

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

MORIAH AHARON;  
JORDAN G. KUPPINGER, M.D.;  
DAMON J. DETESO, M.D.;  
ROSANNA CARUSO;  
CHRISTOPHER PAYTON;  
LEE ANGIOLETTI;  
MARIANGELLA MANNING;  
LYNNORA VASQUEZ; and  
REBECCA MADDEN, each on  
behalf of themselves, and all those  
similarly situated,

CASE NO. 9:20-cv-80604-RKA  
CLASS ACTION  
JURY TRIAL DEMANDED

Plaintiffs,

v.

CHINESE COMMUNIST PARTY;  
PEOPLE'S REPUBLIC OF CHINA; and  
PETROCHINA INTERNATIONAL  
(AMERICA), INC.

Defendants.

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**FIRST AMENDED CLASS ACTION COMPLAINT**

Plaintiffs, MORIAH AHARON, JORDAN KUPPINGER, M.D., DAMON J. DETESO, M.D., ROSANNA CARUSO, CHRISTOPHER PAYTON, LEE ANGIOLETTI, MARIANGELLA MANNING, LYNNORA VASQUEZ, and REBECCA MADDEN (collectively, "Named Plaintiffs"), on behalf of themselves and all those similarly situated, by and through their undersigned counsel, hereby sue the CHINESE COMMUNIST PARTY ("CCP"), the PEOPLE'S REPUBLIC OF CHINA ("PRC"), and PETROCHINA INTERNATIONAL (AMERICA), INC. ("PetroChina"), (collectively "Defendants"), for damages, and further allege as follows:

## INTRODUCTION

1. This is a class action brought by the Named Plaintiffs, representing doctors, nurses, paramedics, EMTs and other front-line medical care workers in the United States and State of Florida, for damages suffered by them and putative class members as a result of Defendants hoarding and stockpiling Personal Protective Equipment (“PPE”); forbidding factories located in China, including those owned by U.S. corporations, from exporting PPE to the United States; and causing shortages and artificially inflated pricing of PPE.

2. The United States has and continues to suffer the devastating impacts of the Coronavirus/COVID-19 pandemic, with U.S. cases surpassing the 3 million mark, and the exponentially rising U.S. death toll surpassing 132,000 as of July 6, 2020.

3. The virus’s epicenter in late 2019 was Wuhan, China, and the CCP and the PRC knew that COVID-19 was dangerous and capable of causing a pandemic, yet deceived the world about its dangers, actively concealed it until it was too late, and failed to contain it when they could have, because of economic self-interest. Defendants’ malfeasance, misfeasance, and/or nonfeasance caused the pandemic.

4. Moreover, the CCP and the PRC enlisted their U.S. oil and gas subsidiary, PetroChina to help them carry out their PPE scheme.

5. On the front line of our nation’s response to the effects of this deadly pandemic are the nearly 4,000,000 doctors, nurses, medical technicians, paramedics, and EMTs who are faced with shortages of lifesaving PPE. These shortages can be directly traced to the actions of Defendants.

6. The conduct of Defendants has caused injury and incalculable harm to Named Plaintiffs and putative class members, and such injury and harm continues to multiply as the pandemic stretched on. The Defendants' conduct has caused and will continue to cause personal injuries and deaths, as well as other damages.

## **PARTIES**

### ***Named Plaintiffs***

7. MORIAH AHARON, a resident of Palm Beach County, Florida, is an intensive care unit nurse at a hospital, who could not obtain adequate supplies of PPE, and tested positive for COVID-19 after being exposed to a positive patient. Contracting the virus also put her loved ones in danger. She has been injured and damaged by Defendants' conduct, as described herein, and is otherwise *sui juris*.

8. JORDAN G. KUPPINGER, M.D., a resident of Palm Beach County, Florida, is an anesthesiologist and pain management doctor who was exposed to COVID-19 from his patients and could not obtain adequate PPE, putting himself in fear of contracting it and endangering his family. He has been injured and damaged by Defendants' conduct, as described herein, and is otherwise *sui juris*.

9. DAMON J. DETESO, M.D., a resident of Saratoga County, New York, is a radiologist in both hospital and outpatient settings, who was exposed to COVID-19 from his patients and suffered a shortage of adequate PPE, putting himself in fear of contracting it and endangering his family. He has been injured and damaged by Defendants' conduct, as described herein, and is otherwise *sui juris*.

10. ROSANNA CARUSO, a resident of Bergen County, New Jersey, is a surgical technologist who contracted COVID-19 because she could not obtain adequate

PPE while working with patients. Contracting the virus also put her loved ones in danger. She has been has been injured and damaged by Defendants' conduct, as described herein, and is otherwise *sui juris*.

11. CHRISTOPHER PAYTON, a resident of Monongalia County, West Virginia, is a hospital registered nurse, who has been injured and damaged by Defendants' conduct, as described herein, and is otherwise *sui juris*.

12. LEE ANGIOLETTI, a resident of Bergen County, New Jersey, is a retina specialist/ophthalmologist who contracted COVID-19 and became severely ill and required hospitalization. He was seeing 35-50 patients a day and could not obtain an N-95 mask until it was too late. He gave COVID-19 to his wife and his child was endangered. He has been injured and damaged by Defendants' conduct, as described herein, and is otherwise *sui juris*.

13. MARIANGELLA MANNING is a resident of Locust North Carolina and works in Charlotte, North Carolina as a health care provider in an OB/GYN office. She was unable to obtain proper PPE and tested positive for COVID-19, endangering her family. She has been injured and damaged by Defendants' conduct, as described herein, and is otherwise *sui juris*.

14. LYNNORA VASQUEZ, a resident of San Bernardino County, California is a registered nurse in the California state prison system, and was exposed to over 600 inmates who were positive for COVID-19, more than 12 of whom died. She was forced to re-use PPE on a daily basis because of PPE shortage and feared for herself and loved ones. She has been injured and damaged by Defendants' conduct, as described herein, and is otherwise *sui juris*.

15. REBECCA MADDEN, a resident of Pensacola, Florida is a nurse who did not have adequate access to masks and other PPE when working with patients and was exposed to the virus and put in fear for herself and loved ones.

16. Putative class members (“class members”) are those individuals and entities similarly situated to Named Plaintiffs, and will number in the hundreds of thousands, if not millions.

***Defendants***

17. The CCP is the ruling political party of China, whose leader becomes the president of the PRC. The CCP is an organization that is independent of the PRC, and it is not a political subdivision of the PRC. The CCP is not protected by sovereign immunity. *See, e.g., Yaodi Hu v. Communist Party of China*, Case No. 1:12-cv-1213, 2012 U.S. Dist. LEXIS 186286, at \*7 (W.D. Mich. Nov. 20, 2012) (finding that the CCP and individual government officials are not entitled to immunity under the Foreign Sovereign Immunities Act).

18. The CCP is not an agent, instrumentality, or organ of the PRC, but instead, upon information and belief, the CCP sits above and constitutionally apart from the PRC.

19. The PRC is a foreign state in East Asia and is the world’s most populous country. China is the largest manufacturer of PPE, and the CCP is the ruling political party.

20. PetroChina is a New Jersey corporation, headquartered in Texas, and registered to do business in and accept service of process in Florida. It is a subsidiary of China-state owned PetroChina International Co., Ltd. It is one of the largest oil and gas traders in the United States, and its parent’s market capitalization is often more than

ExxonMobil and other more well-known western oil companies. PetroChina is traded on the New York Stock Exchange.

### **JURISDICTION AND VENUE**

21. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1330(a), 28 U.S.C. § 1332 (a), and the Class Action Fairness Act of 2005 (CAFA; 28 U.S.C. § 1332(d)). The matter concerns a foreign state and its sub-divisions and instrumentalities. It is also a controversy that, exclusive of interest and costs, exceeds the sum or value of \$5,000,000, where there exists minimal diversity between parties, and there are millions of putative class members.

22. With regard to the PRC, this Court has further jurisdiction under the Foreign Sovereign Immunities Act (FSIA) of 1976, 28 U.S.C. §§ 1602 *et seq.*, and particularly the exceptions of § 1605(a)(5) (for money damages for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious acts or omissions of the PRC, or of any official or employee of PRC while acting within the scope of his office or employment); and § 1605(a)(2) (for commercial activity carried on in the United States; for an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or, for an act outside the territory of the United States in connection with a commercial activity of the foreign state that causes a direct effect in the United States).

23. A commercial activity pursuant to § 1605(a)(2) is defined to be “either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the

course of conduct or particular transaction or act, rather than by reference to its purpose.”  
§ 1603(d).

24. The PRC itself and in concert with the other Defendants, was a market participant in the commercial activity of manufacturing and selling PPE; buying PPE supplies on the world market and in the United States; and taking part in the import and export of such supplies and equipment.

25. It should be noted that the safe harbor language of “discretionary acts” of a sovereign, included in § 1605(a), only modifies § 1605(a)(5) (non-commercial torts). But to the extent it could apply at all, nothing in Defendants’ culpable behavior was discretionary, rather it was intentional. Moreover, under the law developed since enactment of the FSIA, the “discretionary acts” safe harbor does not apply where, such as here: 1) the PRC has acted clearly contrary to the precepts of humanity; 2) their conduct is anti-competitive and against the law; and 3) they failed to warn of a known danger.

26. The PRC has acted egregiously in their culpable conduct and the unleashing of this virus on the world is clearly contrary to the precepts of humanity. They clearly knew of the danger of the virus, the ease of human-to-human transmission, and its dangerous tendencies and failed to warn about it, and instead actively concealed it. At the same time they stopped all export of PPE from manufacturing facilities in China, and bought up all the of the world’s supplies of PPE to corner the market and make a profit off their egregious conduct.

27. The wrongful conduct described herein occurred in the United States, in that: 1) Defendants set in motion forces that had their direct impact within our borders;

and 2) Defendants engaged in wrongful conduct in the United States, either directly, or in concert with their U.S. company, and/or through the PRC's and CCP's agents within the U.S., such as at the Chinese embassy and the 5 regional consulates, and other offices.

28. Although the CCP, which directs and controls all activities in the PRC, is not a foreign state and is not subject to the FSIA, to the extent the Court disagrees, then the FSIA related jurisdictional allegations herein should be read to include the CCP.

29. This Court has jurisdiction over Defendants because they have committed tortious acts within the United States and Florida, and within this District, and have sufficient contacts in Florida and this District to render the exercise of jurisdiction by this Court permissible.

30. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) and (c) because a substantial part of the events or omissions giving rise to Named Plaintiff's and class members' claims occurred in this District.

### **GENERAL ALLEGATIONS**

#### ***The Root of the Virus - Wuhan***

31. The Chinese government entities described herein are under the ultimate control and direction of the CCP and/or PRC.

32. It is generally accepted that COVID-19/SARS-CoV-2 originated in Wuhan, but there are several theories as to how, and the theories also cross in application. Two of the prevailing theories are that: 1) the virus came from Wuhan Institute of Virology ("WIV") and either its "P4" "level 4" or P3 labs; and 2) it originated by natural zoonotic (animal to human) transmission because of the exotic animal "wet markets" and related animal trade.

