

specific legal effect or import, (c) admitting the truth of any statement contained in any such document, (d) admitting (i) in the case of a document allegedly authored, created and/or transmitted by a person or party other than ABIM, that the “original” thereof was actually authored, created and/or transmitted by such person or (ii) in the case of a document allegedly maintained by a person or party other than ABIM, that the document is actually kept or maintained by such person or party in the form as produced by ABIM, and/or (e) admitting that any such document is a business record of ABIM.

3. ABIM does not waive any objection on any ground, including without limitation, competence, privilege, relevance, materiality, hearsay, or to the use of any such information for any purpose, in whole or in part, in any subsequent stage or proceeding in this action or any other action.

4. ABIM objects to each and every request to the extent they call for information that is protected by the attorney-client privilege or work product doctrine.

5. ABIM objects to Defendant’s definition of “ABIM,” “You,” “Your,” and “Plaintiff” as overbroad to the extent it purports to define ABIM to include individuals or entities over which ABIM has no control, or purports to require ABIM to produce documents that are not currently in its possession, custody, or control.

6. ABIM objects to each and every request to the extent it purports to require ABIM to identify documents or information not in its possession, custody, or control, and/or which is already in Defendant’s possession, custody, or control.

7. ABIM objects to each and every request as unduly burdensome to the extent it requires ABIM to provide information that would be relevant only to Defendant’s counterclaims while ABIM’s Motion to Dismiss such claims (ECF No. 34) remains pending.

8. These general objections shall be deemed continuing and incorporated by reference in response to each request for production as if fully set forth therein, and are not waived by a response to any particular request for production. To the extent that specific objections are cited in a specific response, those specific objections are provided because they are particularly applicable to a specific request for production and are not to be construed as a waiver of any general objection applicable to the scope of the request for production.

REQUESTS

1. Admit that the Pledge of Honesty has not appeared on all ABIM Examinations given since 1986.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

2. Admit that Dr. Salas Rushford did not violate the Pledge of Honesty.

ANSWER: ABIM specifically objects to this request as irrelevant. ABIM further states that the request is denied.

3. Admit that on or before 2009, ABIM had never published a copy, or any part, of the Pledge of Honesty or made it available to candidates before the day each one took the ABIM Examination.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

4. Admit that, on or before 2009, ABIM did not provide candidate test takers with an electronic or paper copy of the Pledge of Honesty when or after they finished the examination.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

5. Admit that Dr. Salas Rushford did not have any prior access to any of the questions that actually appeared on the ABIM Examination that he personally took on August 20, 2009.

ANSWER: Denied.

6. Admit that Dr. Salas Rushford did not reveal any questions or content that he saw when he took the ABIM Examination on August 20, 2009.

ANSWER: ABIM is without sufficient information to admit or deny the request, and therefore denies it.

7. Admit that, all other things being equal, being an ABIM Certified physician does not in any way mean that a person is a better physician when compared to one who is not ABIM Certified.

ANSWER: ABIM specifically objects to this request as vague, ambiguous, and irrelevant.

8. Admit that ABIM Certification is not essential to recognition as a specialist.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

9. Admit that Dr. Salas Rushford did not attend the “weekend crash course” held by Dr. Arora in Livingston, New Jersey.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

10. Admit that Dr. Rebecca S. Lipner does not have any personal knowledge about anything that occurred on the course held by Dr. Arora in the City University of New York on May 2009.

ANSWER: Denied.

11. Admit that Dr. Rebecca S. Lipner has no personal knowledge about anything that occurred on any course held by Dr. Arora.

ANSWER: Denied.

