

The Honorable

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

ARTHUR MADDOX,

Plaintiff,

vs.

UNITED NETWORK FOR ORGAN
SHARING; and SWEDISH HEALTH
SERVICES D/B/A SWEDISH MEDICAL
CENTER,

Defendants.

No.

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Arthur Maddox (“Plaintiff” or “Mr. Maddox”) brings this Complaint against the United Network for Organ Sharing (“UNOS”) and Swedish Health Services d/b/a Swedish Medical Center (“Swedish” and collectively, the “Defendants”) and alleges as follows:

I. INTRODUCTION

1. For more than two decades, UNOS and its affiliated transplant hospitals used what is known as the race-based coefficient to artificially increase the observed kidney function (eGFR) scores for Black kidney disease patients. The race-based coefficient delayed Black kidney disease patients from being added to the kidney transplant waitlist and resulted in Black

COMPLAINT

() - 1

KELLER ROHRBACK L.L.P.

1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

1 candidates waiting much longer for kidney transplants than similarly-situated non-Black
2 candidates.

3 2. Use of the race-based coefficient was not the result of any valid scientific or peer-
4 reviewed studies. Instead, developers of the race-based coefficient postulated that Black
5 Americans showed increased levels of creatinine extraction because they have greater muscle
6 mass than non-Black Americans; i.e., they relied solely on a defunct, eugenics-style racial
7 stereotype.
8

9 3. Making medical policy based on racial stereotypes harmed all Black Americans
10 waiting for a kidney. This lawsuit focuses on one of them—Mr. Arthur Maddox.

11 4. Mr. Maddox is a family man who served his country for more than a decade. That
12 is, Mr. Maddox served in the Marines for six years, then spent three years in the Army, and
13 finally served for six years in the Air Force reserves.
14

15 5. During this time Mr. Maddox also started a family. He got married and had four
16 kids. After leaving the military to return to civilian life, he worked managing military firing
17 ranges, and continued to support his family. Mr. Maddox takes great pride in his service to the
18 country, and in his career and ability to provide for his family.
19

20 6. Mr. Maddox was first diagnosed with kidney disease in June of 2016 at the
21 Hawaii VA Hospital. Mr. Maddox continued to work as his condition was monitored. By
22 November of 2019, however, his condition worsened to the point that he was forced to begin
23 dialysis, and was no longer able to work.

24 7. For approximately the first three years, Mr. Maddox underwent at-home dialysis
25 that required him to be at home every night to hook into his dialysis machine. He could not go
26 out to dinner. He could not travel. He was essentially a prisoner in his own home. This treatment

1 was also not effective for Mr. Maddox. He gained 60 pounds and the treatments left him feeling
2 weak, physically tired, and emotionally drained.

3 8. In approximately December of 2022, Mr. Maddox's at-home dialysis failed and
4 he was rushed to the hospital for emergency surgery. Mr. Maddox nearly died during this
5 episode.
6

7 9. With at-home dialysis failing, Mr. Maddox was then forced to go to a clinic for
8 his dialysis treatments. These treatments worked better, but were extremely uncomfortable. Mr.
9 Maddox's dialysis treatment now required large, painful needles, and trips to the clinic three
10 days per week. The after effects of his dialysis treatments left Mr. Maddox, again, physically and
11 emotionally exhausted.
12

13 10. By this point, the weight of Mr. Maddox's situation became unbearable. Mr.
14 Maddox was unable to work or provide for his family as he had for so many years. His credit
15 score dropped over 200 points. His physical condition caused a loss of consortium with his wife
16 and strained his marriage.

17 11. Mr. Maddox was forced to have conversations with his wife and children about
18 the possibility that he may die waiting for a kidney. The emotional distress caused to Mr.
19 Maddox and his family was severe to the point it is difficult to capture in words.
20

21 12. The source of at least the last two years of Mr. Maddox's physically and mentally
22 traumatizing fight with kidney disease was Defendants' use of the race-based coefficient to taint
23 Mr. Maddox's—and countless other Black patients'—eGFR scores. Defendants now admit these
24 scores were artificially adjusted in a racist manner from the beginning.

25 13. In June of 2022, UNOS admitted the racially discriminatory nature of the race-
26 based coefficient for Black Americans. Thereafter, UNOS approved "a measure to require

1 transplant hospitals to use a race-neutral calculation when estimating a patient's level of kidney
 2 function." In its press release, UNOS explained:

3 For a number of years, some eGFR calculations have included a modifier for
 4 patients identified as Black. This practice has led to a systemic underestimation of
 5 kidney disease severity for many Black patients. Specifically in organ
 6 transplantation, it may have negatively affected the timing of transplant listing or
 the date at which candidates qualify to begin waiting time for a transplant.¹

7 Despite prohibiting future use of the race-based coefficient, for six months, UNOS did
 8 nothing to adjust wait times for Black Americans already on the kidney waitlist.

9 14. In January of 2023, UNOS instructed donor hospitals to notify Black candidates
 10 of the policy change and investigate whether Black members of their waitlists were eligible for a
 11 wait-time modification, but UNOS gave donor hospitals *an entire year* to complete this process,
 12 until January of 2024.