33. WIV has been a source of much scrutiny during the pandemic. At the center of the scrutiny is Dr. Shi Zhengli, who is known in China as the “bat woman,” and who has been at the forefront of studying how bats, horseshoe bats in particular, are reservoirs of SARS-like coronaviruses. Since 2004, after the original SARS outbreak, she has been collecting bats from Chinese caves in Yunnan province and eventually studying them at WIV in the P4 and P3 labs.<sup>1</sup> Indeed, Bloomberg reported on July 5, 2020, that a virus closely resembling the current virus was shipped to Dr. Shi’s lab in 2013 from the caves in Yunnan after six workers clearing bat feces from the cave contracted a severe pneumonia and three died.<sup>2</sup>

34. Dr. Shi has been prolific in publishing reports of her work over the years. Starting in 2010, she and her team began focusing on the “S” proteins that are the “spikes” seen in the illustrations of COVID-19, and how they might interact with ACE2 receptor cells, such as those in humans, which would allow a coronavirus to pass from bat to human without an intermediate host animal.<sup>3</sup>

35. In 2013, she and her team published an article in the journal *Nature* announcing a breakthrough that they had found and isolated horseshoe bat coronaviruses that closely resembled SARS-CoV viruses, and one with an S protein that

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<sup>1</sup> Jane Qiu, *How China’s ‘Bat Woman’ Hunted Down Viruses from SARS to the New Coronavirus*, Scientific American (April 27, 2020), available at: <https://www.scientificamerican.com/article/how-chinas-bat-woman-hunted-down-viruses-from-sars-to-the-new-coronavirus1>.

<sup>2</sup> Thomas Seal, *Covid-Like Virus Was Sent to Wuhan in 2013*, Bloomberg News (July 5, 2020), available at: <https://www.bloomberg.com/news/articles/2020-07-05/covid-like-virus-was-sent-to-wuhan-in-2013-sunday-times-says>.

<sup>3</sup> Joshua Philipp, *Tracking Down the Origins of Wuhan Coronavirus*, Epoch Times Documentary (Apr. 14, 2020), available at <https://www.theepochtimes.com/coronavirusfilm>.

integrated with human ACE2 receptor cells.<sup>4</sup> The paper stated: “Our results provide the strongest evidence to date that Chinese horseshoe bats are natural reservoirs of SARS-CoV, and that intermediate hosts may not be necessary for direct human infection by some bat SL-CoVs.”<sup>5</sup>

36. In November 2015, she and her team published another breakthrough in *Nature Medicine* titled: “A SARS-like Cluster of Circulating Bat Coronaviruses Shows Potential for Human Emergence.” A key excerpt from this article states:

On the basis of these findings, we *synthetically re-derived* an infectious full-length SHC014 recombinant virus and demonstrate robust viral replication both *in vitro* and *in vivo*. Our work suggests a potential risk of SARS-CoV re-emergence from viruses currently circulating in bat populations.

Dr. Shi fully admitted that she was synthetically working with the “spikes” of the virus and increasing their ability to attach to human receptor cells.<sup>6</sup> This synthetic manipulation is also known as “gain of function” research. This synthetic bat-derived virus could easily transmit to humans.

37. Dr. Shi’s manipulation of deadly viruses that eased human infection drew criticisms. Simon Wain-Hobson, a virologist at the Pasteur Institute in Paris, pointed out shortly after the paper was published, that the researchers had created a novel virus that

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<sup>4</sup> *Id.*

<sup>5</sup> *Isolation and Characterization of Bat SARS-Like Coronavirus that Uses the ACE2 Receptor*, *Nature* (Nov. 28, 2013), available at <https://www.ncbi.nlm.nih.gov/pubmed/24172901>.

<sup>6</sup> *Nat. Med.* 21, 1508–1513 (2015) (emphasis supplied), available at: <https://www.nature.com/articles/nm.3985>.

“grows remarkably well” in human cells, and that “[i]f the virus escaped, nobody could predict the trajectory.”<sup>7</sup>

38. Labs such as WIV have been the source of pathogen leaks before, and in 2017 *Nature* published an article about how the international research community was particularly concerned that there could be a leak from WIV’s labs, and noted that because of the ultra-dangerous nature of the viruses contained in such a lab, a leak could have devastating consequences.<sup>8</sup>

39. Reports cannot be discounted that address that the purpose of the P4 lab, and the gain of function research of Dr. Shi and her team is really for bio-weapons research, and that the work on the SARS-CoV viruses had other applications. Dr. Richard Enbright, a molecular biologist at Rutgers University in Piscataway, New Jersey, commenting in the 2017 article, said that such labs “are inherently dual use”<sup>9</sup>

40. Despite denials that COVID-19 originated in the lab, reports and evidence are emerging that it did, including in a report from US intelligence. As recently reported:

The report, dated March 27 and corroborated by two U.S. officials, reveals that U.S. intelligence revised its January assessment in which it “judged that the outbreak probably occurred naturally” to now include the possibility that the new coronavirus emerged “accidentally” due to “unsafe laboratory practices” in the central Chinese city of Wuhan, where the pathogen was first observed late last year.

...  
The Wuhan Institute has a record of shoddy practices that could conceivably lead to an accidental release, as officials at the U.S. Embassy in Beijing reportedly warned in a cable on January 19, 2018. “During

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<sup>7</sup> Declan Butler, *Engineered Bat Virus Stirs Debate Over Risky Research*, *Nature* (Nov. 12, 2015), available at <https://www.nature.com/news/engineered-bat-virus-stirs-debate-over-risky-research-1.18787>.

<sup>8</sup> David Cyranoski, *Inside the Chinese Lab Poised to Study World's Most Dangerous Pathogens*, *Nature* (Feb. 22, 2017) <https://www.nature.com/news/inside-the-chinese-lab-poised-to-study-world-s-most-dangerous-pathogens-1.21487>.

<sup>9</sup> *Id.*

interactions with scientists at the WIV laboratory, they noted the new lab has a serious shortage of appropriately trained technicians and investigators needed to safely operate this high-containment laboratory," states the cable, according to the Washington Post.<sup>10</sup>

41. If WIV is the source, how the virus escaped has been variously attributed to their failure to adhere to proper containment protocols, and that the virus then escaped because: 1) a post-doctoral researcher at the lab, Huang Yanling, became infected and was "patient zero" at some point in Fall 2019, and her existence has since been scrubbed;<sup>11</sup> 2) a lab researcher — in an apparently common and lucrative practice — sold research animals containing the virus to the Huanan Seafood Market in Wuhan (a researcher at WIV was recently jailed for the practice);<sup>12</sup> or 3) it escaped/leaked in some other intentional, reckless, or negligent way.

42. Under the WIV theories, there is no consensus as yet whether it was one of the natural viruses in the bats stored there, or one of the synthetic (or partially synthetic) "gain of function" viruses that made it out of WIV, but in either case, it made its way into humans and began infecting the people of Wuhan.

43. It was recognized internationally that having a level 4 lab in China was potentially dangerous because Chinese researchers would not be allowed to speak freely

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<sup>10</sup> *The Controversial Experiments and Wuhan Lab Suspected of Starting the Coronavirus Pandemic*, Newsweek (Apr. 27, 2020), available at: <https://www.newsweek.com/controversial-wuhan-lab-experiments-that-may-have-started-coronavirus-pandemic-1500503>.

<sup>11</sup> Kenneth Rapoza, *China Lab In Focus Of Coronavirus Outbreak*, Forbes (Apr. 14, 2020), available at: <https://www.forbes.com/sites/kenrapoza/2020/04/14/the-washington-post-goes-rogue-china-lab-in-focus-of-coronavirus-outbreak/#517b923a1ee1>.

<sup>12</sup> Venus Upadhayaya, *Pandemic Reveals Alarming Absence of Ethics in China's Virology Labs: Experts*, Epoch Times (Apr. 25, 2020), available at: [https://www.theepochtimes.com/pandemic-reveals-alarming-absence-of-ethics-in-chinas-virology-labs-experts\\_3320898.html](https://www.theepochtimes.com/pandemic-reveals-alarming-absence-of-ethics-in-chinas-virology-labs-experts_3320898.html).

of safety issues in the CCP controlled country. It was further recognized that China wanted the lab so it could compete with the U.S. and the west and be a destination for researchers and funding.<sup>13</sup>

44. Defendants, knowing that the WIV labs did not abide by proper containment protocols, knowing they housed the most dangerous viruses, knowing they allowed dangerous “gain of function” manipulation of coronaviruses, allowed the work at WIV to continue for commercial gain, and the profit appetite of the Chinese Academy of Sciences. Because of this, COVID-19 was allowed to escape into the general public.

#### ***The Huanan Seafood Market Theory***

45. The second prevalent and alternative theory is that zoonotic transmission naturally occurred because of China’s \$75 billion annual trade in exotic animals, particularly in Southern China, both for medicinal and human consumption purposes.

46. China claims to promote the conservation of exotic and endangered animals for conservation purposes, but there are many who claim that China uses conservation as a ruse to ensure exotic animals are traded and supplied to the “wet markets” such as Wuhan’s Huanan Seafood Market.<sup>14</sup>

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<sup>13</sup> See David Cyranoski, *Inside the Chinese Lab Poised to Study World's Most Dangerous Pathogens*, *Nature* (Feb. 22, 2017).

<sup>14</sup> Wilson Center presents: *Wild Laws: China and Its Role in Illicit Wildlife Trade*, June 2, 2016, available at <https://www.wilsoncenter.org/event/wild-laws-china-and-its-role-illicit-wildlife-trade>. See also, Rachel Nuwer, *The Key to Stopping the Illegal Wildlife Trade: China*, *New York Times* (Nov. 19, 2018), available at: <https://www.nytimes.com/2018/11/19/science/wildlife-trafficking-china.html>.

47. Although it is called a “Seafood” market, it was known to sell all types of meats, poultry, fish and reptiles.<sup>15</sup> And although bats and other exotic animals were not listed on its official inventory, it has been reported that such exotic animals could have easily been sold there unofficially and not listed because their trade is illegal.<sup>16</sup> The hygienic conditions of the wet markets are generally described as appalling.

48. The wet market theory hinges on natural transmission of the virus from animal to human, either directly from a bat, or through an intermediate host, such as a highly sought-after scaly anteater known as the Pangolin. It has been called “the most illegally traded mammal in the world” and they are prized for their meat and the claimed medicinal properties of their scales. The wet markets have been the source of prior SARS-coronavirus outbreaks.<sup>17</sup>

49. Knowing the link between the wet markets and the virus outbreaks, the CCP and the PRC promised the world in the mid 2000’s that it would and had stopped the wet markets trade. Although these Defendants “officially” made such trade illegal, they did not stop it. There is no doubt that these Defendants have the power and ability to stop it. They just chose to let it continue and participate in it themselves for economic gain, and because of that dangerous and abhorrent decision, a pandemic was unleashed on the world.

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<sup>15</sup> *As New Coronavirus Spread, China’s Old Habits Delayed Fight*, New York Times (Feb. 1, 2020), available at <https://www.nytimes.com/2020/02/01/world/asia/china-coronavirus.html>.

