

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND
Civil Division

RS

CAPITOL RADIOLOGY LLC,
7350 Van Dusen Road, Suite B-10
Laurel, Maryland

Plaintiff

v.

Case No.: C-16-CV-24-003548

UNIVERSITY OF MARYLAND
MEDICAL SYSTEM,
250 W Pratt St
Baltimore, MD 21201

**JURY TRIAL
DEMANDED**

**AMENDED VERIFIED
COMPLAINT**

UM CAPITAL REGION HEALTH INC.
901 Harry S. Truman Drive North
Largo, MD 20774

ADVANCED RADIOLOGY AT CAPITAL REGION, LLC
7140 Contee Road
Suite 2000
Laurel MD 20707-9527

and

RADNET, INC.,
1510 Cotner Ave
Los Angeles, California 90025

Defendants.

COMPLAINT

Plaintiff Capitol Radiology LLC ("Plaintiff"), by and through its undersigned counsel,
hereby files this Complaint against Defendants University of Maryland Medical System

(“UMMS”), UM Capital Region Health Inc. (“UM Capital”), Advanced Radiology at Capital Region, LLC (“Advanced Radiology”) and RadNet, Inc. (“RadNet”) (collectively, “Defendants”), and alleges as follows:

PRELIMINARY STATEMENT

1. Dr. Doriann Thomas is an African American woman, and a board-certified radiologist. Approximately twenty years ago, she was able to marshal the resources to purchase the radiology facility at which she worked from Radiologix, Inc. Radiologix is the corporate predecessor to defendant RadNet, Inc. (“RadNet”).

2. Dr. Thomas’ company, Capitol Radiology LLC (“Capitol Radiology”), is now the only African American owned radiology facility in Prince George’s County, in the entire State of Maryland, and on information and belief, on the entire Eastern Seaboard. It has been providing radiology services to community members on the Laurel campus (off of Van Dusen Road) for nearly twenty years. To better serve the community, Capitol Radiology keeps its doors open seven days a week; when Covid hit, Dr. Thomas, CFO Larry McKenney, and the Capitol Radiology team came into the office regularly, unlike many national providers, to make sure that local residents had access to necessary services.

3. Defendants RadNet is a multi-billion-dollar national company based in Los Angeles that is in the business of purchasing and owning local radiology centers. It uses private financing to establish a foothold in the market for radiology services in a few, selected locations, and then drives small, local providers out of business by aggressive and unlawful practices,

creating a monopoly position for its own business. It has identified the State of Maryland as one of seven states targeted for its control.

4. RadNet found a willing partner for its schemes in the University of Maryland Medical System (“UMMS”), a formerly public entity that was privatized by the General Assembly in 1984.

5. After privatization, the UMMS Board of Directors engaged in wholesale self-dealing. When the self-dealing was revealed to the general public in 2019-20, one board member went to jail and all of the others were forced to resign. It was during this same 2019-20 time period that the corruption riddled UMMS and monopoly-driven RadNet entered into a joint venture with the apparent purpose and effect of driving Capitol Radiology out of business.

6. Dr. Richard Bartlett, the Chief Medical Officer of UMMS, had visited Capitol Radiology on a number of occasions and come away impressed; he advised Capitol Radiology that there was no need for additional outpatient radiology services on the small, Laurel campus, and that Capitol Radiology would make an excellent service provider for UMMS.

7. But amidst the scandal, the respected Dr. Bartlett resigned. UMMS and RadNet then secretly entered a joint-venture agreement to build a new outpatient radiology center on the Laurel campus – just 50 yards away from the doors of Capitol Radiology.

8. There was no public need for an outpatient radiology center at that location because Capitol Radiology already was providing services there.

9. The statute authorizing UMMS privatization imposed on it a duty to conduct procurement activities consistent with minority purchasing standards applicable to State

government agencies, and prohibited it from discriminating based on race. UMMS awarded RadNet with a joint-venture, sole-source partnership in violation of those requirements.

10. UMMS did not offer Capitol Radiology an opportunity to bid on a contract for the provision of outpatient radiology services on the Laurel campus, even though it had been exclusively providing such services at that exact location for nearly twenty years.

11. UMMS later admitted that it had purposely excluded Capitol Radiology from the bidding process, with the excuse that it did not have a pre-existing relationship with UMMS. But State bidding law, as applied to UMMS, bars precisely this type of cronyism, since it perpetuates historic racism by putting small, black owned establishments lacking this type of pre-existing relationship out of business.

12. UMMS knew that locating an outpatient radiology facility on the Laurel campus would have a substantially adverse effect on the black- and female-owned Capitol Radiology. On information and belief, it excluded Capitol Radiology from bidding on the joint venture opportunity precisely *because* it was black- and female-owned, and therefore likely to prevail under State bidding rules. Creating a competing outpatient radiology center on the Laurel campus, and excluding Capitol Radiology from the bidding process, violated the applicable anti-discrimination laws.