12. Admit that Dr. Arora offered and advertised his ABIM Examination review course publicly since 1989.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

13. Admit that Dr. Rajender K. Arora was, personally, an ABIM Certified physician at all points between December 2008 and August 2009, inclusive.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

14. Admit that Dr. Rajender K. Arora was, personally, an ABIM Certified physician at all points between December 1989 and August 2009, inclusive.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

15. Admit that all persons ABIM has instituted actions against in any court with regard to its copyrights in its Examination have been immigrants, minorities and/or women.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

16. Admit that there are non-Hispanic white men that ABIM is aware infringed on ABIM's copyrights over its Examinations and who ABIM has never sued for copyright infringement.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

17. Admit that there are non-Hispanic white men that ABIM is aware possess or possessed copies not previously explicitly authorized by ABIM of any or all or part of any ABIM Examination and who ABIM has never sued for copyright infringement.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

18. Admit that there are non-Hispanic white men that ABIM is aware violated its Policies and Procedures in some way and whose Certification ABIM has not revoked.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

19. Admit that there are non-Hispanic white men that ABIM is aware violated its Policies and Procedures in some way and whose Certification ABIM has not suspended.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

20. Admit that there are non-Hispanic white men that ABIM is aware violated its Policies and Procedures in some way and whose Certification ABIM has not recommended for revocation.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

21. Admit that Dr. Jaime A. Salas Rushford is a Hispanic of Puerto Rican descent.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

22. Admit that Dr. Monica Mukherjee is an Asian American of Indian descent.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

23. Admit that Dr. Anastassia Todor is an immigrant to the United States who was born and raised in Russia.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

24. Admit that Dr. Pedram Salehi is of Iranian and/or Persian descent.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

25. Admit that Dr. Fredrick Oni is an African American of Nigerian descent.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

26. Admit that Dr. Rajender K. Arora is an Asian American immigrant to the United States who was born and raised in India.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

27. Admit that Dr. Anise A. Kachadourian is of Armenian descent.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

28. Admit that there exist test preparation companies that ABIM is aware possess or possessed copies not previously explicitly authorized by ABIM of any or all or part of any ABIM Examination and who ABIM has never sued for copyright infringement.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

29. Admit that ABIM has never had a CEO who has not been white.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

30. Admit that, at all points, at least 90% of the members of ABIM's Board of Directors have been white.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

31. Admit that ABIM is the largest of the 24 member boards that of the American Board of Medical Specialties (ABMS).

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

32. Admit that ABIM controls one or more seats on the Board of Directors of the American Board of Medical Specialties (ABMS).

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

33. Admit that the Accreditation Council for Continuing Medical Education (ACCME) has been one of only nine associate members of the American Board of Medical Specialties (ABMS) since 2004.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

34. Admit that the American Board of Medical Specialties (ABMS) is one of only seven member and founding organizations of the Accreditation Council for Continuing Medical Education (ACCME).

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

35. Admit that those the seven member organizations of the Accreditation Council for Continuing Medical Education (ACCME) are responsible for nominating individuals to the Board of Directors, for providing input into ACCME's strategic directions, and for oversight of ACCME actions and bylaws changes.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

36. Admit that the mission of the Accreditation Council for Continuing Medical Education (ACCME) is "the identification, development, and promotion of standards for quality continuing medical education (CME) utilized by physicians in their maintenance of competence and incorporation of new knowledge to improve quality medical care for patients and their communities."

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

37. Admit that all the accredited CME generated by a provider within the ACCME system (i.e., ACCME-accredited CME) meets the same requirements and standards.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

38. Admit that the accretor is the only difference between ACCME-accredited providers and state medical society accredited providers.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

39. Admit that all the accredited CME events, activities or courses presented by ACCME-accredited providers and state medical society accredited providers are ACCME-accredited CME, and all ACCME-accredited CME is required to meet the same ACCME requirements.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

40. Admit that, at all material times, the Medical Society of the State of New York is and was recognized by the Accreditation Council for Continuing Medical Education (ACCME) as an accretor and that it can and could accredit organizations to provide ACCME-accredited CME in the state of New York and in contiguous states.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

41. Admit that the Lincoln Medical and Mental Health Center, in Bronx, NY is a full service medical center and teaching hospital affiliated with the Weill Cornell Medical

College of Cornell University for the purpose of continuing medical education and the referral of tertiary/quaternary patients.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

42. Admit that the Lincoln Medical and Mental Health Center runs, and at all material times has run, a residency program in Internal Medicine accredited by the Accreditation Council for Graduate Medical Education.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

