

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

ELECTRICAL MEDICAL TRUST, et al.,

Plaintiffs,

v.

U.S. ANESTHESIA PARTNERS, INC., et al.,

Defendants.

Case No.: 4:23-CV-04398

**DEFENDANT U.S. ANESTHESIA PARTNERS, INC.'S  
ANSWER TO PLAINTIFFS ELECTRICAL MEDICAL TRUST AND  
PLUMBERS LOCAL UNION NO. 68 WELFARE FUND'S  
AMENDED CLASS ACTION COMPLAINT**

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Defendant U.S. Anesthesia Partners, Inc. (“USAP”) hereby answers Plaintiffs Electrical Medical Trust and Plumbers Local Union No. 68 Welfare Fund (“Plaintiffs”) Amended Class Action Complaint dated April 3, 2025 (the “Complaint”), as set forth below and subject to its right to amend pursuant to Federal Rule of Civil Procedure 15(a)(2).

Each paragraph below corresponds to the same-numbered paragraph in the Complaint. All allegations not expressly admitted are denied. USAP does not interpret the headings or preamble in the Complaint as well-pleaded allegations to which any response is required. To the extent that a response is required to the headings or preamble, USAP denies all such allegations in the headings and preamble. Unless otherwise defined, capitalized terms refer to the capitalized terms defined in the Complaint, but any such use is not an acknowledgment or admission of any characterization Plaintiffs may ascribe to the terms.

## **INTRODUCTION**

1. The allegations in Paragraph 1 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. Those allegations also set forth legal conclusions to which no response is required. To the extent they characterize Welsh Carson’s or any other entity’s state of mind, USAP lacks sufficient information to admit or deny them. USAP also specifically denies Paragraph 1 insofar as it attempts to misleadingly define “USAP” to refer to a set of three distinct entities. Further, Paragraph 1’s allegations regarding Welsh Carson are irrelevant in light of the Court’s dismissal of Plaintiffs’ claims against it. To the extent that a further response is required, USAP contends that the Complaint speaks for itself and otherwise denies Paragraph 1.

2. The allegations in Paragraph 2 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual

allegation elsewhere in this Answer. The allegations in Paragraph 2 are also vague or misleading because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21). To the extent they characterize Welsh Carson’s state of mind, USAP lacks sufficient information to admit or deny them. Further, Paragraph 2’s allegations regarding Welsh Carson are irrelevant in light of the Court’s dismissal of Plaintiffs’ claims against it. To the extent that a further response is required, USAP admits that Welsh Carson is a private equity firm based in New York and that it had a role in the formation of USAP, and otherwise denies Paragraph 2.

3. The allegations in Paragraph 3 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. The allegations in Paragraph 3 are also vague or misleading because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21). Those allegations also set forth a legal conclusion to which no response is required. To the extent they characterize Welsh Carson’s state of mind, USAP lacks sufficient information to admit or deny them. Further, Paragraph 3’s allegations regarding Welsh Carson are irrelevant in light of the Court’s dismissal of Plaintiffs’ claims against it. To the extent that a further response is required, USAP admits that material produced in the Federal Trade Commission’s (“FTC”) investigation of this matter includes the quoted language. USAP respectfully directs the Court to those documents for an accurate and complete statement of their contents and otherwise denies Paragraph 3.

4. The allegations in Paragraph 4 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. Those allegations also set forth a legal conclusion to which no response is required. Further, Paragraph 4’s allegations regarding Welsh Carson are

irrelevant in light of the Court's dismissal of Plaintiffs' claims against it. To the extent that a further response is required, USAP admits that material produced in the FTC's investigation of this matter includes the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents, and otherwise denies Paragraph 4.

5. The allegations in Paragraph 5 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. The allegations in Paragraph 5 are also vague or misleading because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21). Those allegations also set forth a legal conclusion to which no response is required. Further, Paragraph 5's allegations regarding Welsh Carson are irrelevant in light of the Court's dismissal of Plaintiffs' claims against it. To the extent that a further response is required, USAP admits that material produced in the FTC's investigation of this matter includes the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents, and otherwise denies Paragraph 5.

6. The allegations in Paragraph 6 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. The allegations in Paragraph 6 are also vague or misleading because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21). Those allegations also set forth a legal conclusion to which no response is required. Further, Paragraph 6's allegations regarding Welsh Carson are irrelevant in light of the Court's dismissal of Plaintiffs' claims against it. To the extent that a further response is required, USAP denies Paragraph 6.

7. The allegations in Paragraph 7 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. The allegations in Paragraph 7 are also vague or misleading because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21). Those allegations also set forth a legal conclusion to which no response is required. Further, Paragraph 7 is predicated on an undefined methodology to assess insurer size that USAP lacks sufficient information to admit or deny. USAP lacks knowledge sufficient to admit or deny whether an unnamed insurance executive made the quoted comment. USAP otherwise denies Paragraph 7.

8. The allegations in Paragraph 8 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. The allegations in Paragraph 8 are also vague or misleading because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21). Those allegations also set forth a legal conclusion to which no response is required. Further, Paragraph 8’s allegations regarding Welsh Carson are irrelevant in light of the Court’s dismissal of Plaintiffs’ claims against it. USAP lacks sufficient information to admit or deny Paragraph 8’s comparison of USAP’s rates to a purported median of an unidentified set of anesthesia providers, or to admit or deny whether an unnamed United executive made the quoted comment. To the extent that a further response is required, USAP otherwise denies Paragraph 8.

9. The allegations in Paragraph 9 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. The allegations in Paragraph 9 are also vague or misleading because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21). Those



allegations also set forth a legal conclusion to which no response is required. Further, Paragraph 9's allegations regarding Welsh Carson are irrelevant in light of the Court's dismissal of Plaintiffs' claims against it. To the extent that a further response is required, USAP admits that material produced in the FTC's investigation of this matter includes the quoted language. USAP respectfully directs the Court to those documents for an accurate and complete statement of their contents and otherwise denies Paragraph 9.

10. The allegations in Paragraph 10 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. The allegations in Paragraph 10 are also vague or misleading because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21). Those allegations also set forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this case and the parallel case brought by the FTC speak for themselves, and otherwise denies Paragraph 10.

#### **JURISDICTION AND VENUE**

11. Paragraph 11 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, for purposes of the current action, USAP does not contest that the Court has subject matter jurisdiction over this action.

12. Paragraph 12 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP does not contest that it transacts business in this district or that venue in this district is proper.