13. UMMS also admitted to another illicit purpose for entering its joint venture agreement with RadNet: to obtain patient referrals. According to UMMS, it determined that it would only enter an agreement with a radiology facility if the facility promised to refer and

direct patients for the medical component of the service to University of Maryland School of Medicine physicians (who also serve as physicians at UMMS).

14. Thus, the joint venture benefited RadNet by eliminating a competitor and further monopolizing the market, and benefiting UMMS by eliminating competition for physician services – both in violation of the antitrust laws.

15. The UMMS-RadNet Joint Venture also is in breach of the Asset Purchase Agreement by which Capitol Radiology purchased the Laurel facility from RadNet. That agreement provided Capitol Radiology with a right-of-first refusal for certain outpatient services at the Laurel campus. A public bidding process by UMMS would have revealed this contractual obligation, as would any reasonable due diligence performed by UMMS. Instead, the project went forward in breach of the Asset Purchase Agreement.

16. Plaintiffs therefore bring this action *inter alia* for violation of the State bidding laws, discrimination, antitrust, and breach of contract, and seeking preliminary and permanent injunctive relief, compensatory damages, treble and punitive damages, attorneys' fees and costs, and such other relief as the court deems appropriate.

PARTIES

17. Plaintiff Capitol Radiology LLC is a limited liability company organized under the laws of Maryland, with its principal place of business in Prince George's County, Maryland. Plaintiff brings this suit in its own right; as a property owner whose property rights have been affected by the acts of defendants; and as a taxpayer, and on behalf of other taxpayers, who have

suffered harm through the *ultra vires* acts of defendants which will cause Plaintiff pecuniary harm or an increase in taxes.

18. Defendant University of Maryland Medical System is a not-for-profit corporation established under the laws of Maryland, with its principal place of business located at 250 W. Pratt St., Baltimore, MD 21201.

19. Defendant UM Capital Region Health Inc. (“UMCAP”) is a not-for-profit corporation established under the laws of Maryland, with its principal place of business located at 901 Harry S. Truman Drive North Largo, MD 20774. UMMS is the sole member of UMCAP, and pays all of its executives and employees. UMCAP has an independent board of directors.

20. Defendant Advanced Radiology at Capital Region, LLC, is a limited liability company with its principal place of business at 7140 Contee Road, Suite 2000, Laurel MD 20707-9527. On information and belief, it is associated with defendant RadNet, and intended to play a role in the operation of the radiology facility at issue in this action.

21. Defendant RadNet, Inc. is a corporation organized under the laws of Delaware, with its principal place of business located at 1510 Cotner Ave., Los Angeles, California 90025. It is the legal successor to the contractual obligations of Radiologix, Inc.

JURISDICTION AND VENUE

22. This Court has jurisdiction over this matter pursuant to Md. Code Ann., Cts. & Jud. Proc. § 6-102(a) and § 6-103(b), as the causes of action arose in Prince George's County, Maryland, and Defendants conduct substantial business in Maryland. Additionally, this Court has jurisdiction under Md. Code Ann., Cts. & Jud. Proc. § 6-104(a) because the Agreement between Plaintiff and Defendant RadNet’s predecessor-in-interest contains a forum selection

clause designating the courts of Prince George's County, Maryland, as the exclusive forum for any disputes arising out of or related to the Agreement.

23. Venue is proper in this Court pursuant to Md. Code Ann., Cts. & Jud. Proc. § 6201(a) and § 6-202(3), as a substantial part of the events giving rise to the claims occurred in Prince George's County, Maryland, and under Md. Code Ann., Cts. & Jud. Proc. § 6-104(b), and as the Agreement between Plaintiff and Defendant RadNet contains a forum selection clause designating Prince George's County, Maryland, as the venue for any disputes arising out of or related to the Agreement.

FACTUAL BACKGROUND

A. Capital Radiology Is a Small, Woman and Minority-Owned Business at the Mercy of a National, Monopolizing Billion Dollar Radiology Company and a Corrupt, Off-the-Books Government Entity.

1. Capitol Radiology Is a Black and Women-Owned Radiology Facility That Has Served as a Backbone to the Larger Prince George's Community.

24. Capitol Radiology is the only black- and woman-owned Radiology Facility in the Mid-Atlantic region. Headquartered in Laurel, Maryland, it has served over 700,000 patients from Prince George's, Montgomery, Howard, and Anne Arundel Counties during its 17 years of existence. It has performed more than 170,000 Medicare and Medicaid procedures, and sees more than 3,000 uninsured patients annually. It is the only non-hospital imaging facility that is open seven days a week, which it does to better serve its patients.

25. Capitol Radiology has been an indispensable asset to Prince George's County and the community of Laurel for more than 19 years. For example, Capitol Radiology played a leading role in providing community healthcare during the COVID emergency when the hospital

systems were overwhelmed and treating only COVID patients. While some nationally run radiology centers suspended or sharply curtailed operations, Capitol Radiology's 50-plus employees, drawn from the community, went into the facility every day, risking their lives to make sure community members had access to radiology services during this difficult time.