43. Admit that the Lincoln Medical and Mental Health Center was accredited by the Medical Society of the State of New York as a Continuing Medical Education Provider Organization to provide ACCME-approved CME at all times between 2006 until the moment this Action was filed in October 2014.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

44. Admit that the Lincoln Medical and Mental Health Center sponsored or was a joint provider for Continuing Medical Education Credits of the ABIM Examination Review Course taught by Dr. Arora in the City University of New York on May 2009.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

45. Admit that the ABIM Examination review course taught by Dr. Arora, that Dr. Salas Rushford attended, in the City University of New York on May 2009 was ACCME-

accredited for 42 American Medical Association/Physician's Recognition AwardTM (AMA/PRETM) Category 1 Continuing Medical Education Credits.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

46. Admit that AMA/PRETM Category 1 CME Credits are recognized as satisfying all required quality standards in CME by the respective governmental medical licensing authorities of the Commonwealth of Puerto Rico, the State of Florida, the State of New York, and the State of North Carolina.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

47. Admit that ABIM has engaged in lobbying activities as defined by the Glossary of Form 990 of the Internal Revenue Service (IRS).

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

48. Admit that ABIM lobbied Congress, or any Member of Congress, to include its Maintenance of Certification Program as one of the quality measures for physicians on the Affordable Healthcare Act.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

49. Admit that ABIM lobbied Congress, or any Member of Congress, to include its Maintenance of Certification Program as one of the quality measures for physicians on the Affordable Healthcare Act specifically through an amendment to Section 1848(k)(4) of

the Social Security Act, 42 U.S.C. § 1395w-4(k)(4), which is contained in Sec. 3002(c)(1) of the Affordable Healthcare Act.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

50. Admit that ABIM lobbied Congress, or any Member of Congress, to include its Maintenance of Certification Program as one of the quality measures for physicians on the Affordable Healthcare Act specifically through an amendment to Section 1848(m) of the Social Security Act, 42 U.S.C. § 1395w-4(m), which is contained in Sec. 10327 of the Affordable Healthcare Act.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

51. Admit that, between the year 2000 and the present, ABIM has engaged in direct lobbying communications as defined by the Instructions for either Parts II-A or II-B of Schedule-C of IRS Form 900.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

52. Admit that, between the year 2000 and the present, ABIM has incurred in [*sic*] lobbying expenditures as defined by the Instructions for any part of Schedule-C of IRS Form 900.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

53. Admit that from 2009 through 2014, ABIM paid \$390,000, or a materially similar or greater amount, to Mehlman Vogel Castagnetti, a lobbying firm.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

54. Admit that, between the year 1990 and the present, ABIM has lobbied the Centers for Medicare and Medicaid Services (CMS).

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

55. Admit that before becoming CEO of ABIM and the ABIM Foundation, Dr. Richard Baron was the Director of the Seamless Care Models Group of the Centers for Medicare and Medicaid Services (CMS).

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

56. Admit that, among other duties, the Seamless Care Models Group focused on the implementation of accountable care organizations (ACOs).

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

57. Admit that Dr. Salas Rushford was born in San Juan, Puerto Rico and graduated with high honors from Colegio San Ignacio de Loyola high school in San Juan in 1997.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

58. Admit that Dr. Salas Rushford was admitted in 1997 to the prestigious “Grupo de los Cien” (Group of the Hundred) of the Department of Natural Sciences of the University of Puerto Rico (UPR), Rio Piedras Campus.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

59. Admit that Dr. Salas Rushford obtained his bachelor's degree in Natural Sciences with high honors from the UPR on December 1999.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

60. Admit that Dr. Salas Rushford enrolled in 2000 at the UPR School of Medicine and obtained his Doctorate of Medicine, also with honors, from that institution in 2004.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

61. Admit that Dr. Salas Rushford did his internship at the General Surgery Program at St. Vincent's Manhattan Hospital in New York, New York from 2004 to 2005.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