<sup>16</sup> Graham Readfearn, *How Did Coronavirus Start and Where Did It Come From? Was It Really Wuhan’s Animal Market?*, The Guardian (Apr. 27, 2020), available at: <https://www.theguardian.com/world/2020/apr/28/how-did-the-coronavirus-start-where-did-it-come-from-how-did-it-spread-humans-was-it-really-bats-pangolins-wuhan-animal-market>.

<sup>17</sup> *Id.*

50. But no matter which theory is true, the CCP and the PRC are still culpable because of their active concealment of the virus outbreak, and their failure to contain it, at a time a pandemic could have been avoided.

51. It should be noted that in the November/December timeframe, China and the United States were negotiating a major trade deal, and that deal was signed with great fanfare on January 15, 2020.<sup>18</sup> China signed the deal under false pretenses, because, upon signing, Defendants were already in violation of the clause that stated: “In the event that a natural disaster or other unforeseeable event outside the control of the Parties delays a Party from timely complying with its obligations under this Agreement, the Parties shall consult with each other.” China needed that deal because of the ongoing contraction of their GDP and uncertainty caused by the two countries’ trade war, and it would likely have been derailed if they had been truthful about the virus.

52. By January 15<sup>th</sup>, as explained *infra*, Defendants already knew that they had a deadly virus that easily passed human-to-human and that an epidemic could easily become a pandemic. Given what has unfolded, Defendants’ had a strong motive for concealing this information and letting the U.S. think everything was business as usual.

53. Moreover, after essentially creating the pandemic problem, they insured hefty profits to buoy their GDP, buy cornering the market for the supplies that would become vital in preventing its spread.

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<sup>18</sup> *Trump Signs China Trade Deal, Putting Economic Conflict on Pause*, New York Times (Jan. 15, 2020), available at: <https://www.nytimes.com/2020/01/15/business/economy/china-trade-deal.html>.

***Defendant's Active Concealment of the Dangers of COVID-19***

54. After the first SARS epidemic in 2003, the PRC invested billions of dollars into an emergency reporting system known as the “Infectious Diseases and Public Health Emergencies Reporting System,” which is run by the Chinese Center for Disease Control.<sup>19</sup> In China, it is also known as the Surveillance Reporting System, or “SRS.”<sup>20</sup>

55. The SRS is a high-tech reporting and data system where healthcare providers are supposed to report any unusual medical conditions affecting three or more patients, so that a response can be developed within hours.<sup>21</sup>

56. The SRS failed here, because the Wuhan doctors and hospitals were forbidden from entering the information, and the doctor-controlled Chinese CDC was overridden by the CCP controlled WHC.<sup>22</sup>

57. The first human infection from COVID-19/SARS-CoV-2 likely occurred in late 2019, but the exact date is still unknown. Some reports claim that the first case became known on November 17, 2019, or possibly earlier.<sup>23</sup>

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<sup>19</sup> Chinese Center for Disease Control, “About Us – Public Health Surveillance and Information Services,” <http://www.chinacdc.cn/en/> (last accessed May 2, 2020).

<sup>20</sup> Dr. Wang Weiluo, *What Really Happened in the Early Days of the Virus Breakout*, at \*2 (Apr. 28, 2020) (hereinafter “Dr. Wang Report”). Dr. Weiluo is a Chinese born and educated scientist and researcher now based in Dortmund, Germany, and is well regarded by many Chinese for his extensive research into China’s handling of environmental issues and the Three Gorges Dam project. His report is currently being prepared for publication.

<sup>21</sup> Dr. Wang Report at \*2-\*6

<sup>22</sup> *Id.*

<sup>23</sup> *Coronavirus: China’s First Confirmed Covid-19 Case Traced Back to November 17*, South China Morning Press (Mar. 13, 2020), available at: <https://www.scmp.com/news/china/society/article/3074991/coronaviruschinas-first-confirmed-covid-19-case-traced-back>.

58. The Lancet reported that the first patient contracted the virus on December 1, 2019, and had been associated with Huanan Seafood Market, and that man's wife began showing symptoms five days later, which indicated human-to-human transmission.<sup>24</sup>

59. Dr. Gao Fu, director of China's CDC, received his PhD from Oxford (and is a visiting professor there), has done post-doctoral work at Harvard, and has published over 450 scientific papers in international medical journals. According to Dr. Wang, frustration with the CCP led Dr. Fu to publish a report (co-authored by 52 other doctors and researchers) in the New England Journal of Medicine on January 29, 2020 that hid more true data about the outbreak and its early severity in plain sight. That data revealed infections in Wuhan the first week of December, but even that data demonstrates underreporting because of the coverup by the Wuhan Health Commission ("WHC").<sup>25</sup>

60. According to a study in the *Chinese Medical Journal*, laboratory testing was already being conducted on patients with COVID-19 symptoms between December 18 and 29, 2019, with symptoms attributed to "[a] novel bat-borne [coronavirus] ... that is associated with severe and fatal respiratory disease in humans."<sup>26</sup>

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<sup>24</sup> *Clinical Features of Patients Infected with 2019 Novel Coronavirus In Wuhan, China*, The Lancet (Jan. 24, 2020), available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)30183-5/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30183-5/fulltext).

<sup>25</sup> Dr. Wang Report at \*6-\*7. See also, *Early Transmission Dynamics in Wuhan, China, of Novel Coronavirus-Infected Pneumonia*, N. Eng. J. of Med. (Jan. 29, 2020), available at <https://www.nejm.org/doi/full/10.1056/NEJMoa2001316>.

<sup>26</sup> *Identification of a Novel Coronavirus Causing Severe Pneumonia In Human: A Descriptive Study*," Chinese Medical Journal (Feb. 21, 2010), available at: [https://journals.lww.com/cmj/Abstract/publishahead/Identification\\_of\\_a\\_novel\\_coronavirus\\_causing.99423.aspx](https://journals.lww.com/cmj/Abstract/publishahead/Identification_of_a_novel_coronavirus_causing.99423.aspx).

61. According to Chinese sources cited in the *National Review*, on December 25, 2019, “Chinese medical staff in two hospitals in Wuhan [were] suspected of contracting viral pneumonia and [were] quarantined<sup>27</sup> Wuhan hospitals noticed an exponential rise in cases that could not be connected to the seafood market, all of which was additional strong evidence of human-to-human transmission.<sup>28</sup> This was corroborated by the *Wall Street Journal*.<sup>29</sup>

62. On December 27, 2019, the Hubei Province Health Commission (“HHC”) and WHO directed the Wuhan CDC to investigate infected patients at Hubei Xinhua Hospital in Wuhan. As a result, most of these patients were moved to Wuhan’s Gold-Silver Pond Hospital, which only handles infectious disease, another indication of the knowledge of the ease of human-to-human transmission and the virus’s dangers.<sup>30</sup>

63. According to the South China Morning Press, “On December 27, Zhang Jixian, a doctor from Hubei Provincial Hospital of Integrated Chinese and Western Medicine, told China’s health authorities that the disease was caused by a new coronavirus. By that date, more than 180 people had been infected, though doctors might not have been aware of all of them at the time.”<sup>31</sup>

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<sup>27</sup> *Devastating Lies*, National Review (Mar. 23, 2020), available at: <https://www.nationalreview.com/the-morning-jolt/chinas-devastating-lies/>.

<sup>28</sup> *Id.*

<sup>29</sup> *How It All Started: China’s Early Coronavirus Missteps*, The Wall Street Journal (Mar. 6, 2020), available at: <https://www.wsj.com/articles/how-it-allstarted-chinas-early-coronavirus-missteps-11583508932>.

<sup>30</sup> Dr. Wang Report at \*10.

<sup>31</sup> *Coronavirus: China’s First Confirmed Covid-19 Case Traced Back to November 17*, South China Morning Press (Mar. 13, 2020), available at: <https://www.scmp.com/news/china/society/article/3074991/coronavirus-chinas-first-confirmed-covid-19-case-traced-back>.

64. A study of patients admitted through January 2 found that only 27 of 41 patients had a link to the Wuhan Seafood Market, indicating human-to-human transmission in December.<sup>32</sup>

65. Thus, in December, Defendants knew that the virus was spreading easily human-to-human and that it was dangerous.

66. Dr. Ai Fen, director of the ER at Wuhan Central Hospital was an early whistleblower who has been silenced. The CCP has censored stories in China about her and she has reportedly now disappeared. Although sources differ on the exact timing of the sequence, she was noticing the strange symptoms in patients by mid-December, and by December 30, 2019, had received a test result back indicating SARS coronavirus. She circled the word SARS and sent a picture to colleagues to warn them, one of whom was Dr. Li Wenliang, a former classmate.<sup>33</sup>

67. According to CNN, on December 30, 2019, Dr. Li, using the popular chat application WeChat, repeated this information to his medical school alumni group about patients at his hospital suffering from a SARS-like illness that may have originated from a coronavirus.<sup>34</sup>

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<sup>32</sup> *Clinical Features of Patients Infected with 2019 Novel Coronavirus In Wuhan, China*, The Lancet (January 24, 2020), available at: [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)30183-5/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)30183-5/fulltext).

<sup>33</sup> *Coronavirus: Wuhan Doctor Speaks Out Against Authorities*, The Guardian (Mar. 11, 2020), available at <https://www.theguardian.com/world/2020/mar/11/coronavirus-wuhan-doctor-ai-fen-speaks-out-against-authorities>. See also Dr. Ai Fen, Wikipedia, [https://en.wikipedia.org/wiki/Ai\\_Fen](https://en.wikipedia.org/wiki/Ai_Fen).

<sup>34</sup> *This Chinese Doctor Tried to Save Lives, But Was Silenced. Now He Has Coronavirus*, CNN (Feb. 4, 2020), available at: <https://www.cnn.com/2020/02/03/asia/coronavirus-doctor-whistle-blower-intl-hnk/index.html>.

68. In his messages, Dr. Li shared details of what would be named COVID-19, urging them to take precautions against the risk of human-to-human transmission.<sup>35</sup>

69. On December 30, 2019, WHC released a notice to medical institutions that patients visiting the Wuhan Seafood Market had contracted a pneumonia-like illness. The notice warned medical professionals: “Any organizations or individuals are not allowed to release treatment information to the public without authorization.”<sup>36</sup> Dr. Wang has obtained copies of these notices.<sup>37</sup> (Attached as Composite **Exhibit A**).

70. Within hours of sending his warning to colleagues via WeChat on December 30, screenshots of Dr. Li Wenliang’s message had been shared widely on social media, but government censors then took action to stop the circulation.<sup>38</sup>

71. Later that night, at 1:30am on December 31, Dr. Li was summoned to WHC for questioning, and later that same day, Dr. Li was summoned by his hospital head, who demanded that he admit his wrongdoing.<sup>39</sup>

72. By December 30, Dr. Gao had found out about the unreported infections in Wuhan and that they were not in the SRS. He summoned top CDC and NHC leaders to meet in Wuhan with the WHC and HHC on the morning of December 31, 2019. It was decided at this meeting that all information would be controlled by WHC.<sup>40</sup> Thus, the multi-billion dollar SRS that could have alerted Wuhan’s residents and the world, was put

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<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Dr. Wang Report at \*4-\*5.