26. Capitol Radiology also provides jobs and workplace development services to students at UMBC, Prince George's Community College, Howard Community College, and Montgomery Community College. Capitol Radiology trains the students and provides entry level job opportunities for the students to begin their careers in the healthcare industry. Capitol Radiology's programs have encouraged minority members and women to enter medical school and health-related fields, with the effect of partially mitigating the harmful effects that racial disparities have imposed on community health.

2. Capitol Radiology Purchased Its Assets Including Condominium Rights at the Laurel Campus through an Asset Purchase Agreement with RadNet that Included Exclusive Rights in the Laurel Campus.

26. Capitol Radiology began its life with the purchase of an existing radiology facility from *inter alia* RadNet's predecessor entity Radiologix, Inc. A copy of the Asset Purchase Agreement is attached hereto as Exhibit A.

27. Dr. Thomas, an African American woman, is a board-certified radiologist. Dr. Thomas had been a party to a Service Agreement with the facility. Through the Asset Purchase Agreement, she realized a lifelong dream and became a part owner.

28. An important feature of the purchase was that it enabled Capital Radiology and Dr. Thomas to provide exclusive outpatient imaging services at the Laurel campus. The campus

is small, and in a neighborhood lacking sufficient access to healthcare, there was no reason for a second radiology center at that location.

29. At the time of the agreement, there was an MRI machine on the Laurel campus for which Dr. Thomas was providing services. Accordingly, consistent with the general intent and other provisions of the contract, the parties agreed that if RadNet were to engage physicians to provide MRI supervision and interpretation services at the Laurel MRI facility located at 7400 Van Dusen Road, then Capitol Radiology would have a right of first refusal to provide such services at that location under commercially reasonable terms. Exhibit A, ¶ 6.11 at p. 15.

30. The right of first refusal reflected the parties' intention that Radiologix would not compete with Capitol Radiology by situating a competing outpatient imaging center on the small, Laurel campus.

3. Provision of Radiology Services by Capitol Radiology Helps Mitigate Healthcare Disparities.

31. Large and persistent racial differences in healthcare quality are well documented. In 2005, for example, the Institute of Medicine—a not-for-profit, non-governmental organization that now calls itself the National Academy of Medicine (NAM)—released a report documenting that poverty cannot account for the fact that black people are sicker and have shorter life spans than their white complements.

32. It found that “racial and ethnic minorities receive lower-quality health care than white people—even when insurance status, income, age, and severity of conditions are comparable.”

33. Researchers therefore have concluded that a “critical goal of medical education should be to increase the number of minority professionals. Research clearly indicates that black and Hispanic physicians are much more likely than other physicians to care for the uninsured.” Williams DR, Rucker TD. Understanding and addressing racial disparities in health care. *Health Care Financ Rev.* 2000 Summer;21(4):75-90. PMID: 11481746; PMCID: PMC4194634. Exhibit B.

34. In radiology, there are widespread racial health disparities related to access to screening, which ultimately impact patient health outcomes. Goldberg, et al, *How We Got Here: The Legacy of Anti-Black Discrimination in Radiology*, Radiology Society of North America, Vol. 43, No. 2. See Exhibit C. See also M. Stempniak, *RSNA Apologizes for Organization’s Contributions to Structural Racism in Radiology*, Radiology Business, March 3, 2023 (Exhibit J); J. Kenen and E Batchlor, *Racist Doctors and Organ Thieves: Why So Many Black People Distrust the Health Care System*, Politico Magazine, December 18, 2022 (Exhibit K); K.M. Bridges, *Implicit Bias and Racial Disparities in Health Care*, Human Rights Magazine Vol. 43, No. 3: The State of Healthcare in the United States (Exhibit L).

26. For breast, lung, and colorectal cancer, all of which have imaging-based screening guidelines, Black patients have up to a 42% higher mortality rate compared with that of White patients. See Exhibit C.

27. There is a 41% higher mortality rate from breast cancer among Black women compared with that among White women. *Id.* There is a higher mortality rate from lung cancer for Black patients. *Id.* Black patients on average have a higher risk for lung cancer than do

White patients with a similar smoking history and demonstrate earlier disease onset and more advanced stage at lung cancer diagnosis. *Id.* Even so, Black patients are less likely to undergo screening for lung cancer. *Id.*

28. Black physicians are significantly underrepresented in the radiology workforce relative to their representation in the general U.S. population. *Id.* In the United States, Black physicians make up 6.2% of medical school graduates, 3.1% of diagnostic radiology residents, 2.1% of diagnostic radiology practicing physicians, and 2.0% of diagnostic radiology faculty. For reference, 13.6% of the United States population is Black. *Id.*

29. Health care interventions on the structural level are necessary to address the marked disparities in cancer mortality rates. *Id.* Within the professional environment, expanding diversity is crucial for both radiologists and patients alike. *Id.* Increased diversity in the professional workforce has been tied to performance improvement and innovative practices and has also been associated with professional efforts to expand access and challenge racial barriers to care. Improving diversity within the medical workforce has thus been associated with improved patient care. *Id.*

B. RadNet Is a California Company in the Business of Monopolizing Radiology Services in Targeted Regions.

31. RadNet is a \$2.6 billion publicly traded company operating out of its headquarters in Los Angeles. It derives nearly all of its income from operating radiology and imaging centers in concentrated regional networks.