62. Admit that Dr. Salas Rushford did his second year residency at the General Surgery Program at St. Vincent's Manhattan Hospital in New York, New York from 2005 to 2006.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

63. Admit that Dr. Salas Rushford received excellent evaluations for his work in St Vincent's.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

64. Admit that Dr. Salas Rushford had to change his residency program because St. Vincent's filed for bankruptcy and closed the program.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

65. Admit that Dr. Salas Rushford then started his residency in Internal Medicine at Cabrini Medical Center in New York, New York from July 2006 to February 2008.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

66. Admit that Dr. Salas Rushford received excellent evaluations for his work at Cabrini Medical Center.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

67. Admit that Dr. Salas Rushford returned to Puerto Rico because Cabrini Medical Center also declared bankruptcy and had to close its training and clinical programs.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

68. Admit that Dr. Salas Rushford then enrolled at the San Juan City Hospital located in San Juan, Puerto Rico on February 2008 where he completed his residency in Internal Medicine in April 2009.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

69. Admit that practicing physicians are required to be licensed by the state in which they practice.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

70. Admit that state licensing agencies (“state medical boards”) are subject to the substantive and procedural “due process” and “equal protection” clauses in all actions, including disciplinary proceedings.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and as calling for a legal conclusion.

71. Admit that being sanctioned or disciplined by one of these state licensing agencies is devastating to a physician’s practice, reputation, and economic livelihood because it bars physicians from obtaining required medical privileges, as well as malpractice insurance.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

72. Admit that a doctor’s state medical license is a valuable property right of the physician which cannot be sanctioned or removed by mere arbitrary or capricious action of the state agency.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, and as calling for a legal conclusion.

73. Admit that Board Certification by the member boards of ABMD has become a practical necessity for the practice of medicine.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

74. Admit that ABIM owes its certified physicians a duty of fair play, contractual due process and substantial justice.

ANSWER: ABIM specifically objects to this request as calling for a legal conclusion to which no answer is required or given, and therefore denies it.

75. Admit that ABIM owes its certified physicians a duty to act in a substantively rational and procedurally fair manner.

ANSWER: ABIM specifically objects to this request as calling for a legal conclusion to which no answer is required or given, and therefore denies it.

76. Admit that, for a procedure to be fair, it must include adequate notice and a real and genuine opportunity to be heard by an impartial and unbiased person or panel prior any negative action being finalized.

ANSWER: ABIM specifically objects to this request as calling for a legal conclusion to which no answer is required or given, and therefore denies it.

77. Admit that procedures are deemed arbitrary when they are substantively unreasonable, internally irregular, or procedurally unfair, and/or are based on false allegations or are created or improvised along the way.

ANSWER: ABIM specifically objects to this request as calling for a legal conclusion to which no answer is required or given, and therefore denies it.

78. Admit that arbitrary procedures for dispute resolution established unilaterally by one of the two contractual parties constitute egregious breaches of contract and of the duty of good faith.

ANSWER: ABIM specifically objects to this request as calling for a legal conclusion to which no answer is required or given, and therefore denies it.

79. Admit that in December 2008, Dr. Salas Rushford, while a resident of the Commonwealth of Puerto Rico and using a computer in Puerto Rico, registered online to take the ABIM Examination to be held in Puerto Rico.

ANSWER: ABIM admits only that defendant registered online for the ABIM Examination to be held in Puerto Rico, and denies the remainder of the request.

80. Admit that Dr. Salas Rushford paid for the ABIM Examination with a credit card registered with a billing address of San Juan, Puerto Rico from funds located in San Juan, Puerto Rico.

ANSWER: ABIM admits only that defendant paid for the ABIM Examination with a credit card, and denies the remainder of the request.

81. Admit that on December 2008 ABIM authorized Dr. Salas Rushford to take the ABIM Examination which would be held on August 20, 2009.

ANSWER: Admitted.

82. Admit that from the point in which ABIM authorized Dr. Salas Rushford to take the ABIM Examination onward, the relationship between ABIM and Dr. Salas Rushford has been of a contractual nature.

ANSWER: ABIM admits only that ABIM's Policies and Procedures imposed obligations on defendant, and denies the remainder of the request.

