

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	No. 4:20-CR-358
	§	JUDGE MAZZANT
NEERAJ JINDAL (1)	§	
JOHN RODGERS (2)	§	
	§	

**DEFENDANTS’ ADDITIONAL PROPOSED JURY INSTRUCTIONS  
AND OBJECTIONS TO GOVERNMENT’S ADDITIONAL  
PROPOSED JURY INSTRUCTIONS**

**I. Defendants’ Additional Proposed Jury Instructions:**

In addition to the jury instructions jointly submitted by the parties, Defendant Neeraj Jindal and Defendant John Rodgers (together, “Defendants”) respectfully submit the following proposed jury instructions for trial in the above-referenced matter:

**DEFENSE REQUESTED INJURY INSTRUCTION NO. 1**  
**PRELIMINARY INSTRUCTIONS**

Members of the Jury:

Now that you have been sworn, I will give you some preliminary instructions to guide you in your participation in the trial.

***Duty of the jury:***

It will be your duty to find from the evidence what the facts are. You and you alone will be the judges of the facts. You will then have to apply to those facts the law as the court will give it to you. You must follow that law whether you agree with it or not. Perform these duties fairly. Do not let any bias, sympathy, or prejudice that you may feel toward one side or the other influence your decision in any way. In particular, do not let racial, ethnic, national origin, or other bias influence your decision in any way.

Nothing the court may say or do during the course of the trial is intended to indicate, or should be taken by you as indicating, what your verdict should be.

***Evidence:***

The evidence from which you will find the facts will consist of the testimony of witnesses, documents and other items received into the record as exhibits, and any facts that the lawyers agree to or stipulate to or that the court may instruct you to find.

Certain things are not evidence and must not be considered by you. I will list them for you now:

1. Statements, arguments, and questions by lawyers are not evidence.
2. Objections to questions are not evidence. Lawyers have an obligation to their clients to make objections when they believe evidence being offered is improper under the rules of evidence. You should not be influenced by the objection or by the court's ruling on it. If

the objection is sustained, ignore the question. If it is overruled, treat the answer like any other. If you are instructed that some item of evidence is received for a limited purpose only, you must follow that instruction.

3. Testimony that the court has excluded or told you to disregard is not evidence and must not be considered.
4. Anything you may have seen, heard, or read outside the courtroom is not evidence and must be disregarded. You are to decide the case solely on the evidence presented here in the courtroom.

There are two kinds of evidence: direct and circumstantial. Direct evidence is direct proof of a fact, such as testimony of an eyewitness. Circumstantial evidence is proof of facts from which you may infer or conclude that other facts exist. I will give you further instructions on these as well as other matters at the end of the case, but keep in mind that you may consider both kinds of evidence.

It will be up to you to decide which witnesses to believe, which witnesses not to believe, and how much of any witness's testimony to accept or reject. I will give you some guidelines for determining the credibility of witnesses at the end of the case.

***Rules for criminal cases:***

As you know, this is a criminal case. There are three basic rules about a criminal case that you must keep in mind.

First: the defendants are presumed innocent until proven guilty. The indictment brought by the government against the defendants is only an accusation, nothing more. It is not proof of guilt or anything else. The defendants therefore start out with a clean slate.

Second: the burden of proof is on the government until the very end of the case. The defendants have no burden to prove their innocence, or to present any evidence, or to testify. Since the defendants have the right to remain silent, the law prohibits you from arriving at your verdict by considering that the defendants may not have testified.

Third: the government must prove the defendants' guilt beyond a reasonable doubt. I will give you further instructions on this point later but bear in mind that in this respect a criminal case is different from a civil case.

***Summary of applicable law:***

In this case the defendants are charged with conspiracy to fix therapist pay rates; conspiracy to obstruct, make a false statement in, or use a false document in proceedings before the Federal Trade Commission; and obstruction of proceedings before the Federal Trade Commission (FTC). I will give you detailed instructions on the law at the end of the case, and those instructions will control your deliberations and decision. But in order to help you follow the evidence, I will now give you a brief summary of the elements of the offenses that the government must prove beyond a reasonable doubt to make its case.

In order to establish the offense of conspiracy to fix therapist pay rates charged in the indictment, the government must prove each of these elements beyond a reasonable doubt:

*First:* A conspiracy existed between two or more competitors to lower pay rates to physical therapists and physical therapist assistants from in or around March 2017 to in or around August 2017;

*Second:* The defendant you are considering knowingly – that is, voluntarily and intentionally – became a member of the conspiracy charged in the indictment, knowing of its goal

and intending to help accomplish it;<sup>1</sup> and

*Third:* The conspiracy concerned interstate trade or commerce.

In order to establish the offense of conspiracy to obstruct, make a false statement in, or use a false document in proceedings before the Federal Trade Commission, the government must prove each of these elements beyond a reasonable doubt:

*First:* That the defendants agreed to (a) corruptly influence, obstruct, impede, or endeavor to influence, obstruct, or impede the due and proper administration of the law under which a pending proceeding, specifically a Federal Trade Commission investigation, was being had before a department or agency of the United States, specifically the Federal Trade Commission; or (b) knowingly and willfully make a materially false, fictitious, or fraudulent statement or representation in a matter within the jurisdiction of the executive branch of the Government of the United States, specifically a Federal Trade Commission investigation; or (c) knowingly and willfully make or use a false writing or document knowing the same to contain a materially false, fictitious, or fraudulent statement or entry in a matter within the jurisdiction of the executive branch of the Government of the United States, specifically a Federal Trade Commission investigation.

*Second:* That the defendants knew the unlawful purpose of the agreement and joined in it willfully, that is, with the intent to further the unlawful purpose.

*Third:* That at least one of the defendants during the existence of the conspiracy knowingly committed at least one of the overt acts described in the indictment, in order to accomplish some object or purpose of the conspiracy.

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<sup>1</sup> *United States v. Therm-All, Inc.*, 373 F.3d 625, 639 (5th Cir. 2003) (holding district court’s instruction to the jury that “[t]he Government has to prove beyond reasonable doubt that the Defendant knowingly agreed with a competitor to raise, fix and maintain prices, and that the Defendant actually intended to carry out the agreement in fact,” was “completely valid.”); *see also United States v. Penn et al.*, Crim. No. 1:20-cr-00152-PAB (D. Col. October 7, 2021) (Doc. 603) (giving same instruction).