32. The Federal Trade Commission recently filed suit against a similar company, financed by a private equity company, for monopolizing the market for anesthesiology services.

The reasoning of the FTC complaint demonstrates the deleterious effects of RadNet’s monopolization of the outpatient radiology market in Maryland as well.

33. As the FTC complaint explained, “anesthesia services are critical to modern surgery; hospitals need to offer anesthesia services, and patients, their employers, and insurers must pay for them, even if choices dwindle and prices go up. [The defendants] saw that eliminating competitors—by acquiring or conspiring with them, instead of competing on the merits—would give them the power to raise prices, raking in tens of millions of extra dollars.” *FTC v. U.S. Anesthesia Partners*, Southern District of Texas, at ¶ 3. Exhibit D.

34. The result of these monopolistic practices, as alleged by the FTC, was higher prices for insurers (and therefore local businesses and citizens) and monopoly profits for the company.

35. In its complaint, the FTC noted that the same business model was being employed in the market for radiology services. *Id.*, at ¶ 339. As the FTC alleged, “when preparing to enter the radiology market, the defendant explained that ‘given our success to date with anesthesia and in emergency medicine we would like to deploy a similar strategy to consolidate the radiology market’ By all appearances, the defendant did just that.” (*Id.*, cleaned up).

36. RadNet has adopted the same model of “rolling up” small radiology centers with the goal of monopolizing the market that the FTC has challenged in its case against U.S. Anesthesia Partners. According to RadNet’s Annual Report, “Our diagnostic imaging centers are strategically organized into regional networks concentrated in major population centers in

seven states, providing a density that offers unique benefits to . . . us.” RadNet 2023 Annual Report, at p. 4.

37. Those unique benefits include the opportunity to monopolize local markets and increase prices, with the effect of improperly or unreasonably increasing the cost of healthcare for employers and ordinary citizens.

3. UMMS Is an Off-the-Books Government Entity Whose Board of Directors Was Forced to Resign for Self-Dealing Based on Emergency State Remedial Legislation.

38. Prior to 1984, the entity that became UMMS was part of the University of Maryland. UMMS was created in 1984 when the State privatized its founding hospital.

39. As part of the privatization process, the Maryland General Assembly passed legislation transferring the major health care delivery components from the University System to UMMS. The legislation provides for certain level of oversight by the State of Maryland to ensure UMMS’ functions and operating practices were consistent with its founding purposes.

40. Members of the UMMS Board of Directors are appointed by the Governor, and its mission is for the benefit of the public. It also maintains a continuing partnership with the University of Maryland School of Medicine.

41. UMMS is a multi-billion-dollar corporation with annual revenues of nearly \$5 billion. Its president receives a salary in excess of \$3.5 million annually, and it has more than 15 executives with salaries in excess of \$500,000 annually.

42. UMMS is structured so that its multi-billion-dollar operations would be governed by political appointees who operate independently of State government, and were not accountable to anyone for their actions. This structure resulted in a shocking scandal involving self-dealing

that resulted in the Mayor of Baltimore going to jail, and the Board's members forced to resign for corruption. The UMMS joint venture with RadNet was approved at the very time that the Board's self-dealing was coming to light, but before the corrupt board members were forced to resign.

43. More specifically, in March 2019, the Baltimore Sun reported that a third of the Board's 30 members had entered into more than \$115 million worth of for-profit deals with UMMS, many of which were not competitively bid. Exhibit E.

44. Under one of the deals, UMMS paid Mayor Catherine Pugh of Baltimore, a Board Member, \$500,000 to produce her "Healthy Holly" children's books. Those deals, federal prosecutors said, allowed Pugh to begin a "seven-year scheme to defraud, multiple years of tax evasion, election fraud and attempted cover-ups, including brazen lies to the public." *Id.*

45. After The Sun's revelations, Pugh resigned from the board and as mayor. The FBI raided her houses and City Hall in late April 2019, and she later pleaded guilty to conspiracy and tax evasion. She was sentenced to three years in prison. *Id.*

46. In response to the scandal, state lawmakers passed sweeping reform legislation, which included requiring an audit of UMMS. A copy of the audit is attached as Exhibit F.

47. The audit described a pervasive system of self-dealing. The auditors wrote "there was a lack of transparency, policies and procedures, and documentation to support the source, nature, and the overall propriety of many of these payments" made to board members.

48. The auditors also described the UMMS board and executive as obstructing their audit. The review was due in December 2019, but auditors requested an extension until March 2020, based on what they said was interference from UMMS. Legislative Auditor Gregory Hook

told lawmakers in November 2019 that UMMS "delayed and hindered" his office's work. That concern was reflected in the final report, in which auditors said UMMS officials refused to make certain documents or employees readily available - so much so that they did not even consider their review an "audit" under the generally accepted standards of their office. They called their product a "Special Review."