83. Admit that ABIM does not have any document of a contractual nature, to which ABIM and Dr. Salas Rushford are both parties, that bears Dr. Salas Rushford's signature.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

84. Admit that on December 2008 the document titled ABIM Policies and Procedures for Certification dated October 2008 was the latest published version of the ABIM Policies and Procedures for Certification.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

85. Admit that ABIM did not provide Dr. Salas Rushford before August 2009 with a copy of the ABIM Policies and Procedures for Certification dated October 2008.

ANSWER: Denied

86. Admit that ABIM did not provide Dr. Salas Rushford at any time before October 2014 with a copy of the ABIM Policies and Procedures for Certification dated October 2008.

ANSWER: Denied.

87. Admit that, between May 2012 and July 2014, Dr. Salas Rushford requested that ABIM provide him with a copy of the ABIM Policies and Procedures for Certification dated October 2008.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

88. Admit that, between May 2012 and July 2014, Dr. Salas Rushford requested that ABIM provide him with a copy of the ABIM Policies and Procedures for Certification in effect on December 2008 when he registered for the ABIM Examination.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

89. Admit that as a result of Dr. Salas Rushford's request that ABIM provide him with a copy of the ABIM Policies and Procedures for Certification in effect on December 2008 when he registered for the ABIM Examination, ABIM provided him with a copy of the ABIM Policies and Procedures for Certification dated August 2009.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

90. Admit that the ABIM Policies and Procedures for Certification dated August 2009 were not in effect at the time Dr. Salas Rushford sat for the examination on August 20, 2009.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

91. Admit that the widely disseminated advertising literature of the six-day ABIM Examination Review Course offered by Arora Board Review stated that the course relied principally on discussion of board-type questions.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

92. Admit that Dr. Rajender K. Arora is an internist, gastroenterologist, and geriatrist and in 2008 and 2009 was a fellow of the American College of Physicians and of the American College of Gastroenterology.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

93. Admit that ABIM works directly and personally with the program directors of all Internal Medicine residency programs approved by the Accreditation Council for Graduate Medical Education.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

94. Admit that, while Dr. Salas Rushford was there, the residency and education program of the San Juan City Hospital was accredited by the Accreditation Council for Graduate Medical Education.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

95. Admit that the ABR course held in May 2009 at the City University of New York was attended by approximately 350 physicians from around the United States.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

96. Admit that, by May 2009, Dr. Arora's practice of asking participants to inform him of how well his review course helped them pass the test after taking of the ABIM Examination had been going on publicly for many years and was commonly known among internists.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

97. Admit that in 2008 and 2009 the ABR review course was a highly recommended review course among directors, professors and attending physicians at teaching hospitals.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

98. Admit that Dr. Salas Rushford never discussed the ABIM Examination with Dr. Arora after Dr. Salas Rushford took it.

ANSWER: ABIM is without sufficient information to admit or deny the request, and therefore denies it.

99. Admit that You did not inform Dr. Salas Rushford of Your claims against Dr. Arora until May 8, 2012.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

100. Admit that ABIM did not disclose publicly its claims against Dr. Arora until January 5, 2010.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

101. Admit that Dr. Salas Rushford was a first responder to the crisis in Haiti after the earthquake of January 12, 2010.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

102. Admit that Dr. Salas Rushford has never been reprimanded or disciplined by any state medical licensing agency.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

103. Admit that the seizure of ABR materials pursuant to the court order in the case of *ABIM v. Arora*, No. 2:09-05707 (E.D.Pa.), was executed on December 7, 2009.

ANSWER: Denied.

104. During the Arora Course, Dr. Arora stated that he welcomed students to discuss issues with him at any time, and, for said purposes, made one contact e-mail address and one phone number available to all attendees.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

105. Admit that it is customary and accepted, and in some cases required, that resident internists participate in study groups for the ABIM Examination.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

106. Admit that ABIM works closely with the program directors of all Internal Medicine residency programs.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

107. Admit that ABIM that Dr. Salas Rushford is not the original creator of the attachments to the e-mails attached as Exhibits D, E and F in the Complaint.