<sup>38</sup> *How It All Started: China’s Early Coronavirus Missteps*, The Wall Street Journal (Mar. 6, 2020), *supra*.

<sup>39</sup> Dr. Wang Report at \*11.

<sup>40</sup> *Id.* at \*6.

aside in favor of fear and silence, with a tightly controlled, but ineffective, internal reporting only system, controlled by CCP leaders.

73. Despite the previously-mentioned evidence to the contrary, on December 31, 2020, WHC declared, “[t]he medical staff investigation so far has not found any obvious human-to-human transmission and no infection.”<sup>41</sup>

74. On December 31, the YY online social network platform (one of China’s most popular social networks) listed 45 words as forbidden search terms including: “Unknown pneumonia in Wuhan”, “Wuhan seafood market”, “SARS”, “outbreak of SARS epidemic”, “WHC”, and “P4 Viral Lab.”<sup>42</sup> That same day, researchers at the University of Toronto took notice of this and other censoring of key words about the virus on Chinese social media platforms.<sup>43</sup>

75. Besides YY, another censored platform was WeChat, and as explained by the researchers, WeChat “has become increasingly popular among [Chinese] doctors who use it to obtain professional knowledge from peers. Because of social media’s integral role in Chinese society and its uptake by the Chinese medical community, systematic blocking of general communication on social media related to disease information and prevention risks substantially harming the ability of the public to share information that may be essential to their health and safety.”<sup>44</sup>

76. On January 1, Defendants censored eight doctors from speaking about the

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<sup>41</sup> *Devastating Lies*, National Review (Mar. 23, 2020), *supra*.

<sup>42</sup> Dr. Wang Report at \*11.

<sup>43</sup> *Censored Contagion: How Information on the Coronavirus is Managed on Chinese Social Media*, U. of Toronto, The Citizen Lab (Mar. 3, 2020), available at <https://citizenlab.ca/2020/03/censored-contagion-how-information-on-the-coronavirus-is-managed-on-chinese-social-media/>.

<sup>44</sup> *Id.*

outbreak and its dangers. The Wuhan police stated that they had “taken legal measures” against eight people who “published and shared rumors online,” and one of them was Dr. Wenliang.<sup>45</sup>

77. According to CNN, “The police announcement [against the eight people] was broadcast across the country on CCTV, China’s state broadcaster, making it clear how the Chinese government would treat such ‘rumormongers.’”<sup>46</sup>

78. The message reportedly said, “The internet is not a land beyond the law ... Any unlawful acts of fabricating, spreading rumors and disturbing the social order will be punished by police according to the law, with zero tolerance.”<sup>47</sup>

79. As described by the St. Louis Post-Dispatch, “The punishment of eight doctors for ‘rumor-mongering,’ broadcast on national television on January 2, sent a chill through the city’s hospitals,” and suppressed information from reaching the rest of the world.<sup>48</sup>

80. On January 1, 2020, “after several batches of genome sequence results had been returned to hospitals and submitted to health authorities, an employee of one genomics company received a phone call from an official at the HHC, ordering the company to stop testing samples from Wuhan related to the new disease and destroy all

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<sup>45</sup> *Id.* See also, *This Chinese Doctor Tried to Save Lives, But Was Silenced. Now He Has Coronavirus*, CNN (Feb. 4, 2020) *supra*.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Six Days Of Silence When China Didn’t Warn Public of Likely Pandemic*, The St. Louis Post Dispatch, (Apr. 16, 2020), available at: <https://www.stltoday.com/news/national/your-daily-6-nurses-suspended-over-Six-days-of-silence-when-China-didn-t-warn-public-of-likely-pandemic>, The St. Louis Post Dispatch, (Apr. 16, 2020), available at: [https://www.stltoday.com/news/national/your-daily-6-nurses-suspended-over-masks-cheaper-iphone-and-how-six-days-of-silence/collection\\_a2b87190-132f-5438-a36d-1c48c64be013.html#1](https://www.stltoday.com/news/national/your-daily-6-nurses-suspended-over-masks-cheaper-iphone-and-how-six-days-of-silence/collection_a2b87190-132f-5438-a36d-1c48c64be013.html#1)

existing samples.”<sup>49</sup>

81. Dr. Ai, as of January 1, 2020, ordered her staff to put on masks, suspecting the ease of human-to-human transmission.<sup>50</sup>

82. But that night, “the hospital’s discipline department summoned her for a chat the next day. She was criticized for ‘spreading rumors,’ according to Dr. Ai. She tried to argue that the disease could be contagious. They said her action caused panic and ‘damaged the stability’ of Wuhan. The hospital’s leadership also banned staff from discussing the disease in public or via texts or images.”<sup>51</sup>

83. On January 2, 2020, Dr. Shi Zhengli and her colleagues at the WIV completed the genome sequencing of the virus.<sup>52</sup> Discovery of the genome sequence was not announced at the time.<sup>53</sup> The dean of the WIV reminded the staff of the WHC order that no one could disclose any of the information.<sup>54</sup> (Composite **Exhibit B**).

84. On January 3, 2020, Dr. Li Wenliang was forced to confess to a misdemeanor, prepare a self-criticism, and agree not to commit any additional “unlawful acts.”<sup>55</sup>

85. The confession that Dr. Li was forced to sign demonstrates the lengths that

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<sup>49</sup> *How Early Signs of The Coronavirus Were Spotted, Spread and Throttled In China*, The Strait Times (Feb. 28, 2020), available at: <https://www.straitstimes.com/asia/east-asia/how-early-signs-of-the-coronavirus-were-spotted-spread-and-throttled-in-china>

<sup>50</sup> *How It All Started: China’s Early Coronavirus Missteps*, The Wall Street Journal (Mar. 6, 2020), *supra*.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* See also, *As New Coronavirus Spread, China’s Old Habits Delayed Fight*, New York Times (Feb. 1, 2020), *supra*.

<sup>53</sup> The Strait Times, *supra*.

<sup>54</sup> Dr. Wang Report at \*12.

<sup>55</sup> *This Chinese Doctor Tried to Save Lives, But Was Silenced. Now He Has Coronavirus*, CNN (Feb. 4, 2020), *supra*.

Defendants would go to intimidate and ensure silence about the truth. The confession stated that:

Your action has severely disrupted the order of society. Your action has breached the law, violating the relevant rules in the “Law of the People’s Republic of China on Penalties for Administration of Public Security.” It is an illegal act!

. . . .  
We want you to calm down and reflect on your actions, as well as solemnly warn you: If you insist on your views, refuse to repent and continue the illegal activity, you will be punished by the law. Do you understand?

Answer: I understand. (Composite **Exhibit C**).<sup>56</sup>

In other words, if you tell the truth about a dangerous epidemic that will easily pass human-to-human and cause the death of many, you will be severely punished.

86. The directors of the Central Hospital of Wuhan, where both Dr. Li Wenliang and Dr. Ai Fen worked, urgently called a meeting that evening for all departmental directors and stressed that they should follow the WHC rules of silence and not leak out any information.<sup>57</sup>

87. On January 3, 2020, “China’s National Health Commission (NHC), the nation’s top health authority, ordered institutions not to publish any information related to the unknown disease, and ordered labs to transfer any samples they had to designated testing institutions, or to destroy them.”<sup>58</sup> The NHC notice categorized viral samples as “Class 2 of Highly Pathogenic Microorganisms.”<sup>59</sup> Again, Defendants knew how dangerous the virus was and destroyed test results, suppressed all public information,

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<sup>56</sup> Before Dr. Li’s untimely death from coronavirus, he posted the confession on his social media account at Weibo.

<sup>57</sup> Dr. Wang Report at \*12.

<sup>58</sup> *How Early Signs of The Coronavirus Were Spotted, Spread and Throttled In China*, The Strait Times (Feb. 28, 2020), *supra*.

<sup>59</sup> Dr. Wang Report at \*12.

and lied in the information they did provide to the outside world.

88. The *National Review*, quoting Chinese sources, stated that on January 3, the “Wuhan Municipal Health Commission released another statement, repeating, ‘As of now, preliminary investigations have shown no clear evidence of human-to-human transmission and no medical staff infections.’”<sup>60</sup>

59. The World Health Organization (“WHO”) had been informed (too late) of events in Wuhan on December 31, with the organization saying that “the WHO China Country Office was informed of cases of pneumonia unknown etiology (unknown cause) detected in Wuhan City, Hubei Province of China.”<sup>61</sup>

60. On information and belief, part of the PRC’s and CCP’s coverup involved misleading the WHO, an international organization under the United Nations whose objective is “the attainment by all peoples of the highest possible level of health,” according to its Constitution.<sup>62</sup>

61. On information and belief, the PRC and CCP delayed reporting COVID-19 to the WHO for weeks after the outbreak was identified in the Chinese medical community.

89. Under Article 6.1 of the International Health Regulations, China had a duty to report “all events which may constitute a public health emergency of international concern within its territory” within 24 hours.

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<sup>60</sup> *Devastating Lies*, National Review (Mar. 23, 2020), *supra*.

<sup>61</sup> *Novel Coronavirus (2019-nCoV) SITUATION REPORT – 1*, World Health Organization (Jan. 21, 2020), available at: <https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200121-sitrep-1-2019-ncov.pdf>.

<sup>62</sup> World Health Organization Constitution, Article I, available at: <https://apps.who.int/gb/bd/PDF/bd47/EN/constitution-en.pdf?ua=1>.

90. When China did inform the WHO of the disease, Chinese authorities denied human-to-human transmission, despite having significant evidence to the contrary. On information and belief, Defendants' denial induced the WHO to also deny or downplay the risk of human-to-human transmission in the critical weeks while the virus was first spreading.

91. According to the *Wall Street Journal*, on January 5, "a medical research center in Shanghai notified the National Health Commission that one of its professors had also identified a SARS-like coronavirus and mapped the entire genome using a sample from Wuhan."<sup>63</sup>

92. Like the genome discovery by WIV on January 2, the January 5 genome mapping was kept secret.<sup>64</sup>

93. On January 5, 2020, relying on information from Chinese officials, WHO released a statement saying, "Based on the preliminary information from the Chinese investigation team, no evidence of significant human-to-human transmission and no health care worker infections have been reported."<sup>65</sup>

94. On January 6, the United States Centers for Disease Control offered to send a research team to assist Defendants, but Defendants did not extend permission to enter the country.<sup>66</sup>

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<sup>63</sup> *How It All Started: China's Early Coronavirus Missteps*, The Wall Street Journal (Mar. 6, 2020), *supra*.

<sup>64</sup> *Id.*

<sup>65</sup> *Pneumonia of Unknown Cause – China*, WHO Disease Outbreak News (Jan. 5, 2020) (emphasis supplied), available at: <https://www.who.int/csr/don/05-january-2020-pneumonia-of-unknown-cause-china/en/>.

<sup>66</sup> *Exclusive: U.S. Axed CDC Expert Job In China Months Before Virus Outbreak*, Reuters (Mar. 22, 2020), available at: <https://www.reuters.com/article/us-health-coronavirus->

95. On January 8, 2020, WHO, relying on information from Chinese officials, said, “WHO does not recommend any specific measures for travelers. WHO advises against the application of any travel or trade restrictions on China based on the information currently available.”<sup>67</sup>

96. Various sources theorize that WHO was also silent (or proverbially stuck its head in the sand) because China exercises so much control over its governance and funding.