49. The UMMS-RadNet joint venture was the product of this very Board of Directors.

C. UMMS Violated Its Governing Statute by Failing to Offer Capitol Radiology the Opportunity to Bid on the Radiology Joint Ventures.

1. UMMS Assumed the Operations of Dimensions Health.

50. Prior to 2010, Dimensions Healthcare System was a not-for-profit entity closely linked with Prince George's County. Prince George's County played a significant role in its financial and operational oversight, including through board membership and funding.

51. Dimensions was said to be struggling with outdated facilities, financial deficits, and an inability to meet the growing healthcare needs of the community. In response, Prince George's County, the State of Maryland, the University System of Maryland, and UMMS began discussions about the future of healthcare in the county, culminating in a Memorandum of Understanding signed in 2011 to develop a comprehensive plan to strengthen healthcare services in the area.

52. By 2018, UMMS officially took over the operations of Dimensions Healthcare System, renaming it the University of Maryland Capital Region Health.

53. A centerpiece of the transition was the construction of the University of Maryland Capital Region Medical Center in Largo. The takeover also included the Dimensions facility in Laurel, when UMMS closed the hospital at the site and converted it into ambulatory care site.

2. UMMS Was Aware that Capitol Radiology Was a Black-Owned Facility on the Laurel Campus and Concluded there was No Need to Build a Competing Radiology Facility there.

54. Dr. Stephen Bartlett served at the University of Maryland Medical System (UMMS) for nearly three decades. He began his tenure there in the early 1990s and held several key positions, including executive vice president and chief medical officer. Dr. Bartlett resigned from his leadership roles in December 2018 after just six months service as CMO, marking the end of his long-standing association with UMMS.

55. In seeking to implement the MOU for healthcare services in Prince George's County, Dr. Bartlett met with Capitol Radiology several times in his office in Baltimore and also performed his own site visits to the Laurel office as well.

56. Dr. Bartlett expressed during his first site visit that he was pleased to see the amount of diagnostic equipment and the depth of program management available at Capitol Radiology. Dr. Bartlett thought a collaboration between UMMS and Capital Radiology was a natural fit since Capitol Radiology already was on the campus supporting the community.

57. Dr. Bartlett also expressed his conviction that it would be value added for UMMS to have at least one black-owned radiology group in the University of Maryland family since it serves the largest majority minority community in the state. He also said that it would make no

sense to waste resources on the Laurel site that already was adequately covered for radiology services.

58. Dr. Bartlett assured Capitol Radiology that there would not be any negative impact of what Capitol was doing on the campus. He said he wanted to incorporate Capitol Radiology into other projects of UMMS, since UMMS had only limited minority physician participation and no minority radiology group participation.

59. Dr. Bartlett acknowledged that there was no clinical, or medical reason for UMMS to duplicate the radiology services that Capitol was already providing on the campus.

3. Under Its Governing Statute, UMM Was Required to Provide the Minority- and Woman- Owned Capitol Radiology the Opportunity to Bid on the Radiology Joint Ventures.

60. At the time the Joint Venture was awarded, Maryland law required that the UMMS Board of Directors “conduct procurement activities consistent with minority purchasing standards applicable to State government agencies.” Md Code Ann, Educ § 13-303.

61. The Maryland Procurement Code explained the purpose of the minority purchasing standards included therein. As the statute explained:

(3) the General Assembly has received and carefully reviewed the disparity study entitled “Business Disparities in the Maryland Market Area” commissioned by the General Assembly and published on February 8, 2017 (the Study), and finds that the Study provides a strong basis in evidence demonstrating persistent discrimination against minority- and women-owned businesses;

(4) based on its review of the Study, the General Assembly finds that:

(i) there are substantial and statistically significant adverse disparities that are consistent with discrimination against minorities and nonminority women in wages, firm formation, entrepreneurial earnings, and access to capital in the

private sector in the same geographic markets and industry categories in which the State does business;

(ii) the State would become a passive participant in private sector racial and gender discrimination if it ceased or curtailed its remedial efforts, including the operation of the Minority Business Enterprise Program;

(iii) there are substantial and statistically significant adverse disparities that are consistent with discrimination against minorities and nonminority women in State procurement;

(iv) there are substantial and statistically significant adverse disparities that are consistent with discrimination against all individual minority groups and for nonminority women in most major industry categories in State procurement;

(v) there is ample evidence that discrimination in the private sector has depressed firm formation and firm growth among minority and nonminority women entrepreneurs; and

(vi) there is powerful and persuasive qualitative evidence, both statistical and anecdotal, of discrimination against minority and nonminority women business owners in both the public and private sectors;

(5) as a result of ongoing discrimination and the present day effects of past discrimination, minority- and women-owned businesses combined continue to be very significantly underutilized relative to their availability to perform work in the overwhelming majority of the procurement categories in which the State does business;

(6) minority prime contractors also are subject to discrimination and confront especially daunting barriers in attempting to compete with very large and long-established nonminority companies;