ANSWER: ABIM admits only that Defendant is not the original creator of Exhibit E to the Complaint, and denies the remainder of the request.

108. Admit that ABIM that Dr. Salas Rushford is not the original creator of the attachments to the e-mails referred to in paragraph no. 46 of the Complaint.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

109. Admit that ABIM knows the identities of the original creators of all the attachments to the e-mails referenced in the Complaint.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

110. Dr. Salas Rushford took the ABIM Examination in a Pearson Testing Center in the Commonwealth of Puerto Rico on August 20, 2009.

ANSWER: Admitted.

111. Admit that Dr. Salas Rushford has never been involved in any disciplinary proceeding or medical misconduct proceedings in any state or the Commonwealth of Puerto Rico.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

112. Admit that Dr. Salas Rushford has been honored by the Senate and House of Representatives of the Commonwealth of Puerto Rico.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

113. Admit that Dr. Christine K. Cassel was Chairwoman of the ABIM Board of Directors between 1995 and 1996.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

114. Admit that Dr. Christine K. Cassel was the President and CEO of the American College of Physicians (ACP) from 1996 to 1997.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

115. Admit that Dr. Christine K. Cassel was President and CEO of ABIM between 2003 and 2013.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

116. Admit that the ACP has published the work titled Medical Knowledge Self-Assessment Program (MKSAP) since 1967.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

117. Admit that the MKSAP is a study guide for the ABIM Examination in Internal Medicine that contains hundreds of board-like questions.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

118. Admit that, to any person who has not taken, authored or had access to the ABIM Examination in Internal Medicine, the questions contained in the Medical Knowledge Self-Assessment Program (MKSAP) are indistinguishable from those that could be contained in the ABIM Examination in Internal Medicine, because their nature, topics and form resembles those of the question in the ABIM Examination in Internal Medicine.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

119. Admit that the reason that the MKSAP is successful is precisely that the questions published within each of its editions resemble or resembled those in the ABIM Examination in Internal Medicine that was offered on dates close to the publishing of the particular edition.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

120. Admit that some of the actual authors of the questions in the MKSAP are also the actual authors of all or some or part of the questions in the ABIM Examination.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

121. Admit that, to any person who has not taken, authored or had access to the ABIM Examination in Internal Medicine, the questions contained in the all the materials provided to review takers by ABR are indistinguishable from those that could be contained in the ABIM Examination in Internal Medicine, because their nature, topics and form resembles those of the question in the ABIM Examination in Internal Medicine.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

122. Admit that, on or before August 2009, ABIM never published or informed publicly that it re-used questions in its Examinations from year to year.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

123. Admit that ABIM had knowledge of potential problems with the Arora Course before Dr. Salas Rushford took it and never warned him or any other physician of the potential issues before they took the course.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

124. Admit that, even after sending a person to the ABR course in May 2009 and gathering evidence there, ABIM did not inform any of its candidates who were scheduled to take the ABIM Examination on August 2009 of the problems with the ABR course.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

125. Admit that on or after May 2009, ABIM had enough evidence against ABR to request the seizure order that it finally requested against ABR in December 2009.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

126. Admit that ABIM could have warned candidate physicians who took the ABR course of the problems with the ABR course before they took the ABIM Examination on August 2009 without jeopardizing its case against ABR.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

127. Admit that Jimmy is Dr. Salas Rushford's nickname.

ANSWER: ABIM is without sufficient information to admit or deny the request, and therefore denies it.

128. Admit that Jimmy is a common nickname for men named Jaime in Puerto Rico.

ANSWER: ABIM is without sufficient information to admit or deny the request, and therefore denies it.

129. Admit that Dr. Salas Rushford used the padrinojr@yahoo.com e-mail address since 1997.

ANSWER: ABIM is without sufficient information to admit or deny the request, and therefore denies it.