13. Paragraph 13 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP does not contest that the Court has personal jurisdiction over it in this case.

## **THE PARTIES**

### **A. Plaintiff Electrical Medical Trust**

14. USAP lacks sufficient information to admit or deny Paragraph 14's allegations – including, but not limited to, whether “Electrical Medical Trust directly reimburses healthcare providers who treat its members” – and therefore denies Paragraph 14.

### **B. Plaintiff Plumbers Local Union No. 68 Welfare Fund**

15. USAP lacks sufficient information to admit or deny Paragraph 15's allegations – including, but not limited to, whether “Plumbers Local Union No. 68 Welfare Fund directly reimburses healthcare providers who treat its members” – and therefore denies Paragraph 15.

### **C. Defendant U.S. Anesthesia Partners, Inc.**

16. USAP admits the first sentence of Paragraph 16. The second sentence is vague because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21) and those entities do not all provide the services set forth in that sentence. USAP therefore denies the second sentence of Paragraph 16.

### **D. Defendant U.S. Anesthesia Partners Holdings, Inc.**

17. USAP admits that U.S. Anesthesia Partners Holdings, Inc. is a for-profit Delaware corporation and otherwise denies the first sentence of Paragraph 17. The second sentence is vague because the Complaint uses the ambiguous term “ultimate parent company.” USAP therefore denies the second sentence of Paragraph 17. USAP denies the third sentence of Paragraph 17.

18. The allegations in the first sentence of Paragraph 18 are vague insofar as they depend on the undefined term “managers.” USAP admits that certain directors or officers of U.S. Anesthesia Partners Holdings, Inc. are also directors or officers of U.S. Anesthesia Partners,

Inc., but otherwise denies the allegations in the first sentence of Paragraph 18. USAP denies the allegations in the second and third sentences of Paragraph 18.

**E. Defendant U.S. Anesthesia Partners of Texas, P.A.**

19. USAP admits Paragraph 19.

20. The allegations in Paragraph 20 are vague, conclusory, and argumentative, including insofar as they depend on the undefined term “hospital-only anesthesia services.” USAP is not aware of any contracts for “hospital-only anesthesia services” and on that basis denies the allegations in Paragraph 20.

21. USAP denies that three distinct entities can properly be defined as a single actor. To the extent that a further response is required, USAP denies the allegations in Paragraph 21.

**F. Nonparty Co-Conspirator: Welsh Carson**

22. USAP admits the first sentence of Paragraph 22. Otherwise, many of Paragraph 22’s allegations are vague, conclusory, and argumentative, and its allegations regarding Welsh Carson are irrelevant in light of the Court’s dismissal of the Plaintiffs’ claims against it. Further, USAP lacks sufficient information to admit or deny Welsh Carson’s particular organization. To the extent that a further response is required, USAP denies all but the first sentence of Paragraph 22 except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer.

23. USAP admits the first sentence of Paragraph 23. Otherwise, Paragraph 23’s allegations regarding Welsh Carson are irrelevant in light of the Court’s dismissal of the Plaintiffs’ claims against it. Moreover, USAP lacks sufficient information to admit or deny Paragraph 23’s allegations regarding the Welsh Carson entities’ corporate commonalities, and therefore denies Paragraph 23.

24. USAP denies the allegations in Paragraph 24 because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21) and Welsh Carson did not have the ownership interests alleged in Paragraph 24 in each of those entities.

25. The allegations in Paragraph 25 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. Further, Paragraph 25’s allegations regarding Welsh Carson are irrelevant in light of the Court’s dismissal of Plaintiffs’ claims against it. To the extent that a further response is required, USAP lacks sufficient knowledge to admit or deny Welsh Carson’s control of portfolio companies or whether and in what context it “dubbed itself USAP’s ‘primary architect,’” and therefore denies Paragraph 25.

26. The allegations in Paragraph 26 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. To the extent the allegations characterize Welsh Carson’s state of mind, USAP lacks sufficient information to confirm or deny them. USAP admits that material produced in the FTC’s investigation of this matter includes the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents. Because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21) and Welsh Carson does not have the authorities alleged in the third, fourth, and fifth sentences of Paragraph 26 with respect to each such entity, USAP denies the allegations in those sentences. USAP otherwise denies the remaining allegations in Paragraph 26.

27. Paragraph 27’s allegations regarding Welsh Carson are irrelevant in light of the Court’s dismissal of Plaintiffs’ claims against it. To the extent that a further response is required, USAP lacks sufficient information to admit or deny the allegations to the extent they characterize

Welsh Carson's state of mind. Because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21) and those three entities do not share all of the same executives, USAP is unable to admit or deny the allegation that "USAP's" executives were previously affiliated with Welsh Carson. USAP otherwise denies the allegations in Paragraph 27.

28. The allegations in Paragraph 28 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. Further, Paragraph 28's allegations regarding Welsh Carson are irrelevant in light of the Court's dismissal of Plaintiffs' claims against it. Paragraph 28 is also vague because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21). To the extent that a further response is required, USAP denies Paragraph 28.

29. Paragraph 29 sets forth legal conclusions to which no response is required. Further, Paragraph 29's allegations regarding Welsh Carson are irrelevant in light of the Court's dismissal of Plaintiffs' claims against it. Paragraph 29 is also vague because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21). To the extent that a further response is required, USAP denies Paragraph 29.

## FACTUAL ALLEGATIONS

### I. THE RELEVANT MARKETS

#### A. **Product Market: Hospital-Only Anesthesia Services Reimbursed by Commercial Payors**

30. The first sentence of Paragraph 30 states a legal conclusion to which no response is required. The second sentence is an oversimplified and incomplete description of the complex care anesthesiologists, certified registered nurse anesthetists ("CRNAs"), and certified anesthesiologist assistants ("CAAs") provide to patients before, during, and after surgery and other procedures. USAP admits that pain management is one of many aspects of anesthesia care

and that general and local anesthesia are different methods of managing pain, but otherwise denies the allegations in Paragraph 30's second sentence as stated. The third and fourth sentences are characterizations of the Complaint to which no response is required. To the extent that a further response is required, USAP denies those sentences of Paragraph 30.

31. USAP lacks sufficient information to admit or deny the final sentence of Paragraph 31. USAP otherwise denies Paragraph 31.