(7) despite the fact that the State has employed, and continues to employ, numerous and robust race-neutral remedies, including aggressive outreach and advertising, training and education, small business programs, efforts to improve access to capital, and other efforts, there is a strong basis in evidence that discrimination persists even in public sector procurement where these efforts have been employed;

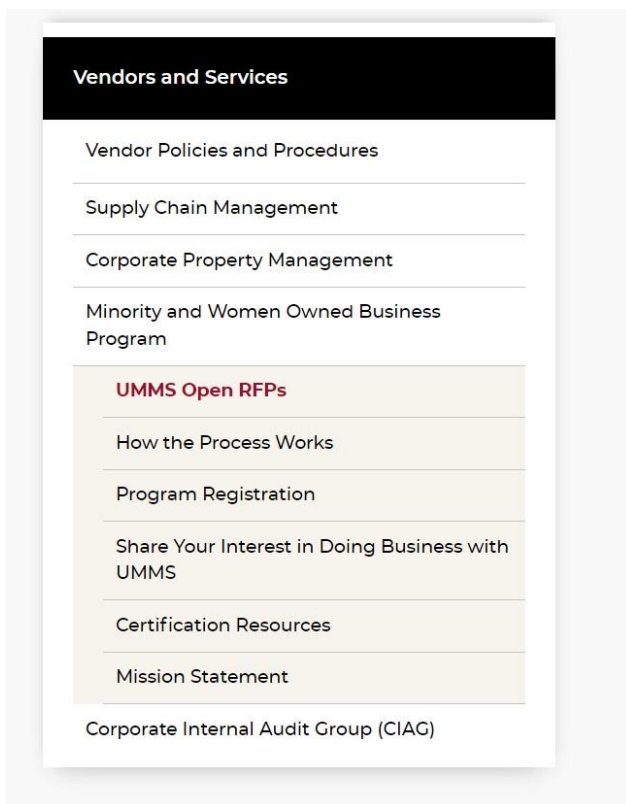
MD State Fin & Proc § 14-301.1.

61. The statute concluded that “State efforts to support the development of competitively viable minority- and women-owned business enterprises will assist in reducing discrimination and creating jobs for all citizens of Maryland.” *Id.*

62. UMMS itself purports to comply with its statutory bidding requirements by making its projects available for public bidding and applying statutory standards to those bids.

63. UMMS maintains a website devoted to making Requests for Proposals available to woman- and minority-owned businesses.

64. The website includes a drop-down menu listing open RFPs and an adjacent menu for minority and woman-owned businesses to become certified for bidding.



4. Through a Process Unknown to Capitol Radiology, UMMS Entered a Joint Venture Agreement with RadNet for Multiple Radiology Sites, Including One on the Laurel Campus.

65. The Laurel campus is essentially a medical campus with a small number of buildings, separated by parking lots and some green spaces. The new joint-venture outpatient radiology facility is visible from Capitol Radiology's building and noise from patient arrivals at that facility can be heard in Capitol Radiology's building.

66. As alleged above, the UMMS Chief Medical Officer determined in conjunction with the MOU for providing UMMS services in Prince George's County that no additional outpatient radiology services were necessary, and that Capitol Radiology was adequately providing services at that location.

67. How it came about that UMMS and RadNet entered a joint venture agreement to develop and open a competing outpatient radiology facility on the Laurel campus is not publicly known, and is not known to Capitol Radiology.

68. When Capitol Radiology learned of the joint venture, it wrote to UMMS and elected government officials to learn how the result had come about. UMMS completely ignored its communications.

69. Eventually, Congressman Ivey wrote to UMMS on behalf of Capitol Radiology. UMMS wrote back to the Congressman in response.

D. UM Capital Region Ignored the Mayor of Laurel's Communications in Support of Capitol Radiology.

70. On April 4, 2023, Laurel Mayor Craig Moe wrote to Nathaniel Richardson, Jr., President and CEO of UM Capital Region. A copy of the letter is attached hereto as Exhibit G.

71. In his letter, Mayor Moe expressed his displeasure with UM Capital for breaking its promise that local businesses would not be adversely impacted by its takeover of Dominion Health. As the letter expressed:

Capital Radiology was formed in 2005 and has long been a pillar in this community, meeting the needs of many. This business, Capital Radiology, continued to operate even as "Dimensions Leadership" tore the Laurel Regional Hospital apart and failed the community. Capital Radiology is a small business, a local business, and the only black and women-owned radiology business in the Mid-Atlantic. The University of Maryland Capital Region Health System has failed to protect and support this local minority-owned business, in fact, with no support from Capital Region Health, they may even begin to fail due to Capital Region Health taking business from them.

It concerns me that even Dr. Stephen Bartlett, whose name is no longer mentioned as part of the University of Maryland Healthcare System, saw that a small Laurel business such as Capital Radiology had to be protected. What has changed? Dr. Bartlett many times said to me that "Laurel Businesses would not be impacted" and that the University of Maryland Capital Region Health was committed to further diversity; what has changed?

E. In an Exchange of Letters with Congressman Ivey, UMMS Revealed that It Had Engaged in an Illegal, Exclusionary Process to Enter the Joint Venture Agreement with RadNet.