97. Chinese authorities, including the PRC and CCP, did not publicly confirm the outbreak as originating from a novel coronavirus until January 9, 2020, despite having a mapping of its genome and other details showing that it was a new virus.<sup>68</sup>

98. On January 10, the New York Times attributed to WHC a statement that “[t]here is no evidence that the virus can be spread between humans.”<sup>69</sup>

99. According to the National Review, citing Chinese sources, on January 11, WHC issued a statement saying, “All 739 close contacts, including 419 medical staff, have undergone medical observation and no related cases have been found . . . No new cases have been detected since January 3, 2020. At present, no medical staff infections have been found, and no clear evidence of human-to-human transmission has been found.”<sup>70</sup>

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china-cdc- exclusiv/exclusive-u-s-axed-cdc-expert-job-in-china-months-before-virus-outbreak-idUSKBN21910S.

<sup>67</sup> *WHO Statement Regarding Cluster of Pneumonia Cases In Wuhan, China*, WHO (Jan. 9, 2020), available at: <https://www.who.int/china/news/detail/09-01-2020-who-statement-regarding-cluster-of-pneumonia-cases-in-wuhan-china>.

<sup>68</sup> *How It All Started: China’s Early Coronavirus Missteps*, The Wall Street Journal (Mar. 6, 2020), *supra*.

<sup>69</sup> *China Reports First Death From New Virus*, New York Times (Jan. 10, 2020), available at: <https://www.nytimes.com/2020/01/10/world/asia/china-virus-wuhan-death.html?searchResultPosition=9>.

<sup>70</sup> *Devastating Lies*, National Review (Mar. 23, 2020), *supra*.

This statement directly contradicted then-existing evidence.

100. Chinese authorities, including the PRC and CCP, did not share the genome sequence which the Wall Street Journal described as a “critical step[] toward containing the epidemic and designing a vaccine” with the international community until January 12.<sup>71</sup>

101. The first case outside of China was reported in Thailand on January 13.<sup>72</sup>

102. Following the Thai case, the PRC and CCP still did not tell the public about the new evidence directly confirming human-to-human transmission.<sup>73</sup>

103. For instance, PRC and CCP officials continued denying human-to-human transmission and failed to inform the public, despite overwhelming evidence of the virus’s contagiousness.<sup>74</sup>

104. According to the National Review, citing Chinese sources, on January 14, WHC issued another statement saying, “Among the close contacts, no related cases were found.”<sup>75</sup>

105. According to the Wall Street Journal, when President and General Secretary Xi Jinping, leader of the PRC and CCP, made “his first public statement on the crisis on January 20, he made no explicit mention of human- to-human transmission.”<sup>76</sup>

106. By the time President Xi made his statement, millions of travelers passed

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<sup>71</sup> *How It All Started: China’s Early Coronavirus Missteps*, The Wall Street Journal (Mar. 6, 2020), *supra*.

<sup>72</sup> *Six Days of Silence When China Didn’t Warn Public of Likely Pandemic*, The St. Louis Post Dispatch, (Apr. 16, 2020), *supra*.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Devastating Lies*, National Review (Mar. 23, 2020), *supra*.

<sup>76</sup> *How It All Started: China’s Early Coronavirus Missteps*, The Wall Street Journal (Mar. 6, 2020), *supra*.

through Wuhan, and “more than 3,000 people had been infected during almost a week of public silence, according to internal documents obtained by The Associated Press and expert estimates based on retrospective infection data.”<sup>77</sup>

107. WHC continued publicly to deny human-to-human transmission until January 20,<sup>78</sup> at which point Chinese authorities finally confirmed for the first time that human-to-human transmission was occurring.<sup>79</sup>

108. On January 20 and 21, 2020, the WHO was able to conduct a mission on the ground in China and said afterward, “Data collected through detailed epidemiological investigation and through the deployment of the new test kit nationally suggests that human-to-human transmission is taking place in Wuhan. More analysis of the epidemiological data is needed to understand the full extent of human-to-human transmission.”<sup>80</sup>

109. On January 23, 2020, China began its first steps towards quarantining Wuhan residents.

110. Weeks after the lockdown slowed cases in Wuhan, China continued to mislead the world about its knowledge of the nature of the virus, and on April 17, 2020, it upwardly revised the death toll in Wuhan by more than a thousand cases, attributing the

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<sup>77</sup> *Six Days of Silence When China Didn't Warn Public of Likely Pandemic*, The St. Louis Post Dispatch, (Apr. 16, 2020), *supra*.

<sup>78</sup> *Id.*

<sup>79</sup> *China confirms human-to-human transmission of coronavirus*, The Guardian (January 20, 2020), available at: <https://www.theguardian.com/world/2020/jan/20/coronavirus-spreads-to-beijing-as-china-confirms-new-cases>.

<sup>80</sup> *Mission summary: WHO Field Visit to Wuhan, China 20-21 January 2020*, WHO (Jan. 22, 2020), available at: <https://www.who.int/china/news/detail/22-01-2020-field-visit-wuhan-china-jan-2020>.

error to “incorrect reporting, delays and omissions.”<sup>81</sup>

111. It is widely believed that even with the adjustment, Defendants are still woefully underreporting the actual number of cases and deaths in Wuhan, especially in December 2019 and early January 2020, as well as other key statistics of COVID-19.

112. Chinese citizen journalists, who posted videos from Wuhan of overcrowded hospitals and other scenes from the COVID-19 pandemic, have gone missing in recent weeks.<sup>82</sup>

113. China has launched a “massive public relations campaign to avoid blame for the COVID-19 pandemic” and has spread conspiracy theories that the U.S. military had spread the virus.<sup>83</sup>

***The PRC and CCP Failed to Contain the Virus, Helped It Spread, and Created an Economic and Political Opportunity for Themselves While the World Suffers.***

114. According to data gathered by the *New York Times*, approximately 175,000 individuals left Wuhan on January 1 alone to travel for the Lunar New Year.<sup>84</sup>

115. As stated by the *New York Times*, because of the Lunar New Year travel,

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<sup>81</sup> *China Raises Wuhan Death Stats By Half To Account For Reporting Delays And Omissions*, National Public Radio (Apr. 17, 2020), available at: [www.npr.org/sections/coronavirus-live-updates/2020/04/17/836700806/china-raises-wuhan-death-stats-by-half-to-account-for-reporting-delays-and-omiss](http://www.npr.org/sections/coronavirus-live-updates/2020/04/17/836700806/china-raises-wuhan-death-stats-by-half-to-account-for-reporting-delays-and-omiss).

<sup>82</sup> *2 Wuhan Whistleblowers Missing Months After Helping Expose Coronavirus Outbreak, Activists Say*, Fox News (Apr. 15, 2020), available at: <https://www.foxnews.com/world/wuhan-whistleblowers-missing-exposing-coronavirus>.

<sup>83</sup> *Guest on Chinese-produced Arabic-language program claimed US may be to blame for coronavirus pandemic*, Fox News (Apr. 19, 2020), available at: <https://www.foxnews.com/world/chinese-arabic-language-program-us-coronavirus-pandemic>.

<sup>84</sup> *How the Virus Got Out*, *New York Times* (Mar. 22, 2020), available at: <https://www.nytimes.com/interactive/2020/03/22/world/coronavirus-spread.html?action=click&module=Spotlight&pgtype=Homepage>.

“[t]he timing of the outbreak could not have been worse.”<sup>85</sup>

116. According to the *Wall Street Journal*, China “went ahead with New Year celebrations despite the risk of wider infections” and let “some five million people leave Wuhan without screening.”<sup>86</sup> Many of these travelers went not only to other parts of China, but spread out across the globe. Flights from Wuhan fly direct to over 21 international destinations including U.S. cities such as New York, San Francisco, and Los Angeles.

117. The Chinese CDC knew of the epidemic in Wuhan by New Year’s Eve, but the WHC was controlling all information, and 200,000 Wuhan residents and tourists were allowed to gather for the Yangtze River Light Show that evening.<sup>87</sup> The Yangtze flows through the center of Wuhan.

118. An annual Lunar Year Potluck Banquet was allowed to proceed in a Wuhan neighborhood on January 18, attracting 40,000 families.<sup>88</sup>

119. Wuhan’s mayor later told Chinese Television that he and his government could not do or say more about the epidemic until he was authorized by the State Council (CCP) after January 20, many weeks after he knew there was a dangerous problem in his city.<sup>89</sup>

120. On January 20, a government linked doctor dispatched by Beijing to Wuhan finally admitted human-to-human transmission and that medical workers were

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<sup>85</sup> *Id.*

<sup>86</sup> *How It All Started: China’s Early Coronavirus Missteps*, The Wall Street Journal (Mar. 6, 2020), *supra*.

<sup>87</sup> Dr. Wang Report at \*11.

<sup>88</sup> *Devastating Lies*, National Review (Mar. 23, 2020), *supra*.

<sup>89</sup> Dr. Wang Report at \*8.

becoming sick. It was then announced that Wuhan would shut down on the morning of January 23, creating a mass exodus out of Wuhan of surely infected people.<sup>90</sup>

121. The PRC and CCP allowed these massive public gatherings and the massive exodus from Wuhan despite knowing the risks of COVID-19, including the risk of human-to-human transmission, and the virus's dangerous propensities.

122. The PRC and CCP failed to warn the world of the dangers when it had a very early opportunity to do so.

123. Indeed, a research study has found that if the PRC and CCP had acted two weeks earlier, 66% of cases could have been prevented, and if it had acted three weeks earlier — a time frame where the CCP took control of the information on the emerging problem from China CDC and silenced everyone — **95% of infections could have been prevented.**<sup>91</sup>

124. But the PRC and CCP did not act, except in their own economic self-interest to monopolize, hoard, and corner the market on PPE.

### ***The U.S. Experience with COVID-19 So Far***

125. The number of cases and deaths continues to rise around the world and particularly in the United States. Millions of Americans are now jobless, and businesses are suffering tremendous economic impacts, as is the U.S. economy.

126. The exponential rise in cases, along with the virus and deaths touching the rich, famous, and poor alike, demonstrates that COVID-19 spreads easily and rapidly.

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<sup>90</sup> *As New Coronavirus Spread, China's Old Habits Delayed Fight*, New York Times (Feb. 1, 2020), *supra*.

<sup>91</sup> Ian Sample, *Research Finds Huge Impact of Interventions on Spread of COVID-19*, The Guardian (Mar. 11, 2020), available at <https://www.theguardian.com/world/2020/mar/11/research-finds-huge-impact-of-interventions-on-spread-of-covid-19>.

127. Those who become symptomatic feel cold and flu like symptoms, and too many of these symptomatic cases rapidly turn into serious cases of respiratory distress, requiring emergency care and respirators.

128. Co-morbidities, such as advanced age, hypertension, obesity, diabetes, and immune disorders, increase the risk of serious infection and death. Florida is especially susceptible due to its substantial elderly population.