32. Paragraph 32 alleges a legal conclusion to which no response is required. To the extent that a further response is required, USAP contends that Paragraph 32 is an oversimplified and incomplete description of the complex care anesthesiologists, CRNAs, and CAAs provide to patients before, during, and after surgical and other procedures, and USAP therefore denies Paragraph 32.

33. Paragraph 33 alleges a legal conclusion to which no response is required. To the extent that a further response is required, USAP admits that certain hospital services such as trauma and obstetrics that are not provided in outpatient settings require overnight call and longer shifts that are scheduled in advance. USAP otherwise contends that Paragraph 33 is an oversimplified and incomplete description of the complex care anesthesiologists, CRNAs, and CAAs provide to patients before, during, and after surgical and other procedures, and USAP therefore denies Paragraph 33.

34. Paragraph 34 alleges a legal conclusion to which no response is required. Further, the allegations in the first sentence of Paragraph 34 are vague and ambiguous. Paragraph 34 is also vague because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21). To the extent that a further response is required, USAP denies Paragraph 34, except insofar as

USAP admits that material produced in the FTC’s investigation of this matter includes the quoted language.

35. Paragraph 35 alleges a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 35.

36. Paragraph 36 alleges a legal conclusion to which no response is required. USAP also denies Paragraph 36 to the extent that it is predicated on an undefined methodology for calculating and comparing reimbursement rates that USAP lacks sufficient information to admit or deny. Paragraph 36 is also vague because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21). To the extent that a further response is required, USAP denies Paragraph 36.

37. Paragraph 37 alleges a legal conclusion to which no response is required. To the extent that a further response is required, USAP admits the final sentence of Paragraph 37, and otherwise denies Paragraph 37.

**B. The Relevant Geographic Markets**

38. The allegations in Paragraph 38 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. Moreover, Paragraph 38 alleges a legal conclusion to which no response is required. To the extent that a further response is required, USAP admits that insurers create “provider networks” and that “self-funded insurers sometimes contract with insurers” through contracts that speak for themselves, and that the vague generalizations in all but the first two sentences of Paragraph 38 can be true in some circumstances. But USAP denies that those generalizations apply always and uniformly to each and every marketplace participant, and otherwise denies Paragraph 38.

39. The allegations in Paragraph 39 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. Moreover, Paragraph 39 alleges a legal conclusion to which no response is required. To the extent that a further response is required, USAP admits the vague generalizations in all but the first two sentences of Paragraph 39 can be true in some circumstances, but USAP denies that those generalizations apply always and uniformly to each and every marketplace participant, and otherwise denies Paragraph 39.

40. USAP denies Paragraph 40.

**1. Austin, Dallas, and Houston MSAs**

41. Paragraph 41 sets forth legal conclusions to which no response is required. To the extent that a further response is required, USAP denies Paragraph 41.

42. Subject to the qualifications that the “Austin MSA” is more formally called “Austin-Round Rock, TX MSA,” the “Dallas MSA” is more formally called “Dallas-Fort Worth-Arlington, TX MSA,” and the “Houston MSA” is more formally called “Houston-The Woodlands-Sugar Land, TX MSA,” USAP admits Paragraph 42.

43. The allegations in Paragraph 43 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. Moreover, Paragraph 43 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP admits the vague generalizations in all Paragraph 43 can be true in some circumstances, but USAP denies that those generalizations apply always and uniformly to each and every marketplace participant, and otherwise denies Paragraph 43.

44. The allegations in Paragraph 44 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual



allegation elsewhere in this Answer. Moreover, Paragraph 44 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP admits the vague generalizations in all Paragraph 44 can be true in some circumstances, but USAP denies that those generalizations apply always and uniformly to each and every marketplace participant, and otherwise denies Paragraph 44.

## **2. Combined Texas Major Metropolitan Areas**

45. USAP denies Paragraph 45.

46. The allegations in Paragraph 46 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. Moreover, Paragraph 46 sets forth a legal conclusion to which no response is required. USAP also denies Paragraph 46 to the extent that it is predicated on an undefined methodology for calculating and comparing reimbursement rates that USAP lacks sufficient information to admit or deny. Further, USAP lacks knowledge regarding the contents of United's internal strategy discussions. Paragraph 46 is also vague because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21). To the extent that a further response is required, USAP admits that the Austin, Dallas-Fort Worth, and Houston MSAs together include a majority of Texas's population. USAP denies that the hypothetical generalizations in Paragraph 46 apply always and uniformly to each and every marketplace participant, and otherwise denies Paragraph 46.

47. USAP denies Paragraph 47.

## **3. Texas**

48. USAP denies Paragraph 48.

49. The allegations in Paragraph 49 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual

allegation elsewhere in this Answer. USAP also denies Paragraph 49 to the extent that it is predicated on an undefined methodology for identifying “major” employers and the number of employees of the named employers. To the extent that a further response is required, USAP admits the vague generalizations in all Paragraph 49 can be true in some circumstances, and that the listed companies employ individuals in Texas. But USAP denies that Paragraph 49’s generalizations apply always and uniformly to each and every marketplace participant, and otherwise denies Paragraph 49.

50. The allegations in Paragraph 50 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. Paragraph 50 also sets forth legal conclusions to which no response is required, and makes allegations regarding employers’ state of mind that USAP lacks sufficient information to confirm or deny. USAP otherwise denies Paragraph 50.

51. USAP denies Paragraph 51.

52. USAP denies Paragraph 52.

## **II. USAP AND WELSH CARSON’S ANTICOMPETITIVE SERIAL ACQUISITION SCHEME**

### **A. Welsh Carson Decides to Invest in an “Aggressive ‘Buy and Build’ Consolidation Strategy.”**

53. To the extent that Paragraph 53’s allegations characterize Welsh Carson’s state of mind, USAP lacks sufficient information to admit or deny them. Moreover, Paragraph 53’s allegations regarding Welsh Carson are irrelevant in light of the Court’s dismissal of Plaintiffs’ claims against it. To the extent that a further response is required, USAP admits that material produced in the FTC’s investigation of this matter includes the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents, and USAP otherwise denies Paragraph 53.

54. USAP lacks sufficient information to admit or deny allegations regarding Welsh Carson's state of mind or internal delegation related to investments. USAP otherwise denies Paragraph 54.

55. USAP lacks sufficient information to admit or deny the allegations in Paragraph 55 and therefore denies Paragraph 55.