In order to establish the offense of obstruction of proceedings before the Federal Trade Commission, the government must prove each of these elements beyond a reasonable doubt:

*First:* That on or about the date set forth in the indictment, there was a proceeding pending before a department or agency of the United States;

*Second:* That the defendant you are considering knew of the pending proceeding;

*Third:* That the defendant endeavored to influence, obstruct, or impede the due administration of the law in that proceeding; and

*Fourth:* That the defendant's acts were done "corruptly," that is, the defendant acted with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.

***Conduct of the jury:***

Now, a few words about your conduct as jurors.

During the course of the trial, do not speak with any witness, or with the defendants, or with any of the lawyers in the case. Please do not talk with them about any subject at all. You may be unaware of the identity of everyone connected with the case. Therefore, in order to avoid even the appearance of impropriety, do not engage in any conversation with anyone in or about the courtroom or courthouse. It is best that you remain in the jury room during breaks in the trial and do not linger in the hall. In addition, during the course of the trial, do not talk about the trial with anyone else—not your family, not your friends, not the people with whom you work. Also, do not discuss this case among yourselves until I have instructed you on the law and you have gone to the jury room to make your decision at the end of the trial. Otherwise, without realizing it, you may start forming opinions before the trial is over. It is important that you wait until all the evidence is

received and you have heard my instructions on rules of law before you deliberate among yourselves.

You, as jurors, must decide this case based solely on the evidence presented here within the four walls of this courtroom. This means that during the trial you must not conduct any independent research about this case, the matters in this case, and the individuals or companies involved in the case. In other words, you should not consult dictionaries or reference materials, search the Internet, websites, or blogs, or use any other electronic tools to obtain information about this case or to help you decide the case. Please do not try to find out information from any source outside the confines of this courtroom.

I know that many of you use cell phones, the Internet, and other tools of technology. You also must not talk to anyone at any time about this case or use these tools to communicate electronically with anyone about the case. This includes your family and friends. You may not communicate with anyone about the case through any means, including your cell phone, through e-mail, Blackberry, iPhone, text messaging, or on Snapchat or Twitter, or through any blog or website, including Facebook, Google+, WhatsApp, Instagram, LinkedIn, or YouTube. You may not use any similar technology of social media, even if I have not specifically mentioned it here. I expect you will inform me as soon as you become aware of another juror's violation of these instructions. A juror who violates these restrictions jeopardizes the fairness of these proceedings, and a mistrial could result, which would require the entire trial process to start over.

***Course of the trial:***

I will now give you a roadmap to help you follow what will happen over the entire course of this trial. First, the government will make an opening statement, which is simply an outline to

help you understand the evidence as it is admitted. Next, the defendants' attorneys may, but do not have to, make an opening statement. Opening statements are neither evidence nor arguments.

The government will then present its witnesses, and counsel for the defendants may cross-examine them. Following the government's case, the defendants may, if they wish, present witnesses whom the government may cross-examine. If the defendants decide to present evidence, the government may introduce rebuttal evidence.

After all the evidence is in, the attorneys will present their closing arguments to summarize and interpret the evidence for you, and the court will instruct you on the law. After that, you will retire to deliberate on your verdict.

Pattern Jury Instructions (Criminal Cases), United States Court of Appeals for the Fifth Circuit, No. 1.01 (2019); Pattern Jury Instructions (Criminal Cases), United States Court of Appeals for the Fifth Circuit, No. 2.15A (2019); *United States v. Therm-All, Inc.*, 373 F.3d 625, 639 (5th Cir. 2003) (holding district court's instruction to the jury that "[t]he Government has to prove beyond reasonable doubt that the Defendant knowingly agreed with a competitor to raise, fix and maintain prices, and that the Defendant actually intended to carry out the agreement in fact," was "completely valid."); *see also United States v. Penn et al.*, Crim. No. 1:20-cr-00152-PAB (D. Col. October 7, 2021) (Doc. 603) (giving similar instruction on Sherman Act violation).



**DEFENSE REQUESTED JURY INSTRUCTION NO. 2**  
**CAUTION—CONSIDER ONLY CRIME CHARGED**

You are here to decide whether the government has proved beyond a reasonable doubt that the defendants are guilty of the crime charged. The defendants are not on trial for any act, conduct, or offense not alleged in the indictment. Neither are you called upon to return a verdict as to the guilt of any other person or persons not on trial as a defendant in this case, except as you are otherwise instructed.

Pattern Jury Instructions (Criminal Cases), United States Court of Appeals for the Fifth Circuit, No. 1.21 (2019).

**DEFENSE REQUESTED INJURY INSTRUCTION NO. 3**  
**ACCOMPLICE – INFORMER - IMMUNITY**

The testimony of an alleged accomplice, and/or the testimony of one who provides evidence against a defendant as an informer for pay, for non-prosecution or immunity from punishment, for leniency, or for personal advantage or vindication, must always be examined and weighed by the jury with greater care and caution than the testimony of ordinary witnesses. You, the jury, must decide whether the witness's testimony has been affected by these circumstances, by the witness's interest in the outcome of the case, by prejudice against the defendant, or by the benefits that the witness has received either financially or as a result of being immunized from prosecution. You should keep in mind that such testimony is always to be received with caution and weighed with great care.

You should never convict any defendant upon the unsupported testimony of such a witness unless you believe that testimony beyond a reasonable doubt.

Pattern Jury Instructions (Criminal Cases), United States Court of Appeals for the Fifth Circuit, No. 1.15 (2019), as modified.

**DEFENSE REQUESTED INSTRUCTION NO. 4**  
**POSSIBLE PARTIES TO COUNT ONE CONSPIRACY**

Section 1 of the Sherman Act cannot be violated by one company acting alone. A corporation cannot conspire with its own officers or employees. Nor can a corporation's employees conspire among themselves. This is because a corporation, its officers, and employees are so closely related that they are deemed to share a common purpose and are considered by the law to be one actor. And a single actor cannot violate this part of the Sherman Act.

Rather, a conspiracy to violate Section 1 of the Sherman Act requires an agreement between two or more people working on behalf of different, competing companies.

3 Modern Federal Jury Instructions-Criminal § 58.05 (2021); *Fisher v. City of Berkeley*, 475 U.S. 260 (1986); *Arnold Pontiac GMC v. General Motors Corp.*, 786 F.2d 564 (3d Cir. 1986); *Copperweld Corp. v. Independence Tube Corp.*, 467 U.S. 752 (1984).