130. Admit that the Salas Rushford family composed of Dr. Salas Rushford (then a high school and college student), his brother Mr. Jose M. Salas Rushford (also then a student) and their parents, Ms. Catherine Rushford Padilla, Esq., and Mr. Jaime A. Salas Soler, Esq., registered and used from [sic] the mid 1990's to the early 2000's the e-mail address godfat@prtc.net as their family e-mail address.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

131. Admit that, when he was in high school and college (between 1996 and early 2000), Dr. Salas Rushford also owned and used the e-mail address godfatherjr@hotmail.com.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

132. Admit that Dr. Salas Rushford used the padrinojr@yahoo.com e-mail address to correspond with persons other than Dr. Arora.

ANSWER: ABIM admits only that, after ABIM concretely matched the email address padrinojr@yahoo.com to defendant, and after ABIM sent a letter to defendant in May 2012 notifying him of ABIM's intention to recommend revocation of defendant's Board Certification, defendant provided ABIM with a limited number of emails that appear to have been sent from the padrinojr@yahoo.com email address to persons other than Dr. Arora, and denies the remainder of the request.

133. Admit that Dr. Salas Rushford used the padrinojr@yahoo.com e-mail address as his main e-mail address from 1998 to 2004.

ANSWER: ABIM is without sufficient information to admit or deny the request, and therefore denies it.

134. Admit that Dr. Salas Rushford created the jsalasmd@yahoo.com e-mail address on or about the time he graduated from Medical School in 2004.

ANSWER: ABIM is without sufficient information to admit or deny the request, and therefore denies it.

135. Admit that Dr. Salas Rushford still heavily used the padrinojr@yahoo.com e-mail address between 2004 and 2008.

ANSWER: ABIM is without sufficient information to admit or deny the request, and therefore denies it.

136. Admit that Dr. Salas Rushford used "padrinojr" as his username when registering with the Federation of State Medical Boards (FSMB) on August 11, 2006.

ANSWER: ABIM is without sufficient information to admit or deny the request, and therefore denies it.

137. Admit that ABIM never asked Dr. Arora, at any time, through depositions, interrogatories or any other means, who the owner of the padrinojr@yahoo.com account was.

ANSWER: Admitted. By way of further response, ABIM notes that no discovery of any kind was taken in *ABIM v. Arora*, No. 2:09-05707 (E.D.Pa.).

138. Admit that, in reference to what is stated in paragraph no. 45 of the Complaint, Dr. Salas Rushford never “ticked” the questions that were in his exam.

ANSWER: ABIM specifically objects to this request as irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

139. Admit that ABIM has no evidence to support its contention, contained in paragraph no. 38 of the Complaint, that Dr. Salas Rushford recorded ABIM Examination information in his handwritten notes during a lengthy telephone conversation with a colleague on August 12, 2009.

ANSWER: Denied.

140. Admit that ABIM has no information or evidence that Dr. Salas Rushford had a lengthy telephone conversation with anyone on August 12, 2009.

ANSWER: Denied.

141. Admit that all the documents provided by Dr. Salas Rushford to You in response to any Discovery request are authentic.

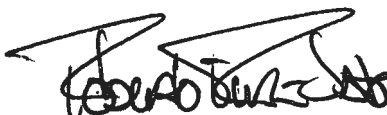
ANSWER: ABIM is without sufficient information to admit or deny the request, and therefore denies it.

/////

/////

/////

/////



Roberto A. Rivera-Soto

Hara K. Jacobs

Casey G. Watkins

Ballard Spahr LLP

210 Lake Drive East, Suite 200

Cherry Hill, NJ 08002-1163

Tel. 856.761.3400

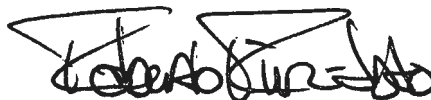
Attorneys for Plaintiff

American Board of Internal Medicine

DATED: November 13, 2015

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing first set of requests for production of documents from plaintiff American Board of Internal Medicine addressed to defendant Jaime Salas Rushford, M.D. to be served electronically on defendant's counsel via the email address contained in the Court's CM/ECF system.



Roberto A. Rivera-Soto

DATED: November 13, 2015