**B. Welsh Carson and New Day Launch Their Consolidation Strategy by Acquiring Greater Houston Anesthesiology.**

56. USAP admits the first sentence of Paragraph 56. USAP lacks sufficient information to admit or deny factual allegations regarding Pediatrix's acquisitions and Kristen Bratberg's role in them, or USAP's state of mind, and therefore otherwise denies Paragraph 56.

57. USAP lacks sufficient information to admit or deny the allegations of Paragraph 57. Further, to the extent the allegations characterize Welsh Carson's state of mind, USAP lacks sufficient information to admit or deny them. To the extent that a further response is required, USAP respectfully directs the Court to whatever written evidence may be available for an accurate and complete statement of its contents, and otherwise denies Paragraph 57.

58. USAP lacks sufficient information to admit or deny allegations regarding consultants' analysis of the transaction. Further, to the extent the allegations characterize Welsh Carson's state of mind, USAP lacks sufficient information to admit or deny them. To the extent that a further response is required, USAP admits that material produced in the FTC's investigation of this matter includes the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents, and otherwise denies Paragraph 58.

59. To the extent the allegations characterize Welsh Carson's state of mind, USAP lacks sufficient information to admit or deny them. USAP admits that material produced in the

FTC's investigation of this matter includes the quoted language, respectfully directs the Court to that material for an accurate and complete statement of its contents, and otherwise denies Paragraph 59.

60. Because USAP lacks sufficient information to admit or deny the allegations in Paragraph 60, it denies Paragraph 60.

61. USAP lacks sufficient information to know whether "funding" was "secured" and therefore denies the first sentence of Paragraph 61 to the extent it relies on that clause. Because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21), USAP otherwise denies Paragraph 61.

62. The allegations in Paragraph 62 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. The allegations in Paragraph 62 are also vague because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21). To the extent they purport to characterize a "Roll Up Houston" presentation, USAP contends this document speaks for itself. To the extent they characterize Welsh Carson's state of mind, USAP lacks sufficient information to admit or deny them. Further, Paragraph 62's allegations regarding Welsh Carson are irrelevant in light of the Court's dismissal of Plaintiffs' claims against it. To the extent that a further response is required, USAP admits that material produced in the FTC's investigation of this matter includes the quoted language, with the exception of the allegations regarding a Welsh Carson analyst's statements, about which USAP lacks sufficient information to admit or deny. USAP respectfully directs the Court to the quoted evidence for an accurate and complete statement of its contents, and otherwise denies Paragraph 62.

63. To the extent the allegations in Paragraph 63 characterize Welsh Carson’s state of mind, USAP lacks sufficient information to admit or deny them. Further, Paragraph 63’s allegations regarding Welsh Carson are irrelevant in light of the Court’s dismissal of Plaintiffs’ claims against it. To the extent that a further response is required, USAP admits that material produced in the FTC’s investigation of this matter included language similar to the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents, and otherwise denies the allegations in Paragraph 63.

64. The allegations in Paragraph 64 are vague, conclusory, and argumentative, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer. The allegations in Paragraph 64 are also vague because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21). To the extent they characterize Welsh Carson’s state of mind, USAP lacks sufficient information to admit or deny them. Further, Paragraph 64’s allegations regarding Welsh Carson are irrelevant in light of the Court’s dismissal of Plaintiffs’ claims against it. To the extent that a further response is required, USAP admits that material produced in the FTC’s investigation of this matter includes the quoted language, respectfully directs the Court to that material for an accurate and complete statement of its contents, and otherwise denies Paragraph 64.

### **III. USAP ACQUIRES ANOTHER FIFTEEN TEXAS ANESTHESIA PRACTICES.**

#### **A. Lake Travis Anesthesiology**

65. USAP admits that material produced in the FTC’s investigation of this matter includes the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents. The remaining allegations in Paragraph 65 are vague and conclusory, including because the Complaint defines “USAP” as three separate

entities (*see* Paragraph 21), and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer.

**B. North Houston Anesthesiology-Kingwood Division**

66. USAP admits that material produced in the FTC’s investigation of this matter includes the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP otherwise denies Paragraph 66, including because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21), and to the extent that it is predicated on an undefined methodology for calculating reimbursement rates that USAP lacks sufficient information to admit or deny.

**C. Pinnacle Anesthesia Consultants**

67. Paragraph 67 is predicated on an undefined methodology to assess practice group size that USAP lacks sufficient information to admit or deny. Further, USAP lacks sufficient information to admit or deny Paragraph 67’s allegations comparing USAP’s number of cases and revenues to other, unidentified providers of anesthesia services. To the extent that a further response is required, USAP admits that material produced in the FTC’s investigation of this matter includes the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents, and USAP otherwise denies Paragraph 67.

68. USAP lacks sufficient information to admit or deny Paragraph 68’s allegations regarding conversations among third parties. To the extent that a further response is required, USAP admits that material produced in the FTC’s investigation of this matter includes the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents, and USAP otherwise denies Paragraph 68.

69. The first sentence of Paragraph 69 is vague, conclusory, and argumentative, and thus requires no response. Moreover, USAP lacks sufficient information to admit or deny

Paragraph 69's allegations regarding Welsh Carson's state of mind. USAP admits that material produced in the FTC's investigation of this matter includes the quoted language, respectfully directs the Court to that material for an accurate and complete statement of its contents, and USAP otherwise denies Paragraph 69.

70. USAP admits that material produced in the FTC's investigation of this matter includes the quoted language in the first sentence and respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP lacks sufficient information to admit or deny any allegations concerning Welsh Carson's actions or knowledge. USAP admits that material produced in the FTC's investigation of this matter includes the documents referenced and quoted in the second and third sentences. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP otherwise denies Paragraph 70, including because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21).

71. USAP admits that a letter of intent was signed on September 13, 2013, and that material produced in the FTC's investigation of this matter includes the quoted language in the second sentence of Paragraph 71. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP lacks sufficient information to admit or deny the actions of Welsh Carson and Brian Regan. USAP otherwise denies Paragraph 71, including because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21).

72. The allegations in Paragraph 72 are vague, conclusory, and argumentative, and therefore require no response. To the extent that a further response is required, denies the allegations in Paragraph 72 except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer.

73. Paragraph 73's allegations regarding Welsh Carson are irrelevant in light of the Court's dismissal of the FTC's claims against it. USAP respectfully directs the Court to its contracts for an accurate and complete statement of their contents and denies Paragraph 73 to the extent it mischaracterizes those contracts. The remaining allegations in Paragraph 73 are vague and conclusory, and USAP therefore denies them except to the extent that it admits a specific well-pleaded factual allegation elsewhere in this Answer.