129. The nation's hospitals in places like New York, have been overwhelmed, and with a second wave of infections, hospitals in Florida, Texas, Arizona, California, and many other locales reaching capacity and will be unable to provide proper care to all patients who need it. Morgues and funeral homes have often run out of room for the deceased. In April, New York City had to resort to temporary mass graves to keep up.

***The Route of Transmission - Aerosols***

130. As the pandemic has progressed, it has become more and more apparent that the greatest danger of infection is likely airborne, or "aerosols," coming from respiratory droplets expelled by people breathing, talking, singing, exercising, or yelling. How far these droplets travel, how large they are when infectious, and how long they linger in the air is a source of some debate — but there is little doubt it can be contracted from contact with the respiratory droplets.

131. On July 4, 2020, the New York Times reported that 239 scientists from 32 countries wrote an open letter to the WHO expressing their concern that infection was possible from smaller droplets, that hang in the air longer, and that can travel much, much

farther than six feet when expelled by a cough or sneeze.<sup>92</sup> Although the WHO continues to concentrate on surfaces, hand-washing, and an aerosol risk when a person is within approximately 3 to 6 feet of someone who is experiencing respiratory symptoms (e.g., coughing or sneezing), under either view, masks, face shields, and other PPE are now recognized as a front-line defense against the virus.

132. Airborne transmission is exacerbated in a medical environment, because treating the more serious symptoms of COVID-19 involves procedures which more easily generate aerosols, such as: endotracheal intubation; bronchoscopy; open suctioning; administration of nebulized treatment; manual ventilation before intubation; turning an infected patient to the prone position; disconnecting an infected patient from the ventilator; non-invasive positive-pressure ventilation; tracheostomy; and cardiopulmonary resuscitation.

### ***The Front-Line Medical Providers at Serious Risk***

133. Compounding these issues is the fact that there have been and continue to be shortages of PPE for the front-line doctors, nurses, medical technicians, paramedics, and EMTs (collectively “medical providers”) who must risk their lives, and their families’ lives, to treat the high number of serious COVID-19 cases that are overtaxing the nation’s medical infrastructure. When PPE is available, it is at highly inflated prices over market rates before the pandemic.

134. PPE consists of medical grade face masks (such as the N95 mask), face and eye shields, and other protective garments and accessories that prevent the

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<sup>92</sup> Apoorva Mandavilli, *239 Experts With One Big Claim: The Coronavirus Is Airborne*, New York Times (July 4, 2020), available at: <https://www.nytimes.com/2020/07/04/health/239-experts-with-one-big-claim-the-coronavirus-is-airborne.html>.

respiratory droplets or aerosolized virus from reaching the eyes, nose and mouths of the medical providers.

135. The stories are legion in the media that medical providers are having to improvise PPE and re-use PPE that is meant for one time or limited use, or to simply go without proper gear.

136. Medical providers are being forced to self-quarantine from their families, either staying away from their homes, or in some cases, sleeping alone in tents or in their vehicles, to keep their families safe.

137. Medical providers are already being overworked by the virus response, and many must also suffer the stress and loss of support from those closest to them, while their spouses and children are also denied their loved ones.

138. For the purposes of this Complaint, medical providers are those providing in-person healthcare services in hospitals and other care settings (including medical offices and improvised hospital settings), and includes paramedics and emergency medical technicians (EMTs). The term “doctors” includes, but is not limited to, surgeons, physicians, residents, and attending physicians, as well as interns in teaching hospitals. The term “nurses” includes, but is not limited to, registered nurses, licensed practical nurses, and certified nursing assistants. The term “medical technicians” includes, but is not limited to, respiratory and similar therapists, radiology technicians, surgical technicians, EKG technicians, and patient care technicians — essentially those who assist other professionals in hospital settings.

***China's Deliberate Hoarding and Monopoly of PPE Is Causing Direct Harm to Medical Providers***

139. On April 3, 2020, the New York Times reported about China's concerted and deliberate efforts to both buy up as much of the world's inventory of PPE and respirators, but also to prevent its factories from exporting PPE, just as when they found out about the dangers, and failed to tell the rest of the world.<sup>93</sup>

140. That article, and others, have included statements to U.S. officials from executives at U.S. manufacturers 3M and Honeywell — who manufacture in China — that China began blocking their exports of N95 respirators, booties, gloves and other PPE and medical supplies produced by their factories in China, starting in early January. Indeed, China stopped all exports of PPE from its factories at the beginning of the pandemic, further creating an artificial scarcity.

141. At the same time, U.S. and administration officials report, based on data from China's own customs agency, that China began "cornering the market" on PPE, importing 2.46 billion pieces of "epidemic prevention and control materials" between January 24<sup>th</sup> and February 29<sup>th</sup>. The items included more than 2 billion masks and more than 25 million "protective clothing" items, that came from countries in the European Union, Australia, Brazil and Cambodia. China hid this activity by refusing to make their trade logs public for months.

142. On May 1, 2020, NBC News reported on the findings of the the intelligence arm of the Department of Homeland Security:

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<sup>93</sup> Keith Bradsher and Liz Alderman: *The World Needs Masks. China Makes Them, But Has Been Hoarding Them*, New York Times (April 3, 2020), <https://www.nytimes.com/2020/03/13/business/masks-china-coronavirus.html>

"We assess the Chinese Government intentionally concealed the severity of COVID-19 from the International community in early January while it stockpiled medical supplies by both increasing imports and decreasing exports," the May 1 DHS report states.

"We further assess the Chinese government attempted to hide its actions by denying there were export restrictions and obfuscating and delaying provision of its trade data," said the four-page analysis.<sup>94</sup>

143. A big part of this effort was enlisting employees at Chinese owned businesses in other countries, including the United States, to scour stores and suppliers in their area for masks (especially N-95) and other PPE, and ship it back to China. China effectively created a PPE army to ensure that the rest of the world would be beholden to them for the supplies necessary to combat the virus they unleashed on the world. They have done this for commercial and political gain.<sup>95</sup>

144. In Canada, the CCP's United Front Work Department affiliates and agents "bought and shipped at least 100 tonnes of pandemic supplies to China," starting in the beginning of January.<sup>96</sup> The United Front works through Chinese consulates around the world and began implementing the ground level plan to use its ex-pats and sympathizers to hoard before China told the truth about the virus.<sup>97</sup>

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<sup>94</sup> Abigail Williams, et al., *DHS Report: China Hid Coronavirus' Severity in Order to Hoard Medical Supplies*, NBC News (May 4, 2020), available at: <https://www.nbcnews.com/politics/national-security/dhs-report-china-hid-coronavirus-severity-order-hoard-medical-supplies-n1199221>.

<sup>95</sup> Alan Boyd, *China's Wild and Woolly Medical Equipment Heist*, Asia Times (Apr. 6, 2020), available at: <https://asiatimes.com/2020/04/478656/>.

<sup>96</sup> Lorrie Goldstein, *China Secretly Hoarded Global Pandemic Supplies, According to Report*, Toronto Sun (May 1, 2020), available at: <https://torontosun.com/opinion/columnists/goldstein-china-secretly-hoarded-global-pandemic-supplies-according-to-report>

<sup>97</sup> See *id.*

145. Greenland Group, a multi-billion dollar property management firm based in China, that develops properties around the world (including two huge developments in downtown Los Angeles and in Brooklyn) told employees at its offices around the world to hoard PPE before the truth of the pandemic was known.<sup>98</sup> In January, employees in the Sydney, Australia office were told to stop their normal work and to go and buy up PPE, and its boardrooms quickly filled with tons of medical supplies being repackaged for export back to China. This was all at the direction of the CCP and/or the PRC.<sup>99</sup>

146. All Chinese citizens and companies, whether independent, government controlled or “private,” must always answer, above all else, to the CCP and the good of the Chinese state. This is known as the Military-Civil Fusion (MCF) and represents a “duty that transcends their personal and civilian identities.”<sup>100</sup> The existence of the MCF means that Chinese citizens and ex-pats, no matter what, will put China first, or face breaking one of the PRC’s most supreme laws and the CCP’s dictates.

147. These dynamics played out in the United States, as PetroChina’s US corporation was one of the enlisted entities.<sup>101</sup> “PetroChina’s status as a government-owned entity means all workers are employees of the state and, as such, are expected to play active role in the process, one person said.” Employees were sent rushing to

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<sup>98</sup> Alison Bevege, “*I won’t stay silent: Whistleblower Reveals . . .*,” Daily Mail (Apr. 5, 2020), available at: <https://www.dailymail.co.uk/news/article-8189273/Whistleblower-saw-TONNES-facemasks-packed-China-deadly-bug-took-hold.html>

<sup>99</sup> See *id.*

<sup>100</sup> F. Scott Kieff, *Business, Risk, & China’s MCF: Modest Tools of Financial Regulation for a Time of Great Power Competition*, Geo. Wash. L. Rev. (Vol. 88 to be published Dec. 2020), available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3615846](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3615846)

<sup>101</sup> Lucia Kassai, *Expat Chinese Workers Scouring Foreign Pharmacies for Masks*, Bloomberg News (Feb. 7, 2020), available at: <https://www.bloomberg.com/news/articles/2020-02-07/china-implores-employees-and-clients-to-scour-world-for-masks>

pharmacies and stores such as Home Depot and Lowe's to find masks, particularly N-95s. Home Depots in Houston, where PetroChina's U.S. corporation is headquartered, reported running out of masks by noon every day. Bloomberg News saw a copy of the memo sent to PetroChina with the instructions to buy as many masks as possible for export back to China.<sup>102</sup>

148. Upon information and belief, the CCP and/or the PRC repeated this conduct through other ex-pat agents and China-supported entities throughout the U.S.

149. Thus, just as the world was beginning to see the danger of the coming pandemic, China — which already knew it had actively concealed the dangers of the virus from the world — was already hoarding the world's supply of PPE, including gloves, goggles, and masks, through massive increased purchases through official channels and through this army of ex-pat hoarders.

150. Furthermore, the PRC and CCP already dominated the market for PPE, creating "a stranglehold over supplies, masks, gowns, test kits and other front-line weapons for battling the coronavirus . . . ." <sup>103</sup> Even before the pandemic, China exported more of this equipment than the rest of the world combined. It can make 15 times more of the specialized fabric for surgical and N95 masks than the U.S. It exported 70.6 billion masks from March through May 2020, where the entire world produced 20 billion last year, and China still accounted for the majority. China has made it a deliberate and calculated effort to control the mask and medical supply market, and to further their

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<sup>102</sup> See *id.* (for the entire paragraph).