**DEFENSE REQUESTED JURY INSTRUCTION NO. 5**  
**KNOWINGLY JOINED**

As previously noted, the second element the government must prove beyond a reasonable doubt for you to find each defendant guilty on Count One is that the defendant knowingly joined the price-fixing conspiracy charged in the indictment. The word “knowingly,” as that term is used from time to time in these instructions, means that the act was done voluntarily and intentionally, not because of mistake, accident, or some other innocent reason. Therefore, before you may convict the defendant, the evidence must establish that the defendant and at least one competitor of Integrity Home Therapy voluntarily became members of the conspiracy to fix pay rates knowing of the conspiracy’s goal and intending to help accomplish that goal.<sup>2</sup>

Your determination whether a defendant knowingly joined the conspiracy must be based solely on the actions of the defendant, as established by the evidence. You should not consider what others may have said or done to join the conspiracy. A defendant’s membership in this conspiracy must be established by evidence of his own conduct—by what he said or did.

Pattern Jury Instructions (Criminal Cases), United States Court of Appeals for the Fifth Circuit, No. 1.41 (2019), as modified; Memorandum Opinion and Order Denying Motion to Dismiss, ECF No. 56 at 24–25 (holding, based on Fifth Circuit precedent, that “a finding of intent to fix prices [equates to] an intent to unreasonably restrain trade” (internal quotation marks and citation omitted)); *NCAA v. Bd. of Regents of Univ. of Okla.*, 468 U.S. 85, 101 n.23 (1984); *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 221–22 (1940); *United States v. Rose*, 449 F.3d 627, 630 (5th Cir. 2006); *United States v. All Star Indus.*, 962 F.2d 465, 474 n.18, 475 n.21 (5th Cir. 1992); *United States v. Young Bros.*, 728 F.2d 682, 687 (5th Cir. 1984); *United States v. Cargo Serv. Stations, Inc.*, 657 F.2d 676, 681–84 (5th Cir. 1981); *United States v. Cadillac Overall Supply Co.*, 568 F. 2d 1078, 1089–90 (5th Cir. 1978); 3 Modern Federal Jury Instructions-Criminal § 58.01 (2021).

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<sup>2</sup> *United States v. Therm-All, Inc.*, 373 F.3d 625, 639 (5th Cir. 2003) (holding district court’s instruction to the jury that “[t]he Government has to prove beyond reasonable doubt that the Defendant knowingly agreed with a competitor to raise, fix and maintain prices, and that the Defendant actually intended to carry out the agreement in fact,” was “completely valid.”); *see also United States v. Penn et al.*, Crim. No. 1:20-cr-00152-PAB (D. Col. October 7, 2021) (Doc. 603) (giving same instruction).

**DEFENSE REQUESTED JURY INSTRUCTION NO. 6**  
**CONSPIRACY FOR COUNT ONE**

As I have just told you, the first element that the government must prove for Count One, beyond a reasonable doubt, is that the price fixing conspiracy charged in the indictment actually existed. This is important because the part of the Sherman Act we are concerned with outlaws certain joint activities by competitors, but not actions taken by a single firm or corporation (or actions taken by individuals that are within the same firm or corporation).

A “conspiracy” is an agreement between two or more persons to join together to accomplish some unlawful purpose. It is a kind of “partnership in crime” in which each member of the conspiracy becomes the agent of every other member. The Government must prove, beyond a reasonable doubt, that the members of the conspiracy came to a mutual understanding to accomplish or try to accomplish a goal or unlawful objective. That is, the evidence must show that they had a conscious commitment to a common scheme designed to achieve an unlawful objective. You must find there was a meeting of the minds as to the unlawful objective.

Evidence that shows that alleged conspirators pretended to agree, or jokingly agree, or merely at times, engaged in wishful thinking, is not evidence that there was a meeting of the minds as to the single unlawful objective charged.<sup>3</sup>

One may become a member of a conspiracy without knowing all the details of the unlawful scheme or the identities of all the other alleged conspirators. If a defendant understands the unlawful nature of a plan or scheme and knowingly and intentionally joins in that plan or scheme

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<sup>3</sup> *United States v. Aiyer*, 470 F. Supp. 3d 383, 414 n.31 (S.D.N.Y. 2020); *United States v. Andreas*, 216 F.3d 645, 669 (7th Cir. 2000) (stating that “a defendant who pretended to agree but did not intend to honor the agreement could not be convicted of a crime”) (citing *United States v. Bestway Disposal Corp.*, 724 F. Supp. 62, 67 (W.D.N.Y. 1988)); *United States v. Rosenblatt*, 554 F.2d 36, 38 (2d Cir. 1977) (“When one of two persons merely pretends to agree, the other party, whatever he may believe, is in fact not conspiring with anyone.”) (quotations omitted); *United States v. Bestway Disposal Corp.*, 724 F. Supp. 62, 67-68 (W.D.N.Y. 1988) (statements that alleged conspirator never fully intended to honor or discussions between alleged conspirators that involved no more than “wishful thinking” were not proof that conspirators “agreed” in the manner and for the contemplated evil purpose envisioned by the Sherman Act).

on one occasion, that is sufficient to convict him [her] for conspiracy even though the defendant had not participated before and even though the defendant played only a minor part.

The government does not need to prove that the alleged conspirators entered into any formal agreement, or that they directly stated between themselves all the details of the scheme. Likewise, the government does not need to prove that all of the details of the scheme alleged in the indictment were actually agreed upon or carried out. Nor must it prove that all of the persons alleged to have been members of the conspiracy were such, or that the alleged conspirators actually succeeded in accomplishing their unlawful objectives.

Mere presence at the scene of an event, even with knowledge that a crime is being committed, or the mere fact that certain persons may have associated with each other, and may have assembled together and discussed common aims and interests, does not necessarily establish proof of the existence of a conspiracy. Also, a person who has no knowledge of a conspiracy, but who happens to act in a way which advances some purpose of a conspiracy, does not thereby become a conspirator.

Pattern Jury Instructions (Criminal Cases), United States Court of Appeals for the Fifth Circuit, No. 2.15A (2019) (modified to exclude instructions on elements of violation of 18 U.S.C. § 371); *Am. Tobacco Co. v. United States*, 328 U.S. 781, 809–10 (1946); *United States v. All Star Indus.*, 962 F.2d 465, 474 n.18 (5th Cir. 1992); *United States v. MMR Corp.*, 907 F.2d 489, 495 (5th Cir. 1990).