**D. Anesthesia Consultants of Dallas**

74. USAP admits that the referenced numbers of physicians and CRNAs affiliated with Anesthesia Consultants of Dallas are accurate. USAP also admits that material produced in the FTC's investigation of this matter includes the quoted language in the second and third sentences of Paragraph 74. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP further admits that Anesthesia Consultants of Dallas had exclusive contracts with Methodist Dallas Medical Center and Texas Regional Medical Center. USAP further admits that Anesthesia Consultants of Dallas served other Methodist Dallas hospitals. USAP otherwise denies the allegations in Paragraph 74, including because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21).

**E. Excel Anesthesia Consultants**

75. USAP admits that the referenced numbers of physicians and CRNAs affiliated with Excel Anesthesia Consultants are accurate. USAP also admits that material produced in the FTC's investigation of this matter includes the quoted language in the third and fourth sentences of Paragraph 75, but respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP otherwise denies the allegations in Paragraph 75, including because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21).



76. USAP admits that material produced in the FTC’s investigation of this matter includes the quoted language and respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP lacks sufficient information to admit or deny the allegation regarding Regan’s state of mind. USAP otherwise denies Paragraph 76, including because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21) and to the extent that it is predicated on an undefined methodology for calculating reimbursement rates that USAP lacks sufficient information to admit or deny.

**F. Southwest Anesthesia Associates**

77. USAP admits that material produced in the FTC’s investigation of this matter discusses the information alleged in the second sentence of Paragraph 77 and respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP otherwise denies Paragraph 77, including because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21) and to the extent that it is predicated on an undefined methodology for calculating reimbursement rates that USAP lacks sufficient information to admit or deny.

**G. BMW Anesthesiology and Medical City Physicians**

78. USAP admits that the referenced numbers of physicians associated with BMW Anesthesiology and Medical City Physicians, respectively, are accurate. USAP further admits that material produced in the FTC’s investigation of this matter includes the quoted language in the third and fourth sentences of Paragraph 78. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP otherwise denies Paragraph 78, including because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21) and to the extent that it is predicated on an undefined methodology for calculating reimbursement rates that USAP lacks sufficient information to admit or deny.

**H. Sundance Anesthesia**

79. USAP admits that the referenced numbers of physicians and CRNAs affiliated with Sundance Anesthesia are accurate. USAP further admits that Sundance Anesthesia held an exclusive anesthesia services agreement with Texas Health Resources-Southwest Fort Worth. USAP admits that material produced in the FTC's investigation of this matter includes the quoted language in the third sentence of Paragraph 79 and respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP otherwise denies Paragraph 79, including because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21) and to the extent that it is predicated on an undefined methodology for calculating reimbursement rates that USAP lacks sufficient information to admit or deny.

**I. East Texas Anesthesiology Associates**

80. USAP admits that the referenced numbers of physicians and CRNAs affiliated with East Texas Anesthesiology Associates are accurate. USAP also admits that in 2016 East Texas Anesthesiology Associates provided anesthesia services at East Texas Medical Center and University of Texas Health Science Center in Tyler. USAP otherwise denies Paragraph 80, including because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21) and to the extent that it is predicated on an undefined methodology for calculating reimbursement rates that USAP lacks sufficient information to admit or deny.

**J. MetroWest Anesthesia Care**

81. USAP admits that material produced in the FTC's investigation of this matter includes the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP lacks sufficient knowledge to admit or deny this Paragraph's allegations regarding Sheridan Healthcare. USAP otherwise denies the allegations in Paragraph 81.

82. USAP lacks sufficient knowledge to admit or deny Paragraph 82, including to the extent that it is predicated on an undefined methodology for calculating and comparing reimbursement rates, case counts, and market shares that USAP lacks sufficient information to admit or deny.

**K. Capitol Anesthesiology Association**

83. USAP admits that the referenced numbers of physicians and CRNAs affiliated with Capitol Anesthesiology Association are accurate. USAP further admits that Capitol Anesthesiology Association had certain exclusive contracts with Austin-area hospitals. USAP further admits that material produced in the FTC’s investigation of this matter includes the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP otherwise denies Paragraph 83, including because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21).

84. USAP lacks sufficient knowledge to admit or deny Paragraph 84’s first sentence, including to the extent that it is predicated on an undefined methodology for calculating and comparing reimbursement rates that USAP lacks sufficient information to admit or deny. USAP admits that material produced in the FTC’s investigation of this matter includes the quoted language in the second sentence. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP otherwise denies Paragraph 84.

**L. Amarillo Anesthesia Consultants**

85. USAP admits that the referenced numbers of physicians and CRNAs affiliated with Amarillo Anesthesia Consultants are accurate. USAP also admits that Baptist St. Anthony’s hospital is one of two hospitals in Amarillo, and that it is part of the Ardent Health Services system. USAP otherwise lacks sufficient knowledge to admit or deny the allegations of Paragraph 85, including because the Complaint defines “USAP” as three separate entities (*see*

Paragraph 21) and to the extent that it is predicated on an undefined methodology for calculating and comparing reimbursement rates, case counts, and market shares that USAP lacks sufficient information to admit or deny.

**M. Star Anesthesia**

86. USAP admits that the referenced numbers of physicians and CRNAs affiliated with Star Anesthesia are accurate. USAP also admits that material produced in the FTC’s investigation of this matter includes the quoted language. USAP respectfully directs the Court to that material for an accurate and complete statement of its contents. USAP otherwise denies Paragraph 86, including because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21) and to the extent that it is predicated on (i) an undefined methodology to assess hospital size and (ii) a different one to calculate and compare reimbursement rates, both of which USAP lacks sufficient knowledge to admit or deny.

**N. Guardian Anesthesia Services**

87. USAP admits that the referenced numbers of physicians and CRNAs affiliated with Guardian Anesthesia Services are accurate. USAP otherwise lacks sufficient knowledge to admit or deny Paragraph 87, including because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21) and to the extent that it is predicated on an undefined methodology to assess provider reimbursement rates that USAP lacks sufficient knowledge to admit or deny.

**IV. MONOPOLY POWER**

**A. USAP Uses Its Monopoly Power to Charge Monopoly Prices.**

88. Paragraph 88’s allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP denies Paragraph 88, including because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21) and to the extent that it presupposes

unidentified methodologies for assessing reimbursement rates, changes in quality, or other factors that USAP lacks sufficient knowledge to admit or deny.