<sup>103</sup> Keith Bradsher, *China Dominates Medical Supplies, in This Outbreak and the Next*, New York Times (July 5, 2020), available at: <https://www.nytimes.com/2020/07/05/business/china-medical-supplies.html>.

monopoly. They have made it a matter of published policy to foster their homegrown dominance in the mask and PPE market, through the use of subsidies and other advantages for domestic manufacturers.<sup>104</sup>

151. Entities who want to compete with China find that the machines required to compress and cut the special surgical mask fabric can only be sourced from China, as one entrepreneur in Los Angeles found out recently.<sup>105</sup> When that same entrepreneur also tried to make hand sanitizer, he discovered that the only source of plastic bottles with pump handles was in China, which he has to import on expensive chartered aircraft.<sup>106</sup>

152. This effective control and monopoly of the market means they can now charge artificially higher prices for the PPE that is so desperately needed, because of a pandemic they created. This barbaric posture is best summed up by a report by Barnini Chakraborty on April 7, 2020, of Fox News, and picked up by media outlets around the world that China actually made utterly devastated Italy *pay for masks it had donated to China for the Wuhan response* before the pandemic hit Europe.<sup>107</sup>

153. Even where China does not economically gain, the CCP and the PRC used the pandemic and their stranglehold on the mask market to curry political favor around the world as they try to unseat the United States as the leading super-power, by pretending to provide the supplies in hard-hit countries that would have not needed the aid, had they not cornered the market.<sup>108</sup>

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<sup>104</sup> See *id.* (for the remainder of paragraph).

<sup>105</sup> See *id.*

<sup>106</sup> See *id.*

<sup>107</sup> See <https://www.foxnews.com/world/china-italy-coronavirus-supplies-buy-back>.

<sup>108</sup> See, e.g., Brian Wong, *China's Mask Diplomacy*, *The Diplomat* (Mar. 25, 2020), available at: <https://thediplomat.com/2020/03/chinas-mask-diplomacy/>.

154. The conduct of PetroChina in hoarding PPE in the U.S. directly impacted interstate commerce and the national market for masks and other PPE, including in Florida, such that PetroChina is liable for the tort claims contained herein. PetroChina also aided and abetted the tortious acts of the PRC and the CCP. Moreover, PetroChina's conduct here, in concert and conspiracy with the CCP and PRC, contributed to China's unreasonable restraint of trade and monopolization in the mask and PPE market, in violation of Sections 1 and 2 of the Sherman Act. 15 U.S.C. §§ 1, 2.

155. The deliberate and egregious acts, or at least negligent acts, of Defendants have caused the deaths, infections, and other physical and emotional harms of medical providers within the United State and Florida, including Named Plaintiffs and class members, who have lacked proper and adequate PPE due to Defendants' conduct.

156. Any condition precedent to the filing of this lawsuit has been satisfied, met, and/or waived.

### **CLASS ACTION ALLEGATIONS**

157. The Named Plaintiffs assert National and Florida classes pursuant to Rules 23(a), (b)(1), (b)(3) and/or 23(c)(4) of the Federal Rules of Civil Procedure, on behalf of themselves and those similarly situated, against the Defendants for whom they have standing. The Named Plaintiffs define the National Class as follows:

All medical providers, as defined herein, in the United States who have been unable to procure proper or adequate PPE, treated COVID-19 infected patients, and suffered injury, damage, and loss as a result.

And Plaintiffs AHARON, KUPPINGER, and MADDEN define the Florida Sub-Class as follows:

All medical providers, as defined herein, in the State of Florida who have been unable to procure proper or adequate PPE, treated COVID-19 infected patients, and suffered injury, damage, and loss as a result.

158. Excluded from the Classes are the following: (1) the Defendants, and any parent, subsidiary or affiliate organizations, and the officers, directors, agents, servants, or employees of same, and the members of the immediate family of any such person; (2) all persons who timely opt out of this proceeding; (3) all persons who have given valid releases releasing Defendants from the claims asserted in this Complaint; (4) all persons who, prior to the filing of this Complaint, have filed a non-class action claim against the Defendants (or any of them) for the claims asserted in this Complaint; and (5) the judge(s) to whom this case is assigned, their employees and clerks, and immediate family members.

159. The Classes are sufficiently numerous such that the joinder of all members of the Classes in a single action is impracticable. According to recent statistics, there are approximately 2.2 million nurses working in hospital and medical settings, nearly a million licensed physicians, over 350,000 paramedics and EMTs, and over 250,000 medical technicians working in the United States. A substantial number of these persons, if not a majority, have been or will in the immediate future be affected by Defendants' wrongful conduct.

160. There are numerous common questions of law and fact that predominate over any questions affecting only individual members of the Class and/or Subclass. Among these common questions of law and fact are the following:

- a. Whether Defendants' tortious conduct was intentional, negligent, and/or reckless;
- b. Whether Defendants' conduct, as described herein, constituted a commercial activity outside the U.S. that had a direct effect within the U.S.;

- c. Whether Defendants' conduct was clearly contrary to the precepts of humanity;
- d. Whether Defendants' conduct violated established laws within the PRC;
- e. Whether Defendants failed to warn of an imminent danger they knew or should have known about;
- f. Whether Defendants prevented their domestic PPE manufacturing facilities, including those owned by U.S. corporations, from exporting PPE; and
- g. Whether Defendants purchased much of the world's inventory of PPE in order to "corner the market," just as the severity of the pandemic was becoming known.
- h. Whether PetroChina's conduct aided and abetted the CCP and the PRC in their tortious conduct.
- i. Whether Defendants' conduct amounted to violations of Sherman Act.
- j. Whether PetroChina conspired with the CCP and PRC in violation of the Sherman Act.

161. The claims of the Named Plaintiffs are typical of the claims of each member of the Classes and Sub-Classes in that, among other issues:

- a. the Named Plaintiffs' claims arise from the same course of conduct of Defendants giving rise to the claims of other class members;
- b. the claims of the Named Plaintiffs and each member of the Class are based upon the same legal theories;
- c. the Named Plaintiffs and each member of the Classes have an interest in prevailing on the same legal claims;
- d. the types of damages incurred by the Named Plaintiffs are similar to those incurred by the other class members;
- e. the defenses asserted by Defendants will be very similar, if not identical, as to all Named Plaintiffs and class members.

162. Named Plaintiffs are adequate representatives of the Classes in which they participate because, together with their legal counsel, each will fairly and adequately protect the interests of Classes. Named Plaintiffs and all class members have a similar, if not identical interest in obtaining the relief sought. Proof of the claims of the Named Plaintiffs will also prove the claims of the Classes. Named Plaintiffs are not subject to any unique defenses. Named Plaintiffs have no known conflict with the Class or Subclass and are committed to the vigorous prosecution of this action.

163. The undersigned counsel are competent counsel experienced in class action litigation, mass torts, and complex litigation involving such widespread harm. Counsel will fairly and adequately protect the interests of the Classes.

164. The various claims asserted in this action are certifiable under the provisions of Federal Rules of Civil Procedure 23(b)(1) because prosecuting separate actions by or against individual class members would create a risk of inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the Classes; or adjudications with respect to individual class members that, as a practical matter, would be dispositive of the interests of the other class members who are not parties to the individual adjudications, or would substantially impair or impede their ability to protect their interests.

165. Plaintiffs' legal claims are properly certified pursuant to Rule 23(b)(3) in that: (1) a class action is superior in this case to other methods of dispute resolution; (2) the class members have an interest in class adjudication rather than individual adjudication because of their overlapping rights; (3) it is highly desirable to concentrate the resolution of these claims in this single forum because it would be difficult and highly unlikely that

the affected class members would protect their rights on their own without this class action case; (4) the disparity between the resources of Defendants and class members would make prosecution of individual actions a financial hardship on class members; (5) the prosecution of separate actions by individual class members, or the individual joinder of all class members is impractical and would create a massive and unnecessary burden on the Court's resources; and (6) Management of the class will be efficient and far superior to the management of individual lawsuits. Moreover, currently, the undersigned counsel is unaware of any other pending litigation regarding this controversy with respect to the claims asserted here.

166. The issues particularly common to the class members' claims, some of which are identified above, are alternatively certifiable pursuant to Fed. R. Civ. P. 23(c)(4), as resolution of these issues would materially advance the litigation, and class resolution of these issues is superior to repeated litigation of these issues in separate trials.

167. Named Plaintiffs have retained the above counsel to represent them in this lawsuit, and are obligated to pay said counsel reasonable attorneys' fees provided recovery is obtained.

**COUNT I – NEGLIGENCE**  
(Against Each Defendant)

168. Named Plaintiffs adopt, incorporate by reference, and restate the foregoing allegations in paragraphs 1 through 167, as if fully set forth herein, and further allege:

169. Defendants had a duty to medical providers, as defined herein, including Named Plaintiffs and class members in the United States, to not act negligently in their restriction of exports of PPE produced in China and in their procurement of the world's inventory of PPE, during the time they knew of the dangers of the Coronavirus, and the

risk of a worldwide and deadly pandemic, such that their actions were unreasonable and caused unnecessary harm.

170. Stated another way, Defendants' conduct with regard to the worldwide and Chinese domestic supplies of PPE created a foreseeable zone of risk that poses/posed a general threat of harm to others, including Named Plaintiffs and class members, such that a common-law legal duty arises to ensure the Defendants' conduct is/was carried out reasonably.

171. Moreover, Defendants themselves created the foreseeable zone of risk by their hoarding conduct, and it was unreasonable.

172. Defendants' duty here is nondelegable, because the responsibility here is so important to the world community, including the Named Plaintiffs and class members, that Defendants cannot shift the duty to third parties.

173. The standard of care is the reasonable or ordinary care that a prudent actor would perform in similar circumstances to avoid injury to others.

174. Defendants breached their duty to Plaintiffs and class members by, among other breaches:

- k. Preventing factories in China, including those owned by U.S. corporations, from exporting PPE during the time Defendants knew of COVID-19's particular dangers and the propensity for a deadly pandemic; and
- l. Buying up the inventory of PPE around the world and in the U.S. to "corner the market" on PPE, during the time Defendants knew of COVID-19's particular dangers and the propensity for a deadly pandemic.

175. As a direct and proximate result of Defendants' breaches as described herein, Named Plaintiffs and class members have been injured and harmed, and have

suffered damages and economic harms, and seek actual, special, and compensatory damages.

**COUNT II – INTENTIONAL TORTS OF TOXIC BATTERY AND CIVIL ASSAULT**  
(Against Each Defendant)

176. Named Plaintiffs adopt, incorporate by reference, and restate the foregoing allegations in paragraphs 1 through 167, as if fully set forth herein, and further allege:

177. Defendants through their active concealment of the dangers of COVID-19, set in motion a virus that, in conjunction with their intentional acts of keeping Named Plaintiffs and class members from being able to procure proper or adequate PPE, allows/allowed that virus to touch Named Plaintiffs and class members in a harmful and offensive manner, infecting them.

178. Defendants acted with the intent to keep PPE out of the U.S. marketplace and away from Named Plaintiffs and class members, and/or did so with the substantial certainty that the harm would occur,

179. Alternatively, Defendants' conduct, as described herein, put Named Plaintiffs and class members who did not/do not become infected with the virus, in fear of the imminent toxic battery described herein.

180. Defendants' intent for either tort is transferable to the other tort.

181. As a result of Defendants' commission of both the toxic battery and civil assault, Named Plaintiffs and class members have been injured and harmed, and seek nominal, actual and compensatory damages.

**COUNT III – NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**  
(Against Each Defendant)

182. Named Plaintiffs adopt, incorporate by reference, and restate the foregoing allegations in paragraphs 1 through 167, as if fully set forth herein, and further allege:

183. Due to the negligence described herein, Named Plaintiffs and class members have suffered discernable physical manifestations and injuries of trauma from the negligent conduct, including, but not limited, to physical pains, headaches, anxiety, and insomnia.