**DEFENSE REQUESTED JURY INSTRUCTION NO. 7**  
**INDIVIDUAL LIABILITY**

A person who acts on behalf of a company is personally responsible for what he knowingly does or knowingly causes someone else to do. This is so even if he acted on the instructions of a superior.

A person who is a manager or supervisor of a company is also responsible for the acts of his subordinates if he knowingly authorizes, orders, or consents to the participation in the conspiracy of someone he manages or supervises. In order to find a manager or supervisor responsible for the acts of his subordinate, you must also find that the manager or supervisor was in a position to stop that subordinate who he knew was participating in that conspiracy from participating further, but failed to do so.

A person who is a manager of a company is not criminally responsible for illegal acts committed by another agent on behalf of that company merely because of his status as a manager or supervisor of the company. Absent knowledge and intentional participation, a boss or supervisor is not responsible for the actions of his employees. Moreover, a defendant who is an officer or employee of a corporation is not criminally responsible for the illegal acts of another officer or employee performed on behalf of that corporation merely because of his status as an officer or employee of the corporation.

*United States v. Wise*, 370 U.S. 405, 416 (1962); *United States v. Brown*, 936 F.2d 1042, 1047 n.4 (9th Cir. 1991); see Final Jury Instructions, *United States v. Lischewski*, No. 3:18-cr-00203-EMC, Doc. 626 at 30 (Jury Instruction No. 26) (N.D. Cal. Dec. 2, 2019); see also Model Criminal Jury Instructions, United States Court of Appeals for the Third Circuit, No. 7.07 (2018); The William J. Bauer Pattern Criminal Jury Instructions of the Seventh Circuit, No. 5.02 (2020); Eighth Circuit Model Jury Instructions, No. 5.04 (2020); *United States v. Penn, et al.* Case No. 1:20-cr-000152-PAB (D. Col. December 16, 2021); 3 Modern Federal Jury Instructions-Criminal § 58.01 (2021).

**DEFENSE REQUESTED INSTRUCTION NO.8**  
**ACTIONS FOLLOWING AGREEMENT<sup>4</sup>**

If the defendant or alleged co-conspirators never acted in accordance with the agreement, that is evidence you should consider in determining whether the agreement or conspiracy existed, or was joined by that individual, in the first place.

The government must prove that the claimed conspiracy was knowingly formed; that it was formed with the intention to accomplish, by joint action, price-fixing; and that the membership of the conspiracy was essentially that claimed by the government.

3 Modern Federal Jury Instructions-Criminal § 58.01 (2021); *United States v. Aiyer*, 470 F. Supp. 3d 383, 414 n.31 (S.D.N.Y. 2020) (“[T]he Supreme Court . . . has stated that the evidence of the failure of a conspiracy to achieve its ends can be used to demonstrate the lack of a conspiracy or the lack of intent on the part of an alleged conspirator.”) (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 592 (1986)).

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<sup>4</sup> Alternatively, Defendants propose this language as an addition to Government’s Requested Instruction No. 8 (Proof of Overt Act Unnecessary for Count One).



**DEFENSE REQUESTED JURY INSTRUCTION NO. 9**  
**ELEMENTS OF COUNT TWO**

In Count Two, each defendant is charged with violating Title 18, United States Code, Section 371, which makes it a crime for two or more persons to conspire to commit an offense against the laws of the United States.

The defendants are charged with conspiring (a) to corruptly influence, obstruct, impede, or endeavor to influence, obstruct, or impede the due and proper administration of the law under which a pending proceeding, specifically a Federal Trade Commission investigation, was being had before a department or agency of the United States, specifically the Federal Trade Commission; or (b) to knowingly and willfully make a materially false, fictitious, or fraudulent statement or representation in a matter within the jurisdiction of the executive branch of the Government of the United States, specifically a Federal Trade Commission investigation; or (c) to knowingly and willfully make or use a false writing or document knowing the same to contain a materially false, fictitious, or fraudulent statement or entry in a matter within the jurisdiction of the executive branch of the Government of the United States, specifically a Federal Trade Commission investigation.

As I told you earlier, a “conspiracy” is an agreement between two or more persons to join together to accomplish some unlawful purpose – it requires a meeting of the minds. It is a kind of “partnership in crime” in which each member of the conspiracy becomes the agent of every other member.

The conspiracy charged in Count Two of this indictment is a separate and distinct offense from the conspiracy charged in Count One. The elements of the conspiracy charged in Count Two are different from those of the conspiracy to violate the Sherman Act charged in Count One, as I will now explain.

For you to find a defendant guilty of the crime charged in Count Two, you must be convinced that the government has proved each of the following beyond a reasonable doubt against that defendant:

*First:* That the defendants agreed to (a) corruptly influence, obstruct, impede, or endeavor to influence, obstruct, or impede the due and proper administration of the law under which a pending proceeding, specifically the 2017 Federal Trade Commission investigation, was being had before a department or agency of the United States, specifically the Federal Trade Commission; or (b) knowingly and willfully make a materially false, fictitious, or fraudulent statement or representation in a matter within the jurisdiction of the executive branch of the Government of the United States, specifically the 2017 Federal Trade Commission investigation; or (c) knowingly and willfully make or use a false writing or document knowing the same to contain a materially false, fictitious, or fraudulent statement or entry in a matter within the jurisdiction of the executive branch of the Government of the United States, specifically the 2017 Federal Trade Commission investigation, as charged in the indictment.

*Second:* That the defendants knew the unlawful purpose of the agreement and joined in it willfully, that is, with the intent to further the unlawful purpose. The government is not required to prove that a defendant knew the purpose of the agreement was in violation of a statute.

*Third:* That at least one of the defendants during the existence of the conspiracy knowingly committed at least one of the overt acts described in Count Two of the indictment, in order to accomplish the object or purpose of the conspiracy.

Pattern Jury Instructions (Criminal Cases), United States Court of Appeals for the Fifth Circuit, No. 2.15A (2019), as modified; *United States v. Brooks*, 681 F.3d 678, 700 (5th Cir. 2012) (approving note to jury stating that “[t]he government is not required to prove that a defendant knew the purpose of the agreement was in fact unlawful, that is, in violation of statute, but the government must prove the defendant knew the purpose of the agreement”).