89. Paragraph 89's allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP refers the Court to the cited literature for a complete and accurate statement of its contents, and USAP otherwise denies Paragraph 89, including because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21) and to the extent that it presupposes unidentified methodologies for assessing reimbursement rates, changes in quality, or other factors that USAP lacks sufficient knowledge to admit or deny.

**B. Market Share and Concentration Data Also Evince USAP's Monopoly Power.**

90. Paragraph 90's allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP denies Paragraph 90.

91. Paragraph 91's allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP denies Paragraph 91.

92. Paragraph 92's allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP denies Paragraph 92.

93. Paragraph 93's allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP denies Paragraph 93.

94. Paragraph 94's allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP denies Paragraph 94.

95. USAP admits that Paragraph 95 generally accurately characterizes the method of calculating the Herfindahl-Hirschman Index, but denies any legal conclusion regarding that index's application in this matter.

96. Paragraph 96's allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP denies Paragraph 96.

97. Paragraph 97's allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP denies Paragraph 97.

98. Paragraph 98's allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP denies Paragraph 98.

99. Paragraph 99's allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP denies Paragraph 99.

100. Paragraph 100's allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP denies Paragraph 100.

**C. USAP's Monopoly Power Is Durable and Resistant to Competition.**

101. Paragraph 101's allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. USAP lacks sufficient

information to admit or deny the accuracy of the language quoted in the last sentence of Paragraph 101. To the extent that any further response is required, USAP otherwise denies Paragraph 101.

102. USAP denies Paragraph 102 to the extent that it is predicated on an undefined methodology for calculating and comparing reimbursement rates that USAP lacks sufficient information to admit or deny. USAP admits that providing anesthesia services in any setting requires extensive training and experience and denies Paragraph 102 to the extent that it does not fully capture that training and experience. USAP otherwise denies Paragraph 102, including to the extent that it is predicated on an undefined methodology for calculating and comparing reimbursement rates that USAP lacks sufficient information to admit or deny, or on a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies.

103. Many of the allegations in Paragraph 103 are vague, conclusory, and argumentative, and therefore require no response. USAP admits that the vague generalizations in Paragraph 103's third, fourth, and fifth can be true in some circumstances, but denies that those generalizations apply always and uniformly to each and every marketplace participant. USAP otherwise denies Paragraph 103.

**D. USAP's Monopolization Sacrificed Quality.**

104. The allegations in Paragraph 104 are vague, conclusory, and argumentative, and thus do not require any response. To the extent that a further response is required, USAP admits that the quoted language appears in the cited document, and otherwise denies Paragraph 104.

105. The allegations in Paragraph 105 are vague and conclusory, and therefore require no response. To the extent that a further response is required, USAP admits that the quoted language appears in the document cited in footnote 14, and respectfully refers the Court to it and

the documents cited in footnote 13 for an accurate and complete statement of their contents.

USAP otherwise lacks sufficient information to admit or deny the allegations set forth in Paragraph 105, and therefore denies Paragraph 105.

106. The allegations in the first two sentences of Paragraph 106 are vague, conclusory, and argumentative, and therefore require no response. USAP admits that the press article cited includes the quoted language, which reflects that article's characterization of the beliefs of a single former USAP anesthesiologist in a geography not implicated in this case. To the extent that a further response is required, USAP denies Paragraph 106.

107. The allegations in the first sentence of Paragraph 107 are vague, conclusory, and argumentative, and therefore require no response. USAP respectfully refers the Court to the cited documents for an accurate and complete statement of their contents, including without limitation that the physician at issue violated USAP's written policies. USAP denies that the case that is the subject of Paragraph 107 established any breach of any duty on USAP's part, or is in any way a "consequence[]" of any purportedly anticompetitive conduct alleged in Plaintiffs' Complaint, and otherwise denies Paragraph 107.

108. The allegations in the first sentence of Paragraph 108 are vague, conclusory, and argumentative, and therefore require no response. The allegations in Paragraph 108 are also vague because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21), not all of which are parties to the cases alleged in Paragraph 108. USAP further denies that the mere filing of a malpractice case establishes that USAP has injured any patient, much less in any way related to any purportedly anticompetitive conduct alleged in Plaintiffs' Complaint. USAP further objects to this allegation to the extent that answering it would require USAP to divulge attorney-client communications or attorney work product, or otherwise admit or deny allegations



only properly made in other litigation. To the extent that any further response is required, USAP denies Paragraph 108.

109. The allegations in the first sentence of Paragraph 109 are vague, conclusory, and argumentative, and therefore require no response. The allegations in Paragraph 109 are also vague because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21), not all of which are parties to the case alleged in Paragraph 109. USAP further denies that the mere filing of a malpractice case establishes that USAP has injured any patient, much less in any way related to any purportedly anticompetitive conduct alleged in Plaintiffs’ Complaint. USAP further objects to this allegation to the extent that answering it would require USAP to divulge attorney-client communications or attorney work product, or otherwise admit or deny allegations only properly made in other litigation. To the extent that any further response is required, USAP denies Paragraph 109.

110. The allegations in the first sentence of Paragraph 110 are vague, conclusory, and argumentative, and therefore require no response. The allegations in Paragraph 110 are also vague because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21), not all of which are parties to the case alleged in Paragraph 110. USAP further denies that the mere filing of a malpractice case establishes that USAP has injured any patient, much less in any way related to any purportedly anticompetitive conduct alleged in Plaintiffs’ Complaint. USAP further objects to this allegation to the extent that answering it would require USAP to divulge attorney-client communications or attorney work product, or otherwise admit or deny allegations only properly made in other litigation. To the extent that any further response is required, USAP denies Paragraph 110.

**E. Welsh Carson and USAP's Scheme Did Not Create Efficiencies That Benefited Patients or Payors.**

111. Many of the allegations in Paragraph 111 are vague, conclusory, and argumentative, and therefore require no response. USAP admits that material produced in the FTC's investigation of this matter includes the quoted language. USAP respectfully directs the Court to those documents for an accurate and complete statement of their contents. USAP also admits that Paragraph 111's vague generalizations can be true in some circumstances, but denies that those generalizations apply always and uniformly to each and every marketplace participant. USAP otherwise denies Paragraph 111.