72. According to UMMS' own letter to Congressman Ivey, UM Capital made plans to undertake a joint venture for the development of two outpatient Imaging Centers to be located in Laurel, Maryland and Largo, Maryland.

73. The outpatient center was not the subject of public bidding. Instead, acting through UM Capital, UMMS issued what it termed a "Request for Information" only to particular imaging services companies that met its criteria. Exhibit H. ("UM Capital decided to issue the RFI to imaging services companies that met several key criteria.")

74. Among the criteria that UMMS used to pre-screen potential partners was that it have a pre-existing relationship with UMMS. This form of cronyism is anathema to the public bidding process because it results in the selection of companies based on pre-existing relationships rather than merit. It also serves to perpetuate discrimination by freezing out previously excluded groups.

75. Capitol Radiology was fully qualified to meet the criteria identified by UMMS in its letter. It had a pre-existing relationship with UMMS through the UMMS health plan, with which it had a provider agreement. It had experience and wherewithal to develop, outfit and staff new imaging centers, and it previously had done so successfully. Capitol has already outfitted and staffed two imaging centers with more equipment than that on offer at UMMS Laurel facility.

76. In any event, UMMS was not permitted to use backroom apparatchiks to determine which potential bidders were qualified and which were not, and to exclude qualified, minority- and female-owned businesses from the bidding process. Under State law, the question of whether or not Capitol Radiology or other potential bidders were qualified was a decision for a neutral bid-review committee, not back-room operatives.

77. UMMS letter confirms that UMMS did not offer Capital Radiology an opportunity to bid on a contract for the provision of outpatient radiology services on the Laurel campus, even though it had been exclusively providing such services at that exact location for nearly twenty years.

78. Capitol Radiology also was a qualified subcontractor for any joint venture at the facility. UMMS also did not structure the contract in a manner that would have allowed Capitol

Radiology to participate in the Joint Venture as a qualified subcontractor, as required under state bidding rules.

F. UMMS and RadNet Conspired to Enable RadNet to Monopolize Outpatient Radiology Services in Prince George's County for their Mutual Benefit.

1. RadNet Entered into the Unlawful Joint Venture with UMMS to Advance Its Monopolization of the Prince George's County and Maryland State Outpatient Radiology Market.

78. RadNet's Maryland activities match and exceed the FTC's description of the monopolization of the anesthesia markets. For this complaint, the relevant marketplaces are the markets for outpatient radiology services in Prince George's county, and in the State of Maryland.

79. First, RadNet purchased the company that was the administrator of the United Health Care Network. That company determined who could participate in insurance networks. RadNet cancelled Capitol Radiology's participation agreement, and locked Capitol Radiology out of the network.

80. RadNet also consolidated ownership of the small, physician-owned and operated radiology facilities in the State of Maryland and Prince George's County. It opened radiology centers near its rival in Maryland, American Radiology, and siphoned off enough patient volume to make the centers agree to sell to them. RadNet has now cornered the market in Prince George's County and the State of Maryland with ownership of more than 55 imaging centers.

81. There are only two independent radiology facilities in Prince George's County and Capitol Radiology is one of the two left.

82. Large out of state business now controls ninety-seven percent of the radiology centers in the State of Maryland.

2. UMMS Entered the Unlawful JV Arrangement with RadNet to Advance Its Unlawful Interest in Obtaining Fees for Medical Referrals.

83. According to the UMMS letter, UMMS limited its search to a partner that would provide imaging services only. As the letter explained:

UM Capital would need a partner to contribute capital, personnel, and technology and provide imaging services only. UMSOM radiologists would provide the professional radiologist services to read and interpret images.

84. This type of self-referral has negative health effects because it leads to overuse and higher costs. Exhibit I.

85. The UMMS-RadNet joint venture thus has the intent and effect of eliminating competition for the professional services of reading and interpreting images, to the detriment of patients, consumers and employers.

G. The UMMS-RadNet Joint Venture Violates the Asset Purchase Agreement, a Violation that Should have been known to UMMS.

84. Under Capital Radiology's Asset Purchase Agreement, RadNet is required to offer Capitol Radiology the exclusive rights to services on commercially reasonable terms if it decides to provide such services on the Laurel campus.

85. Despite this obligation, RadNet has not offered Capitol Radiology the right of first refusal required under the Agreement.

86. UMMS has entered into a joint venture with RadNet to provide outpatient radiology services on the Laurel campus without following the proper public bidding procedures.

Had UMMS conducted a proper public bidding process, RadNet's contractual obligations would have been known to it. Had UMMS conducted appropriate due diligence, RadNet's contractual obligations would have been known to it.

CAUSES OF ACTION

Count I:

Violation of UMMS Bidding Requirement (Md Code Ann, Educ § 13-303(e)) (against UMMS, UM Capital and RadNet)

87. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein. Plaintiff alleges violations UMMS bidding requirements under UMMS Education Law § 13-303(e) directly, as a property owner, and as and on behalf of taxpayers.