**DEFENSE REQUESTED JURY INSTRUCTION NO. 10**  
**CONSPIRACY FOR COUNT TWO**

As I told you earlier, one may become a member of a conspiracy without knowing all the details of the unlawful scheme or the identities of all the other alleged conspirators. For purposes of Count Two, if a defendant understands the unlawful nature of a plan or scheme and knowingly and intentionally joins in that plan or scheme on one occasion, that is sufficient to convict him for conspiracy even though the defendant had not participated before and even though the defendant played only a minor part.

The government does not need to prove that the alleged conspirators entered into any formal agreement, or that they directly stated between themselves all the details of the scheme. Likewise, the government does not need to prove that all of the details of the scheme alleged in the indictment were actually agreed upon or carried out. Nor must it prove that all of the persons alleged to have been members of the conspiracy were such, or that the alleged conspirators actually succeeded in accomplishing their unlawful objectives.

Mere presence at the scene of an event, even with knowledge that a crime is being committed, or the mere fact that certain persons may have associated with each other, and may have assembled together and discussed common aims and interests, does not necessarily establish proof of the existence of a conspiracy. Also, a person who has no knowledge of a conspiracy, but who happens to act in a way which advances some purpose of a conspiracy, does not thereby become a conspirator.

Pattern Jury Instructions (Criminal Cases), United States Court of Appeals for the Fifth Circuit, No. 2.15A (2019); *United States v. Brooks*, 681 F.3d 678, 700 (5th Cir. 2012); *United States v. Burton*, 126 F.3d 666, 670 (5th Cir. 1997); *United States v. Michel*, 588 F.2d 986, 1002 (5th Cir. 1979); *United States v. Evans*, 572 F.2d 455, 483 (5th Cir. 1978).

**DEFENSE REQUESTED JURY INSTRUCTION NO. 11**  
**OVERT ACT FOR COUNT TWO**

For you to find the defendants guilty of the crime charged in Count Two, you must be convinced that the government, among other things, has proved beyond a reasonable doubt that at least one of the conspirators during the existence of the conspiracy knowingly committed at least one of the overt acts described in Count Two of the indictment. An overt act is an act performed to effect the object of a conspiracy. The overt act required by Count Two need not be of a criminal nature so long as it is done in furtherance of the conspiracy.

Pattern Jury Instructions (Criminal Cases), United States Court of Appeals for the Fifth Circuit, No. 2.15A (2019); *Whitfield v. United States*, 543 U.S. 209, 213–14 (2005); *United States v. Shabani*, 513 U.S. 10, 14 (1994); *Summit Health, Ltd. v. Pinhas*, 500 U.S. 322, 330 (1991); *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 224 n.59 (1940); *United States v. Trenton Potteries Co.*, 273 U.S. 392, 402 (1927); *Nash v. United States*, 229 U.S. 373, 378 (1913); *United States v. Romans*, 823 F.3d 299, 310 (5th Cir. 2016); *United States v. Rose*, 449 F.3d 627, 630 (5th Cir. 2006).

**DEFENSE REQUESTED JURY INSTRUCTION NO. 12**  
**OBSTRUCTION OF PROCEEDINGS BEFORE THE FEDERAL TRADE**  
**COMMISSION**

In Counts Three and Four, the defendants are each charged with violating 18 U.S.C. § 1505, which makes it a crime for anyone to corruptly endeavor to influence, obstruct, or impede the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States.

Each defendant is charged in Counts Three and Four with violating 18 U.S.C. § 1505 by two means: First, each defendant is charged with making false and misleading statements to the Federal Trade Commission, withholding and concealing information from the Federal Trade Commission, and making phone calls and sending text messages as part of his corrupt endeavor to influence, obstruct, and impede the Federal Trade Commission investigation. Second, each defendant is charged with aiding and abetting the other in corruptly endeavoring to influence, obstruct, and impede the Federal Trade Commission investigation. If you unanimously find that a defendant violated 18 U.S.C. § 1505 by *either* of these two means, you may convict that defendant under Count Three or Count Four. You do not need to find that a defendant violated 18 U.S.C. § 1505 by both of these two means in order to return a guilty verdict on Count Three or Count Four against that defendant. However, you must unanimously agree upon the means through which the defendant violated 18 U.S.C. § 1505.

18 U.S.C. § 1505; 18 U.S.C. § 2 (“Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.”); *United States v. Williams*, 449 F.3d 635, (5th Cir. 2006) (committing an offense as either a principal or an aider and abetter is “sufficient for conviction” under 18 U.S.C. § 2); *United States v. Creech*, 408 F.3d 264, 268 (5th Cir. 2005) (requiring unanimity of theory for conviction).

**DEFENSE REQUESTED JURY INSTRUCTION NO. 13**  
**UNANIMITY OF THEORY – COUNT THREE**

You have been instructed that your verdict, whether it is guilty or not guilty, must be unanimous. The following instruction applies to the unanimity requirement as to Count Three.

Count Three of the indictment accuses Defendant Neeraj Jindal of obstructing the Federal Trade Commission’s 2017 investigation in several different ways. Specifically, the indictment alleges that Defendant Jindal obstructed the 2017 Federal Trade Commission investigation by:

1. Sending an email to the FTC in which he stated that he decided to make “rate cuts to some of [his] therapists based on a collective agreement with [his] office team,” that he sent text messages to other therapy staffing company owners with the “intent . . . to see what they were doing with all the upcoming changes [with ‘government healthcare’] and how they would adjust to the major rate cuts,” and that “[n]o letters, emails, or phone calls ever took place on conducting any rate changes together or collectively as a contractive company;
2. Withholding and concealing that he communicated with other therapy staffing company owners and the true intent of his communications;
3. Sending an email to the FTC in which he asserted, “I will give you any info you need to prove that nothing at all is done collectively with any counterparts;”
4. Withholding and concealing information that disproved his assertion that nothing was “done collectively with any counterparts” from the FTC;
5. Testifying to the FTC that he had “no idea” why he wrote to competing therapist staffing companies that he had YTS “on board”;
6. Testifying to the FTC that he did not discuss with Defendant John Rodgers whether YTS would lower its pay rates;
7. Withholding and concealing information to the contrary;
8. Testifying to the FTC that the intent of his March 10, 2017 text messages to competitors was only to find out what they were paying their therapists, not to lower pay rates collectively; and
9. Withholding and concealing the true intent of his March 10, 2017 text messages to Integrity Home Therapy’s competitors.