112. The allegations in Paragraph 112 are vague, conclusory, and argumentative, and therefore require no response. To the extent that a further response is required, USAP admits that the article cited includes the quoted language, and otherwise denies Paragraph 112.

**F. Welsh Carson and USAP's Violation of the Antitrust Laws Has Had a Continuing Impact.**

113. The allegations in Paragraph 113 are vague, conclusory, and argumentative, and therefore require no response. Further, its allegations assume a finding that the antitrust product market the Plaintiffs have pleaded is well defined – a conclusion that USAP denies. To the extent that any further response is required, USAP denies Paragraph 113.

**V. USAP ALSO AGREED TO FIX PRICES WITH AT LEAST THREE GROUPS.**

114. The allegations in Paragraph 114 are vague, argumentative, and conclusory, and thus require no response. To the extent that a further response is required, USAP denies Paragraph 114 allegations except as specifically admitted elsewhere in this Answer.

115. USAP lacks information sufficient to admit or deny whether its executives made the quoted statements and denies Paragraph 115's allegations to that effect. USAP further objects to Paragraph 115 to the extent that it characterizes information protected by the attorney-

client privilege. Paragraph 115 otherwise consists of vague and argumentative assertions that do not require a response. To the extent that a response is required, USAP otherwise denies Paragraph 115.

**A. USAP's Agreement with Methodist Hospital Physician Organization**

116. The first sentence of Paragraph 116 is vague, conclusory, and argumentative, and thus requires no response. Paragraph 116 otherwise consists of vague and argumentative assertions that do not require a response, or allegations regarding a statement purportedly made by an unidentified academic group (about which USAP lacks sufficient information to admit or deny). To the extent that a response is required, USAP otherwise denies Paragraph 116, including because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21).

117. USAP admits that the quoted words appear in GHA's contract with Houston Methodist Hospital. USAP respectfully directs the Court to that contract for an accurate and complete statement of its contents and denies Paragraph 117 to the extent it mischaracterizes that contract. The final sentence of Paragraph 117 is predicated on an undefined methodology to calculate and compare reimbursement rates, and USAP thus lacks information sufficient to admit or deny it.

118. USAP admits that it inherited GHA's contract with TMHPO when it entered into an agreement with GHA. USAP respectfully directs the Court to that contract for an accurate and complete statement of its contents and denies Paragraph 118 to the extent it mischaracterizes that contract.

119. The first sentence of Paragraph 119 is predicated on an undefined methodology to calculate and compare reimbursement rates, and USAP thus lacks information sufficient to admit or deny it. Paragraph 119 otherwise consists of vague and argumentative assertions that do not

require a response, including because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21). To the extent that a response is required, USAP denies Paragraph 119.

**B. USAP’s Agreement with Dallas Anesthesiology Associates**

120. USAP respectfully directs the Court to Pinnacle’s contract with Dallas Anesthesiology Associates for an accurate and complete statement of its contents. USAP otherwise denies Paragraph 120, including because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21) and to the extent it mischaracterizes that contract.

121. USAP admits that Pinnacle signed the referenced contract in 2008, and that the quoted language appears in that contract. USAP respectfully directs the Court to that contract for an accurate and complete statement of its contents and denies Paragraph 121 to the extent it mischaracterizes that contract. USAP further admits that Pinnacle provided Dallas Anesthesiology Associates with certain back-office administrative services, such as a customer service telephone number, and that the groups billed patients in the service provider physician’s name. Paragraph 121 otherwise consists of vague and argumentative assertions that do not require a response. To the extent that a response is required, USAP denies Paragraph 121.

122. The first sentence of Paragraph 122 is predicated on an undefined methodology to calculate and compare reimbursement rates, and USAP thus lacks information sufficient to admit or deny it. Paragraph 122 otherwise consists of vague and argumentative assertions that do not require a response, including because the Complaint defines “USAP” as three separate entities (*see* Paragraph 21). To the extent that a response is required, USAP denies Paragraph 122.

123. Most of the allegations in Paragraph 123 are vague, conclusory, and argumentative, and thus require no response. To the extent that a further response is required, USAP admits that Pinnacle provided Dallas Anesthesiology Associates with certain back-office

administrative services, such as a customer service telephone number, and that the groups billed patients in the service provider physician's name, but USAP otherwise denies Paragraph 123.

124. The allegations in Paragraph 124 are vague, conclusory, and argumentative, and thus require no response. To the extent that a further response is required, USAP denies Paragraph 124.

**C. USAP's Agreement with Baylor College of Medicine**

125. USAP lacks information sufficient to admit or deny whether Mr. Regan made the quoted comment, and on that basis denies Paragraph 125's allegation to that effect. USAP otherwise denies Paragraph 125, including because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21).

126. USAP respectfully directs the Court to the agreement with Baylor College of Medicine for an accurate and complete statement of its contents and denies Paragraph 126 to the extent it mischaracterizes that agreement. Paragraph 126 otherwise consists of conclusory and argumentative assertions to which no response is required. To the extent that a response is required, USAP denies Paragraph 126, including because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21).

127. The allegations in Paragraph 127 are vague, conclusory, and argumentative, and thus require no response. To the extent that a further response is required, USAP denies Paragraph 127.

**D. USAP's Attempted Agreement with a University of Texas Group**

128. The allegations in the first sentence of Paragraph 128 are vague, conclusory, and argumentative, and thus require no response. To the extent that a further response is required, USAP otherwise denies Paragraph 128, including because the Complaint defines "USAP" as three separate entities (*see* Paragraph 21).

129. The allegations in Paragraph 129 are vague, conclusory, and argumentative, and thus require no response. To the extent that a response is required, USAP denies Paragraph 129.

#### **VI. THE FEDERAL TRADE COMMISSION FILES SUIT.**

130. USAP admits that the FTC filed the referenced Complaint and contends that document speaks for itself, but denies that the FTC's Complaint is against "USAP" as defined in the Complaint (*see* Paragraph 21). USAP respectfully refers the Court to that Complaint for a complete and accurate statement of its contents, and to USAP's Answer for USAP's denials of the FTC's allegations.

#### **VII. USAP ALSO AGREED TO ALLOCATE A MARKET.**

131. USAP admits that the FTC filed the referenced Complaint, and contends that document speaks for itself. USAP respectfully refers the Court to that Complaint for a complete and accurate statement of its contents, and to USAP's Answer for USAP's denials of the FTC's allegations. The final sentence of Paragraph 131 is vague, conclusory, and argumentative, and thus requires no response. To the extent that a response is required, USAP otherwise denies Paragraph 131.