184. These physical injuries and manifestations have been directly caused by the psychological trauma suffered due to Defendant's egregious conduct and its effect on themselves and their loved ones.

185. Named Plaintiffs and class members have been in close proximity to the negligent conduct causing their injuries.

186. As a direct and proximate result of Defendants' conduct as described herein, Named Plaintiffs and class members have been injured and harmed, and have suffered damages and economic harms, and seek actual, special, and compensatory damages.

**COUNT IV – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
(Against Each Defendant)

187. Named Plaintiffs adopt, incorporate by reference, and restate the foregoing allegations in paragraphs 1 through 167, as if fully set forth herein, and further allege:

188. As an alternative to the negligence described herein, Defendants acted intentionally and/or recklessly in the manner described herein, and knew or should have known that emotional distress would likely result from their conduct.

189. Defendants' conduct, as described herein, was outrageous, going beyond all bounds of decency, and is utterly intolerable in a civilized world.

190. Defendants' conduct has caused severe emotional distress to the Named Plaintiffs and class members.

191. As a direct and proximate result of Defendants' intentional and reckless conduct, as described herein, Named Plaintiffs and class members have been injured and harmed, and have suffered damages and economic harms, and seek actual, special, and compensatory damages.

**COUNT V – CIVIL AIDING AND ABETTING**  
(Against PetroChina)

192. Named Plaintiffs adopt, incorporate by reference, and restate the foregoing allegations in paragraphs 1 through 167, as if fully set forth herein, and further allege:

193. At all times material hereto, the CCP and the PRC were committing and did commit the intentionally tortious acts of intentional infliction of emotional distress, toxic battery, and civil assault, by their acts of actively concealing the virus, failing to warn of it, and concurrently hoarding and cornering the market on PPE.

194. Furthermore, they were committing and did commit Sherman Act violations of unreasonable restraint of trade and monopolization and attempted monopolization of the mask and PPE market.

195. PetroChina received a memo from its Chinese-government owned parent company to covertly buy up medical grade masks and PPE and ship them back to China and had its agents and employees in the U.S. do just that.

196. At all times material hereto, PetroChina:

- a. Committed the same wrongful acts of hoarding and restraining trade of PPE in concert with the CCP and/or PRC, and/or in pursuit of a common design or conspiracy;
- b. Knew that the acts of the CCP and/or the PRC breached a duty of care or were illegal, and gave substantial assistance to the CCP and/or the PRC by scouring U.S. stores and suppliers for masks and PPE and shipping it back to China; and/or
- c. Gave substantial assistance to the CCP and/or the PRC in accomplishing the tortious and illegal results, by scouring U.S. stores and suppliers for masks and PPE and shipping it back to China, thereby creating their own breaches of duty and illegal acts.

197. As a direct and proximate result of Defendant's intentional and reckless conduct, as described herein, Named Plaintiffs and class members have been injured and harmed, and have suffered damages and economic harms, and seek actual, special, and compensatory damages.

**COUNT VI – VIOLATION OF THE SHERMAN ACT  
MONOPOLIZATION OF THE MASK AND PPE MARKET  
(Against the CCP and the PRC Each Individually)**

198. Named Plaintiffs adopt, incorporate by reference, and restate the foregoing allegations in paragraphs 1 through 167, as if fully set forth herein, and further allege:

199. This is a cause of action pursuant to 15 U.S.C. § 2 of the Sherman Act which makes it unlawful for any person to "monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations . . . ."

200. For the purposes of this Count, the CCP's and the PRC's actions are taken individually.

201. The CCP and/or the PRC each participate in the trade and commerce of masks and PPE in U.S. interstate commerce and with foreign nations, and China accounts for the majority of the world's output and manufacturing capacity, as well as the specialized machinery needed to manufacture these supplies.

202. The relevant market is the market for surgical, N95 and other medical grade masks, as well as other PPE supplies, in the United States.

203. The CCP and/or PRC possess monopoly power over the relevant market for masks and PPE in that they dominate the world's manufacturing capacity, restricted the access to masks and PPE by restricting exports, and hoarding and buying up all the world's excess supplies, including in the U.S. They cornered the market on masks and PPE.

204. The CCP's and/or PRC's substantial market power is durable, rather than fleeting, as they have deliberately created long term manufacturing strangleholds, and have the ability to and have raised prices artificially and profitably above those that would be charged if the market were competitive.

205. The CCP and/or PRC willfully acquired and maintain this monopoly power, as distinguished from growth or development as a consequence of a superior product, business acumen, or historic accident.

206. The CCP and/or the PRC engaged in anti-competitive exclusionary and predatory conduct, including by creating an artificial (or otherwise) need for the masks and PPE by unleashing a deadly virus, concealing it, and failing to contain and warn about

it, such that masks and PPE would be in unprecedented demand, while at the same time stopping exports from its dominant manufacturing base, secretly buying up the world's supplies and enlisting agents and sympathizers to buy up localized mask and PPE supplies and ship them back to China.

207. It then raised prices well beyond prior averages, and restricted the ability to purchase the masks and PPE, or only granted the ability to acquire or purchase the supplies if it served a political purpose to usurp the U.S. as the leading super-power.

208. As a direct and proximate result of Defendants' conduct, as described herein, Named Plaintiffs and class members have been injured and harmed by the created shortages and price gouging of masks and PPE, and seek statutory treble damages, reasonable attorney's fees, and actual, special, and compensatory damages.

**COUNT VII – VIOLATION OF THE SHERMAN ACT  
ATTEMPTED MONOPOLIZATION OF THE MASK AND PPE MARKET  
(Against the CCP and the PRC Each Individually)**

209. Named Plaintiffs adopt, incorporate by reference, and restate the foregoing allegations in paragraphs 1 through 167, and 199 through 208, as if fully set forth herein, and further allege:

210. This is a cause of action pursuant to 15 U.S.C. § 2 of the Sherman Act.

211. To the extent the PRC and/or the CCP did not actually attain a monopoly, they attempted to monopolize the mask and PPE market through their anti-competitive conduct, as described herein, combined with a specific intent to monopolize the market for masks and PPE, and they had a dangerous probability of success.

212. As a direct and proximate result of Defendants' conduct, as described herein, Named Plaintiffs and class members have been injured and harmed by the

created shortages and price gouging of masks and PPE, and seek statutory treble damages, reasonable attorney's fees, and actual, special, and compensatory damages.

**COUNT VIII – VIOLATION OF THE SHERMAN ACT  
CONSPIRACY TO MONOPOLIZE THE MASK AND PPE MARKET  
(Against Each Defendant)**

213. Named Plaintiffs adopt, incorporate by reference, and restate the foregoing allegations in paragraphs 1 through 167, and 199 through 208, as if fully set forth herein, and further allege:

214. This is a cause of action pursuant to 15 U.S.C. § 2 of the Sherman Act.

215. The CCP and the PRC as the ruling party and the government, respectively, together took the concerted actions described herein, namely to monopolize the mask and PPE market, after they knew of the dangerous virus they unleashed on the world.

216. They further each took overt acts in furtherance of the conspiracy by buying up the world's supply of masks and PPE before they let the world know the truth about the virus, hiding their trade data, and stopping all exports from its manufacturers.

217. They did this with the specific intent to monopolize the market for surgical grade masks and PPE and control the world's supply, such that they would benefit economically from artificially or otherwise created shortages and high prices, and usurp the U.S. as the leading super-power.

218. Furthermore, PetroChina acted in concert with the CCP and PRC to carry out the anti-competitive scheme, and committed overt acts in furtherance of the conspiracy with the same intent to monopolize the market, by agreeing to, and then purchasing all available supplies of masks and PPE it or its employees and agents could find in stores and from U.S. suppliers, and then shipping it back to the U.S.

219. The conspiracy and agreement between the CCP and the PRC existed prior to PetroChina joining it.

220. As a direct and proximate result of Defendants' conduct, as described herein, Named Plaintiffs and class members have been injured and harmed by the created shortages and price gouging of masks and PPE, and seek statutory treble damages, reasonable attorney's fees, and actual, special, and compensatory damages.

**COUNT IX – VIOLATION OF THE SHERMAN ACT  
UNREASONABLE RESTRAINT OF TRADE  
(Against Each Defendant)**

221. Named Plaintiffs adopt, incorporate by reference, and restate the foregoing allegations in paragraphs 1 through 167 as if fully set forth herein, and further allege:

222. This is a cause of action pursuant to 15 U.S.C. § 1 of the Sherman Act.

223. The CCP and the PRC, as the ruling party and the government, respectively, entered into a contract, combination, or conspiracy to restrain the trade and commerce of surgical grade masks and PPE in the United States. They published their market dominance goals and intentions for masks, PPE and other medical supplies.

224. The CCP and the PRC then stopped exports to the U.S. of the supplies and bought up all the existing supplies of the masks and PPE it could find before letting the world know of the dangers of coming pandemic (and after failing to stop it or warn of it), and thereby artificially or otherwise created an unprecedented demand that only China could meet. And it met that demand with substantially inflated prices and political acts to usurp the United States as a leading super-power.

225. After the combination and conspiracy existed, PetroChina joined it. PetroChina then acted in concert with the CCP and PRC to carry out this unreasonable

restraint of trade and commerce in the mask and PPE market, and committed overt acts in furtherance of the conspiracy with the same intent to monopolize the market, by agreeing to, and then purchasing all available supplies of masks and PPE it or its employees and agents could find in stores and from U.S. suppliers, and then shipping it back to the U.S.

226. As a direct and proximate result of Defendants' conduct, as described herein, Named Plaintiffs and class members have been injured and harmed by the created shortages and price gouging of masks and PPE, and seek statutory treble damages, reasonable attorney's fees, and actual, special, and compensatory damages

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

Named Plaintiffs, on their own behalf and on behalf of the putative class members, demand a trial by jury on all issues so triable.

#### **PRAYER FOR RELIEF**

WHEREFORE, MORIAH AHARON, JORDAN G. KUPPINGER, M.D., DAMON J. DETESO, M.D., ROSANNA CARUSO, CHRISTOPHER PAYTON, LEE ANGIOLETTI, MARIANGELLA MANNING, LYNNORA VASQUEZ, and REBECCA MADDEN, individually and as Representatives, demand judgment against Defendants, and pray for relief as follows:

- a. Certification of the Class and Sub-Class under Federal Rule of Civil Procedure 23 and appointment of Plaintiffs as representatives of the respective Class and Sub-Class and their undersigned counsel as Class counsel;

- b. An order requiring that Defendants pay compensatory and other damages to Plaintiffs and the class members, for their economic and non-economic damages identified herein, to the full extent permitted by the law;
- c. An order awarding all damages allowed by any governing statutes, including treble damages;
- d. An order awarding reasonable attorney's fees under any governing statutes;
- e. Statutory pre-judgment and post-judgment interest on any amounts awarded;
- f. Costs and expenses in this litigation, including, but not limited to, expert fees, filing fees, and reasonable attorneys' fees; and
- g. Such other relief as the Court may deem just and proper.

Dated this 7th day of July, 2020.

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