The government does not have to prove all of these for you to return a guilty verdict on this charge. Proof beyond a reasonable doubt on one is enough. But in order to return a guilty verdict, all of you must agree that the same one has been proved.

Pattern Jury Instructions (Criminal Cases), United States Court of Appeals for the Fifth Circuit, No. 1.27 (2019); *United States v. Creech*, 408 F.3d 264, 268 (5th Cir. 2005) (“In the routine case, a general unanimity instruction will ensure that the jury is unanimous on the factual basis for a conviction, even where an indictment alleges numerous factual bases for criminal liability,” but “such an instruction is insufficient if ‘there exists a genuine risk that the jury is confused or that a conviction may occur as the result of different jurors concluding that a defendant committed different acts.’”) (quoting *United States v. Holley*, 942 F.2d 916 (5th Cir. 1991)); *United States v. Meshack*, 225 F.3d 556, 579–80 (5th Cir. 2000); *United States v. Villegas*, 494 F.3d 513, 515–16 (5th Cir. 2007); *United States v. Moreno*, 227 F. App’x 361, 362–63 (5th Cir. 2007).

**DEFENSE REQUESTED JURY INSTRUCTION NO. 14**  
**UNANIMITY OF THEORY – COUNT FOUR**

You have been instructed that your verdict, whether it is guilty or not guilty, must be unanimous. The following instruction applies to the unanimity requirement as to Count Four.

Count Four of the indictment accuses Defendant John Rodgers of obstructing the Federal Trade Commission's 2017 investigation in several different ways. Specifically, the indictment alleges that Defendant Rodgers obstructed the 2017 Federal Trade Commission investigation by:

1. Testifying to the FTC that he sent text messages to Sheri Yarbray just to ask if her company had received a letter from a particular home health agency regarding a reduction in the bill rate it would pay therapist staffing companies;
2. Withholding and concealing information to the contrary from the FTC;
3. Testifying to the FTC that Ms. Yarbray responded to the text message referenced above by telling Defendant Rodgers that her company had received the same letter and was considering decreasing rates paid to therapists;
4. Withholding and concealing information to the contrary from the FTC;
5. Testifying to the FTC that he did not have any additional communication with Ms. Yarbray after he reported the contents of their communications referenced above to Defendant Jindal;
6. Testifying to the FTC that he would not have told Ms. Yarbray that Integrity Home Therapy had actually lowered its rates because he did not know if Defendant Jindal was going to do so at the time Defendant Rodgers texted Ms. Yarbray;
7. Testifying to the FTC that he did not ask Defendant Jindal for any information regarding the 2017 FTC investigation;
8. Testifying to the FTC that Defendant Jindal mentioned the FTC Investigation to him around the time that Defendant Jindal first received a letter from the FTC, but then Defendant Rodgers did not hear anything about the investigation again until the FTC contacted him; and
9. Withholding and concealing the true nature of his communications with Defendant Jindal regarding the FTC Investigation.



The government does not have to prove all of these for you to return a guilty verdict on this charge. Proof beyond a reasonable doubt on one is enough. But in order to return a guilty verdict, all of you must agree that the same one has been proved.

Pattern Jury Instructions (Criminal Cases), United States Court of Appeals for the Fifth Circuit, No. 1.27 (2019); *United States v. Creech*, 408 F.3d 264, 268 (5th Cir. 2005) (“In the routine case, a general unanimity instruction will ensure that the jury is unanimous on the factual basis for a conviction, even where an indictment alleges numerous factual bases for criminal liability,” but “such an instruction is insufficient if ‘there exists a genuine risk that the jury is confused or that a conviction may occur as the result of different jurors concluding that a defendant committed different acts.’”) (quoting *United States v. Holley*, 942 F.2d 916 (5th Cir. 1991)); *United States v. Meshack*, 225 F.3d 556, 579–80 (5th Cir. 2000); *United States v. Villegas*, 494 F.3d 513, 515–16 (5th Cir. 2007); *United States v. Moreno*, 227 F. App’x 361, 362–63 (5th Cir. 2007).

**DEFENSE REQUESTED INSTRUCTION NO. 15**  
**DEFENSIVE THEORY**

[To be submitted based on evidence admitted at trial.]

**DEFENSE PROPOSED VERDICT FORM**

**Count One (Conspiracy to fix pay rates to physical therapists and physical therapist assistants)**

We, the jury, unanimously find:

1. Neeraj Jindal: \_\_\_\_\_ Guilty                      \_\_\_\_\_ Not Guilty
2. John Rodgers: \_\_\_\_\_ Guilty                      \_\_\_\_\_ Not Guilty

**Count Two (Conspiracy to obstruct, make a false statement in, or use a false document in proceedings before the Federal Trade Commission)**

We, the jury, unanimously find:

- 1a. Neeraj Jindal: \_\_\_\_\_ Guilty                      \_\_\_\_\_ Not Guilty
- 1b. If guilty, we, the jury, unanimously find that Neeraj Jindal:
  - i. \_\_\_\_\_ - knowingly and willfully conspired with another individual to corruptly influence, obstruct, impede, or endeavor to influence, obstruct, or impede the due and proper administration of the law under which a pending proceeding, specifically the 2017 Federal Trade Commission investigation, was being had before a department or agency of the United States, specifically the Federal Trade Commission.
  - ii. \_\_\_\_\_ - knowingly and willfully conspired with another individual to knowingly and willfully make a materially false, fictitious, or fraudulent statement or representation in a matter within the jurisdiction of the executive branch of the Government of the United States, specifically the 2017 Federal Trade Commission investigation.
  - iii. \_\_\_\_\_ - knowingly and willfully conspired with another individual to knowingly and willfully make or use a false writing or document knowing the same to contain a materially false, fictitious, or fraudulent statement or entry in a matter within the jurisdiction of the executive branch of the Government of the United States, specifically the 2017 Federal Trade Commission investigation.
- 2a. John Rodgers: \_\_\_\_\_ Guilty                      \_\_\_\_\_ Not Guilty
- 2b. If guilty, we, the jury, unanimously find that John Rodgers:
  - i. \_\_\_\_\_ - knowingly and willfully conspired with another individual to corruptly influence, obstruct, impede, or endeavor to influence, obstruct, or impede the due and proper administration of the law under which a pending proceeding, specifically the 2017 Federal Trade Commission investigation, was being had before a department or agency of the United States, specifically the Federal Trade Commission.