88. Plaintiff holds an ownership right in the condominium building that is in close proximity to the UMMS-RadNet joint venture outpatient radiology facility in the Laurel campus. Plaintiff's ownership interest is adjoining, confronting and nearby the property on which the joint venture is built and to be operated, and within view and sound distance of the facility.

89. Plaintiff is a limited liability company registered and operated in Maryland that pays taxes to the State of Maryland.

90. UMMS violated Maryland's public bidding laws by entering into agreements with RadNet in violation of the laws governing the bidding of contracts by UMMS, including but not limited to the requirement that the UMMS Board of Directors "conduct procurement activities consistent with minority purchasing standards applicable to State government agencies." Md Code Ann, Educ § 13-303(e).

91. RadNet knew or should have known that the contract was offered to it in violation of the State bidding rules.

92. As a result of UMMS's actions, Plaintiff has suffered and continues to suffer harm and damages, in its business capacity, as a property owner, and as a taxpayer, including but not limited to lost business opportunities and revenues. UMMS actions especially aggravate Plaintiff in a manner different from that of other property owners and taxpayers. Taxpayers will generally suffer from the loss of tax revenue resulting from, among other things, increased health care costs to businesses, and Capitol Radiology being driven out of business.

**Count II:
Violation of Md Code, Educ § 13-303(d)
(Race and Sex Discrimination)
(against UMMS and UM Capital)**

93. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

94. Md Code, Educ § 13-303(d) is titled "Violation of Discrimination based upon race, creed, sex, or national origin prohibited." It provides that "The Board of Directors shall operate the medical system without discrimination based upon race, creed, sex, or national origin."

95. UMMS' actions as described herein were in violation of Md Code, Educ § 13-303(d).

96. As a result of UMMS's discriminatory actions, Plaintiff has suffered and continues to suffer damages, including but not limited to lost business opportunities and revenues.

**Count III: Violation of Maryland Equal Protection Law
(against UMMS, UM Capital and RadNet)**

97. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

98. UMMS's actions alleged herein, including its siting, building and entering into a secret joint-venture agreement for outpatient radiology services with RadNet within 50 yards of RadNet's front door, and its excluding Capitol Radiology, a black- and female-owned business, from the bidding process, violate Maryland's equal protection laws.

99. RadNet operated under color of State law when siting, building and entering a secret joint venture agreement with UMMS as described herein.

100. As a result of UMMS's actions, Plaintiff has suffered and continues to suffer damages, including but not limited to lost business opportunities and revenues.

**Count IV:
Violation of Maryland Antitrust Law
(against UMMS, UM Capital and RadNet)**

101. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

102. Defendants' actions in entering into a joint venture and excluding Capitol Radiology from the market for radiology services on the Laurel campus and in Prince George's County constitute an unlawful restraint of trade in violation of Maryland antitrust law.

103. The unlawful restraint of trade will have an adverse effect on consumers in Prince George's County because it will provide RadNet with the power to set rates for radiology and

imaging services that reflect its monopoly power. The increased rates will be passed through in the form of higher insurance rates for employers and individuals.

104. As a result of Defendants' antitrust violations, Plaintiff has suffered and continues to suffer damages, including but not limited to lost business opportunities and revenues.

**Count V:
Breach of Contract (against RadNet)**

105. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

106. RadNet breached the Agreement by failing to offer Capitol Radiology the right of first refusal for providing services on the Laurel campus.

107. Capitol Radiology has complied with the necessary pre-conditions of assuming its rights under the Asset Purchase Agreement.

108. As a result of RadNet's breach, Plaintiff has suffered and continues to suffer damages, including but not limited to lost business opportunities and revenues.

**Count VI: Tortious Interference with Contract
(against UMMS and UM Capital)**

109. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

110. RadNet breached the Agreement by failing to offer Capitol Radiology the right of first refusal for providing radiology services on the Laurel campus.

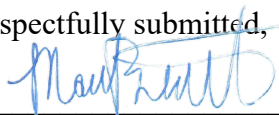
111. As a result of RadNet's breach, Plaintiff has suffered and continues to suffer damages, including but not limited to lost business opportunities and revenues.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Capitol Radiology LLC prays for judgment against Defendants as follows:

- A. For compensatory damages in an amount to be determined at trial;
- B. For punitive damages in an amount to be determined at trial;
- C. For injunctive relief enjoining Defendants from commencing outpatient radiology services on the Laurel campus until such time as Plaintiff's rights are restored;
- D. For attorneys' fees and costs of this action;
- E. For such other and further relief as the Court deems just and proper.

Respectfully submitted,



Martin Bienstock Esq.
BIENSTOCK PLLC
BAR No. 1702170002
10770 Columbia Pike
Silver Spring, MD 20901
(202) 908-6600
MBienstock@BienstockPLLC.com

Clayborne E. Chavers, Sr. Esq.
THE CHAVERS FIRM, LLC
5335 Wisconsin Ave. NW.,
Suite 440
Washington DC 20015
(202) 467-8324
Chavlawfirm@gmail.com

Attorneys for Plaintiff Capitol Radiology LLC