### **CLASS ACTION ALLEGATIONS**

132. Paragraph 132 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

133. Paragraph 133 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

134. Paragraph 134 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

**A. Numerosity (Rule 23(a)(1))**

135. Paragraph 135 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

**B. Commonality (Rule 23(a)(2))**

136. Paragraph 136 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

137. Paragraph 137 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

138. Paragraph 138 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

139. Paragraph 139 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends

that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

140. Paragraph 140 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

141. Paragraph 141 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

142. Paragraph 142 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

143. Paragraph 143 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

144. Paragraph 144 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.



145. Paragraph 145 sets forth legal conclusions and characterizations of this action to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

**C. Typicality (Rule 23(a)(3))**

146. Paragraph 146 sets forth legal conclusions and characterizations of this action and of Plaintiffs to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

**D. Adequacy (Rule 23(a)(4) and 23(g))**

147. Paragraph 147 sets forth legal conclusions and characterizations of this action and of Plaintiffs to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

**E. Rule 23(b)(2)**

148. Paragraph 148 sets forth legal conclusions and characterizations of this action and of Plaintiffs to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

**F. Rule 23(b)(3)**

149. Paragraph 149 sets forth legal conclusions and characterizations of this action and of Plaintiffs to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

150. Paragraph 150 sets forth legal conclusions and characterizations of this action and of Plaintiffs to which no response is required. To the extent that a further response is required, USAP contends that the Complaint in this matter speaks for itself and denies that Complaint's allegations except as specifically admitted elsewhere in this Answer.

## **VIOLATIONS**

### **COUNT ONE**

#### **Monopolization Section Two of the Sherman Act**

151. USAP incorporates by reference its answers to the allegations in Paragraphs 1-150.

152. Paragraph 152 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 152.

153. Paragraph 153 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 153.

154. Paragraph 154 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 154.

155. Paragraph 155 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 155.

156. Paragraph 156 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 156.

157. Paragraph 157 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 157.

## **COUNT TWO**

### **Unlawful Acquisition Section Seven of the Clayton Act**

158. USAP incorporates by reference its answers to the above paragraphs.

159. Paragraph 159 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 159.

160. Paragraph 160 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 160.

161. Paragraph 161 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 161.

162. Paragraph 162 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 162.

163. Paragraph 163 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 163.

164. Paragraph 164 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 164.

## **COUNT THREE**

### **Attempted Monopolization Section Two of the Sherman Act**

165. USAP incorporates by reference its answers to the above paragraphs.

166. Paragraph 166 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 166.

167. Paragraph 167 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 167.

168. Paragraph 168 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 168.

169. Paragraph 169 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 169.

170. Paragraph 170 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 170.

171. Paragraph 171 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 171.

172. Paragraph 172 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 172.

173. Paragraph 173 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 173.

#### **COUNT FOUR**

##### **Horizontal Agreements to Fix Prices Section One of the Sherman Act**

174. USAP incorporates by reference its answers to the above paragraphs.

175. Paragraph 175 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 175.

176. Paragraph 176 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 176.

177. Paragraph 177 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 177.

178. Paragraph 178 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 178.

179. Paragraph 179 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 179.

180. Paragraph 180 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 180.

181. Paragraph 181 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 181.

182. Paragraph 182 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 182.

### **COUNT FIVE**

#### **Horizontal Agreement to Divide Market Section One of the Sherman Act**

183. USAP incorporates by reference its answers to the above paragraphs.

184. Paragraph 184 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies 184.

185. Paragraph 185 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 185.

186. Paragraph 186 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 186.

187. Paragraph 187 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 187.

188. Paragraph 188 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 188.

189. Paragraph 189 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 189.

190. Paragraph 190 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 190.

191. Paragraph 191 sets forth a legal conclusion to which no response is required. To the extent that a further response is required, USAP denies Paragraph 191.

#### **PRAYER FOR RELIEF**

Plaintiffs' request for relief, as set forth in Paragraphs A-I, does not contain factual allegations to which any response is required. To the extent that a further response is required, USAP denies the allegations and requests for relief of these Paragraphs and denies that the Plaintiffs have stated a claim for relief or are entitled to any relief.

#### **DEMAND FOR JURY TRIAL**

Plaintiffs' demand for jury trial does not contain factual allegations to which any response is required. To the extent that a further response is required, USAP denies the allegations and requests for relief of these Paragraphs and denies that Plaintiffs have stated a claim for relief or are entitled to any relief.

#### **AFFIRMATIVE AND OTHER DEFENSES**

Without assuming any burden of proof that it would not otherwise bear, USAP reasserts, without limitation, all defenses raised in its Motion To Dismiss, Welsh Carson's Motion To Dismiss, and the Defendants' other filings, whether or not separately repleaded herein. USAP further asserts the affirmative and other defenses listed below. In listing the defenses below, USAP does not knowingly or intentionally waive any defenses, including arguments about which issues fall within the Plaintiffs' burden of proof. USAP also reserves the right to rely on any affirmative or other defense or claim that may subsequently come to light, and expressly reserves the right to amend its Answer to assert such additional defenses or claims.

#### FIRST DEFENSE

Plaintiffs' claim that the acquisitions and agreements that are the subject of the Complaint – independently or in the aggregate – violated the antitrust laws Act fails because there were procompetitive justifications for USAP's acquisitions and agreements.

#### SECOND DEFENSE

Plaintiffs' claims and those of putative class members are barred, in whole or in part, by laches and/or the four-year statute of limitations applicable to their claims under the Sherman Act. *See* 15 U.S.C. § 15b. Plaintiffs allege anticompetitive conduct by multiple entities stretching back more than a decade. Thus, Plaintiffs' claims for damages are barred by the statute of limitations, and Plaintiffs' claims for injunctive relief are barred by the doctrine of laches.

#### THIRD DEFENSE

Plaintiffs are not entitled to the relief they seek because USAP has always faced competition in any properly defined market.

#### FOURTH DEFENSE

Plaintiffs are not entitled to the relief they seek because any assets that USAP acquired no longer separately exist, and USAP is a unitary company.

Dated: April 17, 2025

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 17, 2025, I filed the foregoing document with the Court and served it on opposing counsel through the Court's CM/ECF system. All counsel of record are registered ECF users.

Respectfully submitted,

/s/ Mark C. Hansen

Mark C. Hansen