- ii. \_\_\_\_\_ - knowingly and willfully conspired with another individual to knowingly and willfully make a materially false, fictitious, or fraudulent statement or representation in a matter within the jurisdiction of the executive branch of the Government of the United States, specifically the 2017 Federal Trade Commission investigation.
- iii. \_\_\_\_\_ - knowingly and willfully conspired with another individual to knowingly and willfully make or use a false writing or document knowing the same to contain a materially false, fictitious, or fraudulent statement or entry in a matter within the jurisdiction of the executive branch of the Government of the United States, specifically the 2017 Federal Trade Commission investigation.

**Count Three (Obstruction of proceedings before the Federal Trade Commission)**

- 1a. We, the jury, unanimously find Neeraj Jindal: \_\_\_\_\_ Guilty \_\_\_\_\_ Not Guilty
- 1b. If guilty, we, the jury, unanimously find that Neeraj Jindal obstructed the 2017 Federal Trade Commission Investigation by:
  - i. Sending an email to the FTC in which he stated that he decided to make “rate cuts to some of [his] therapists based on a collective agreement with [his] office team,” that he sent text messages to other therapy staffing company owners with the “intent . . . to see what they were doing with all the upcoming changes [with ‘government healthcare’] and how they would adjust to the major rate cuts,” and that “[n]o letters, emails, or phone calls ever took place on conducting any rate changes together or collectively as a contractive company.
  - ii. Withholding and concealing that he communicated with other therapy staffing company owners and the true intent of his communications.
  - iii. Sending an email to the FTC in which he asserted, “I will give you any info you need to prove that nothing at all is done collectively with any counterparts.”
  - iv. Withholding and concealing information that disproved his assertion that nothing was “done collectively with any counterparts” from the FTC.
  - v. Testifying to the FTC that he had “no idea” why he wrote to competing therapist staffing companies that he had YTS “on board.”
  - vi. Testifying to the FTC that he did not discuss with Defendant John Rodgers whether YTS would lower its pay rates.
  - vii. Withholding and concealing information to the contrary.

- viii. Testifying to the FTC that the intent of his March 10, 2017 text messages to competitors was only to find out what they were paying their therapists, not to lower pay rates collectively.
- ix. Withholding and concealing the true intent of his March 10, 2017 text messages to Integrity Home Therapy's competitors.

**Count Four (Obstruction of proceedings before the Federal Trade Commission)**

- 1a. We, the jury, unanimously find John Rodgers: \_\_\_\_\_ Guilty \_\_\_\_\_ Not Guilty
- 1b. If guilty, we, the jury, unanimously find that John Rodgers obstructed the 2017 Federal Trade Commission investigation by:
  - i. Testifying to the FTC that he sent text messages to Sheri Yarbray just to ask if her company had received a letter from a particular home health agency regarding a reduction in the bill rate it would pay therapist staffing companies.
  - ii. Withholding and concealing information to the contrary from the FTC.
  - iii. Testifying to the FTC that Ms. Yarbray responded to the text message referenced above by telling Defendant Rodgers that her company had received the same letter and was considering decreasing rates paid to therapists.
  - iv. Withholding and concealing information to the contrary from the FTC.
  - v. Testifying to the FTC that he did not have any additional communication with Ms. Yarbray after he reported the contents of their communications referenced above to Defendant Jindal.
  - vi. Testifying to the FTC that he would not have told Ms. Yarbray that Integrity Home Therapy had actually lowered its rates because he did not know if Defendant Jindal was going to do so at the time Defendant Rodgers texted Ms. Yarbray.
  - vii. Testifying to the FTC that he did not ask Defendant Jindal for any information regarding the 2017 FTC investigation.
  - viii. Testifying to the FTC that Defendant Jindal mentioned the FTC Investigation to him around the time that Defendant Jindal first received a letter from the FTC, but then Defendant Rodgers did not hear anything about the investigation again until the FTC contacted him.
  - ix. Withholding and concealing the true nature of his communications with Defendant Jindal regarding the FTC Investigation.

## **II. Defendants' Proposed Alternative Instructions to Government's Proposed Additional Jury Instructions**

In accordance with the Court's August 3, 2021 Pretrial Order, Defendants submit the following objections to the Government's Proposed Additional Jury Instructions (filed March 28, 2022), along with Defendants' proposed alternative instruction (if applicable).

In addition to the specific objections set forth below, Defendants generally object to the Government's proposed instructions to the extent that they instruct the jury to treat Count One of the First Superseding Indictment as a *per se* violation of the Sherman Act. As a basis for this objection, Defendants incorporate their Motions to Dismiss Count One of the First Superseding Indictment (Dkts. 45, 36).<sup>5</sup> Defendants further object to the Government's proposed jury instructions to the extent they vary from any applicable and appropriate Fifth Circuit Pattern Instructions for Criminal Cases.

### **GOVERNMENT'S REQUESTED JURY INSTRUCTION NO. 2** **CORPORATE LENIENCY AGREEMENT**

#### **Objection:**

Defendants object to Instruction No. 2 on the ground that it misstates the DOJ's policy on corporate leniency agreements. Moreover, it does not appear in the Fifth Circuit Pattern Jury Instructions for Criminal Cases and goes beyond the analogous Pattern Instruction No. 1.15 for accomplices/informer/immunity.

#### **Alternate Instruction:**

Defendants propose Defense Requested Instruction No. 2, above, which is based on Fifth Circuit Pattern Instruction No. 1.15, as an alternate to Government's Requested Jury Instruction No. 2.

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<sup>5</sup> Defendants acknowledge that the Court previously denied their Motions to Dismiss Count One of the First Superseding Indictment, but nonetheless reassert their objections to preserve the record in this case.

**GOVERNMENT’S REQUESTED JURY INSTRUCTION NO. 4**  
**SECTION 1 OF THE SHERMAN ACT**

**Objection:**

Defendants object to Instruction No. 19 based on the same grounds asserted in their Motion to Dismiss. Defendants further object to Instruction No. 4 on the grounds that it misstates and/or goes beyond the instructions that have been approved by the Fifth Circuit in similar cases.

