id.* p.  
12 15.

13           ~~110.155.~~\_\_\_\_\_ Based on these representations and their control over members’  
14 “contributions,” Alieria and Unity have a fiduciary duty to the members.

15           ~~111.156.~~\_\_\_\_\_ Defendant Alieria has also admitted in court filings in connection with the  
16 Georgia Litigation that it has a fiduciary duty to the members.

17           ~~112.157.~~\_\_\_\_\_ Defendants have breached their fiduciary duty. Unity delegated sole  
18 control over members’ funds, and all coverage decisions, to for-profit Alieria, which has  
19 commingled members’ funds with other funds. Coverage decisions were made solely by for-profit  
20 Alieria and in order to secure its profits, not to provide coverage for members’ medical needs.  
21 Plaintiffs and the class members have been arbitrarily denied claims for medical expenses, and  
22 have been denied pre-authorization of needed medical care, in order to enrich Defendants.

23           ~~113.158.~~\_\_\_\_\_ The majority of the member contributions were paid to Alieria in  
24 undisclosed fees, and not to cover the medical needs of the members.

25           ~~114.159.~~\_\_\_\_\_ Plaintiffs and the class members have been injured by Alieria’s and Unity’s  
26 breaches of fiduciary duty. The funds that should have been used to pay their claims have instead

1 been used to enrich those Defendants. The profits should be disgorged and held in constructive  
2 trust for the benefit of the Plaintiffs and the class to pay their claims.

3 **F. Unjust Enrichment Against Alieria**

4 ~~115.160.~~ Plaintiffs reallege all prior allegations as though fully stated herein.

5 ~~116.161.~~ Plaintiffs and the class paid substantial monthly contributions. On  
6 information and belief, approximately 84% of the monthly contributions were siphoned off as  
7 fees and expenses, largely to benefit Alieria.

8 ~~117.162.~~ Plaintiffs and the class made their payments with the understanding that  
9 the funds would be shared among the members of Trinity or Unity to pay medical claims. They  
10 were never advised that a majority of their payments would actually go to Alieria's fees,  
11 administrative expenses, and commissions.

12 ~~118.163.~~ Alieria has retained the members' contributions while arbitrarily denying  
13 medical claims, and has been unjustly enriched at the expense of Plaintiffs and the class.

14 164. Plaintiffs and the class are entitled to restitution of the amount Defendants unjustly  
15 retained.

16 **G. Seventh Claim: Illegal Contract Against OneShare**

17 165. Plaintiffs reallege all prior allegations as though fully stated herein.

18 166. As a result of OneShare's delegation of virtually all aspects of Unity's plans and  
19 member contributions to for-profit Alieria, OneShare could not qualify as an HCSM under 26  
20 U.S.C. § 5000A(d)(2)(B), and was not exempt from insurance regulations.

21 167. OneShare, through Alieria, violated 42 U.S.C. § 300gg-18(b)(1)(A) by failing to  
22 pay at least 80% of premiums received from members on medical claims or health care quality  
23 improvements.

24 ~~119.168.~~ As a result of OneShare's failure to pay the statutorily-required minimum  
25 on health medical claims or health care quality improvements, Plaintiffs and the class have been  
26 damaged in amount to be proved at trial.

**VII.IX. PRAYER FOR RELIEF**

1 WHEREFORE, Plaintiffs request that this Court:

2 (a) Certify that this action may proceed as a class action as defined in ¶ 19  
3 above;

4 (b) Designate Corlyn and Bruce Duncan as class representatives, and designate  
5 Eleanor Hamburger and Richard E. Spoonemore, Sirianni Youtz Spoonemore Hamburger PLLC;  
6 Michael David Myers, Myers & Company, PLLC; Nina Wasow and Catha Worthman, Feinberg,  
7 Jackson, Worthman & Wasow; William Anderson, Handley Farah & Anderson PLLC; and Cyrus  
8 Mehri, Mehri & Skalet, PLLC as class counsel;

9 (c) Declare that Defendants' unauthorized health insurance plans were and are  
10 illegal contracts;

11 (d) Declare that Defendants' actions as alleged herein towards the members of  
12 the class violate California's Unfair Competition Law, False Advertising Law, and Unfair  
13 Insurance Practices Act;

14 (e) Enjoin Defendants from denying and delaying payment of legitimate health  
15 care claims;

16 (f) Order (i) rescission of the unauthorized health insurance plans and  
17 restitution of all premiums received from members of the proposed class, including interest; or,  
18 at the option of any class member, (ii) reform the unauthorized health insurance plans to comply  
19 with the minimum mandatory benefits required under the relevant state insurance code and federal  
20 law, and permit class members to resubmit claims for medical services, costs and other expenses  
21 that would have been covered;

22 (g) Enter judgment in favor of Plaintiffs and the class on their breach of  
23 fiduciary duty claim, and impose a constructive trust for the benefit of the class on all amounts  
24 wrongfully retained;

25 (h) Order disgorgement and restitution of all contributions Alera unjustly  
26 retained;

1 (i) Order payment of reasonable attorneys' fees pursuant to Cal. Code Civ.  
2 Proc. § 1021.5; and

3 (j) Grant such other relief as this Court may deem just, equitable and proper.

4 DATED: May 25, 2023.

5 s/ Nina Wasow

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*Attorneys for Plaintiffs*



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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CORLYN DUNCAN and BRUCE DUNCAN,  
individually and on behalf of all others similarly  
situated,

Plaintiffs,

v.

THE ALIERA COMPANIES, INC., f/k/a ALIERA  
HEALTHCARE, INC., a Delaware corporation;  
TRINITY HEALTHSHARE, INC., a Delaware  
corporation; and ONESHARE HEALTH, LLC,  
formerly known as UNITY HEALTHSHARE, LLC  
and as KINGDOM HEALTHSHARE MINISTRIES,  
LLC, a Virginia limited liability corporation,

Defendants.

Case No.: 2:20-cv-00867-TLN-KJN

[Assigned to the Hon. Troy L. Nunley]

**[PROPOSED]  
ORDER GRANTING PLAINTIFFS'  
UNOPPOSED MOTION TO AMEND  
COMPLAINT**

Pursuant to Fed. R. Civ. P. 15, Plaintiffs' Unopposed Motion to Amend Complaint is granted. Plaintiffs are directed to submit the Second Amended Complaint attached as *Appendix A* to their Motion to Amend Complaint.

IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2023.

\_\_\_\_\_  
Honorable Troy L. Nunley  
United States District Court Judge