**Alternate Instruction:**

Without waiving its objection to the *per se* treatment of Count One, Defendants propose the following alternative to the Government’s proposed instruction on Section 1 of the Sherman Act:

Count One of the indictment charges a violation of Section 1 of the Sherman Act, which provides that “every contract, combination ... or conspiracy, in restraint of trade ... is declared illegal.” Specifically, the indictment alleges that, from in or around March 2017 to in or around August 2017, the defendants and co-conspirators knowingly entered into and engaged in a conspiracy to suppress competition by agreeing to fix prices by lowering the pay rates to physical therapists and physical therapist assistants.

To find a defendant guilty of this crime, you must be convinced that the government has proved each of the following four elements against him beyond a reasonable doubt:

1. A conspiracy existed between two or more competitors to lower pay rates to physical therapists and physical therapist assistants from in or around March 2017 to in or around August 2017;
2. The defendant knowingly – that is, voluntarily and intentionally – became a member of the conspiracy charged in the indictment, knowing of its goal and intending to help accomplish it;<sup>6</sup>

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<sup>6</sup> *United States v. Therm-All, Inc.*, 373 F.3d 625, 639 (5th Cir. 2003) (holding district court’s instruction to the jury that “[t]he Government has to prove beyond reasonable doubt that the Defendant knowingly agreed with a competitor to raise, fix and maintain prices, and that the Defendant actually intended to carry out the agreement in fact,” was

3. The conspiracy concerned interstate trade or commerce.

If you find from your consideration of all the evidence that the government has proven each of these elements beyond a reasonable doubt, then you should find the defendant guilty.

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt, then you should find the defendant not guilty.

Memorandum Opinion and Order Denying Motion to Dismiss, ECF No. 56 at 8–18 (holding that indictment alleged price fixing, subject to the per se rule under Section 1 of the Sherman Act, by alleging that defendants agreed to fix therapist pay rates); *McLain v. Real Estate Bd. of New Orleans, Inc.*, 444 U.S. 232, 246 (1980); *United States v. Rose*, 449 F.3d 627, 630 (5th Cir. 2006); *United States v. Johnson*, 68 F.3d 899, 904 (5th Cir. 1995); *United States v. All Star Indus.*, 962 F.2d 465, 474–75 (5th Cir. 1992); *United States v. Cargo Serv. Stations, Inc.*, 657 F.2d 676, 681, 683–84 (5th Cir. 1981); see *United States v. Alston*, 974 F.2d 1206, 1209–10 (9th Cir. 1992); Jury Instructions, *United States v. Penn, et al.*, Case No. 20-cr-00152-PAB (D. Colo. December 16, 2021); 3 Modern Federal Jury Instructions-Criminal § 58.03 (2021).

**GOVERNMENT’S REQUESTED JURY INSTRUCTION NO. 7**  
**CONSPIRACY TO FIX PRICES**

**Objection:**

Defendants object to Instruction No. 7 based on the same grounds asserted in their Motion to Dismiss. Defendants further object to Instruction No. 7 on the grounds that it misstates and/or goes beyond the instructions that have been approved by the Fifth Circuit in similar cases.

**Alternate Instruction:**

The Defendants do not have an alternate instruction proposal at this time.

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“completely valid.”); see also *United States v. Penn et al.*, Crim. No. 1:20-cr-00152-PAB (D. Col. October 7, 2021) (Doc. 603) (giving same instruction); Pattern Jury Instructions (Criminal Cases), United States Court of Appeals for the Fifth Circuit, No. 2.15A (2019), as modified; Sand, *Modern Federal Jury Instructions*, Instr. 58-3 (modified to conform to the objective charged in the Indictment); see also *United States v. U.S. Gypsum Co.*, 438 U.S. 422, 443 n.20 (1978) (“In a conspiracy, two different types of intent are generally required – the basic intent to agree, which is necessary to establish the existence of the conspiracy, and the more traditional intent to effectuate the object of the conspiracy.”).



**GOVERNMENT’S REQUESTED JURY INSTRUCTION NO. 8**  
**PROOF OF OVERT ACT UNNECESSARY FOR COUNT ONE**

**Objection:**

Defendants object to Instruction No. 8 based on the same grounds asserted in their Motion to Dismiss. Moreover, the contents of the instruction are sufficiently addressed by others that have been submitted to the Court.

**Alternate Instruction:**

If the Court is inclined to provide the Government’s requested instruction, Defendants request that the Court include the following language in order to provide the jury with a full picture of the applicable law:

Of course, if the defendant or alleged co-conspirators never acted in accordance with the agreement, that is evidence you should consider in determining whether the agreement or conspiracy existed, or was joined by that individual, in the first place.

The government must prove that the claimed conspiracy was knowingly formed; that it was formed with the intention to accomplish, by joint action, price-fixing; and that the membership of the conspiracy was essentially that claimed by the government.

*United States v. Aiyer*, 470 F. Supp. 3d 383, 414 n.31 (S.D.N.Y. 2020) (“[T]he Supreme Court . . . has stated that the evidence of the failure of a conspiracy to achieve its ends can be used to demonstrate the lack of a conspiracy or the lack of intent on the part of an alleged conspirator.”) (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 592 (1986)); *Whitfield v. United States*, 543 U.S. 209, 213–14 (2005); *United States v. Shabani*, 513 U.S. 10, 14 (1994); *Summit Health, Ltd. v. Pinhas*, 500 U.S. 322, 330 (1991); *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 224 n.59 (1940); *United States v. Trenton Potteries Co.*, 273 U.S. 392, 402 (1927); *Nash v. United States*, 229 U.S. 373, 378 (1913); *United States v. Rose*, 449 F.3d 627, 630 (5th Cir. 2006); 3 Modern Federal Jury Instructions-Criminal § 58.01 (2021).

**GOVERNMENT’S REQUESTED JURY INSTRUCTION NO. 10**  
**GOOD FAITH/IGNORANCE OF THE LAW**

**Objection:**

Defendants object to Government’s Requested Jury Instruction No. 10, as it is not found in the Fifth Circuit Pattern Instructions. Moreover, the applicable intent requirements for the crimes

charged in the First Superseding Indictment are sufficiently addressed in the other instructions contained herein.

**Alternate Instruction:**

Defendants do not propose an alternate instruction, as the applicable intent requirements are sufficiently addressed in other instructions that have been submitted to the Court.

Dated: March 28, 2022.

Respectfully submitted,

**LOCKE LORD LLP**

By: */s/ Paul E. Coggins*

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon all counsel of record via the Court's electronic filing service on this 28th day of March, 2022.

*/s/ Paul E. Coggins*

\_\_\_\_\_  
Counsel for Defendant