13 15. Through this process, in August of 2023, Mr. Maddox was first informed by
 14 Swedish that he was entitled to a nearly two-year wait time adjustment. That is, Mr. Maddox was
 15 first placed on UNOS's national kidney waitlist on November 21, 2019, when he began dialysis.
 16 But absent Defendants' use of the race-based coefficient, Mr. Maddox would have qualified to
 17 join the waitlist on December 21, 2017. To be clear, August of 2023 was the first time Mr.
 18 Maddox was told or otherwise learned that the race-based coefficient existed, or that his race
 19 impacted his qualification to join the kidney waitlist.
 20

21 16. Those two years were crucial for Mr. Maddox given the living nightmare he
 22 suffered during his last two years of excruciating dialysis treatments, including the incident
 23 where his in-home dialysis failed, and he nearly died.
 24

25
 26 ¹ This Press release is publicly available at <https://unos.org/news/optn-board-approves-elimination-of-race-based-calculation-for-transplant-candidate-listing/>.

17. Indeed, Mr. Maddox was informed in December of 2023 that there may be a kidney for him—whether UNOS had processed Mr. Maddox’s wait time adjustment in UNet at this time is unclear—but ultimately Mr. Maddox was an alternate and did not get this kidney.

18. Having waited for many years by this point, and having been notified that the institutions he trusted to provide medical care engaged in intentional racial discrimination against him, and having been informed that there may be a kidney only to be later informed he was just an alternate, his health failing, Mr. Maddox was scared that he would never receive a kidney and that he would die. Thus, when Defendants offered Mr. Maddox a Hepatitis C-infected kidney in January of 2024, Mr. Maddox felt he had no choice and accepted the kidney.

19. This left Mr. Maddox to face additional medical procedures to treat the Hepatitis C that was introduced to his body through his transplant. In other words, after admitting to intentional racial discrimination against Mr. Maddox, Defendants attempted to “make it right” by offering him a take-it-or-leave it proposition with a diseased kidney.

20. Upon information and belief, had Mr. Maddox's wait time been calculated without application of the race-based coefficient, Mr. Maddox would have been offered and received a kidney years earlier than 2024, when Mr. Maddox was ultimately first offered a diseased kidney, and Mr. Maddox would have undergone significantly less physical and emotional trauma, and would have suffered from significantly less monetary damages like increased medical costs and lost wages.

21. There must be serious consequences for hospitals and transplant organizations that engage in such racist discrimination.

II. PARTIES

22. Mr. Maddox is an individual residing in Olympia, Washington.

1 23. Defendant UNOS is a Virginia nonprofit corporation with its principal place of
2 business in Richmond, Virginia.

3 24. Defendant Swedish is a non-profit corporation organized and existing under the
4 laws of Washington with its principal place of business in Seattle, Washington.

5 **III. JURISDICTION AND VENUE**

6 25. This Court has federal question jurisdiction over this matter pursuant to 28 U.S.C.
7 §§ 1331 and 1343 because Mr. Maddox asserts a federal cause of action alleging racial
8 discrimination. This Court further has supplemental jurisdiction over any state law claims
9 pursuant to 28 U.S.C. § 1367.

10 26. Venue in this district is proper pursuant to 28 U.S.C. § 1391 because Plaintiff
11 resides in this District and has been affected by Defendants' unlawful policies and procedures
12 within the District, Swedish's principal place of business is within this District, and Swedish's
13 alleged actions have occurred within the District. Thus, a substantial part of the events or
14 omissions that gave rise to the claims asserted herein occurred within this District.

15 27. This Court has personal jurisdiction over UNOS because UNOS conducts
16 operations within Washington by virtue of its management of the kidney donor list for all
17 patients residing within the State, including Plaintiff. UNOS makes decisions as to which
18 patients residing in Washington will be offered donor kidneys.

19 28. This Court has personal jurisdiction over Swedish because Swedish maintains its
20 principal place of business within the State, and harmed Plaintiff by virtue of the unlawful
21 conduct alleged herein within this State.

IV. GENERAL ALLEGATIONS

A. The national kidney transplant waitlist is controlled by the Defendants, and wait time is the primary factor considered in awarding donor kidneys.

29. In 1984, Congress passed the National Organ Transplant Act (“NOTA”), creating the Organ Procurement and Transplantation Network (“OPTN”), which was tasked with maintaining a national registry for organ matching. Per the Act, this registry was to be operated by a private, non-profit organization under federal contract.²

30. Since that time, UNOS has acted as that private, non-profit organization which operates the OPTN. As its website declares, UNOS “[m]anag[es] the national transplant waiting list, matching donors to recipients 24 hours a day, 365 days a year.” UNOS establishes and implements policy concerning how donor kidneys will be awarded to patients with kidney disease.

31. UNOS claims to “develop policies that make the best use of the limited supply of organs and give all patients a fair chance at receiving the organ they need, regardless of age, sex, ethnicity, religion, lifestyle, or financial/social status.”

32. On its website, it even features pictures such as the one below, in which it touts itself as promoting “fairness and equity.”

² Patients can also seek a kidney from a private donor, such as a family member or friend, at the same time as they wait for a kidney on the national waitlist.



33. UNOS is contractually obligated to manage the national kidney waitlist, but does not allow kidney disease patients to apply for inclusion on the kidney transplant waitlist directly through UNOS.

34. To be placed on the national kidney transplant waitlist, a patient must first visit one of 200+ transplant hospitals, and receive a referral from his physician. In this way, the transplant hospitals, like Swedish, serve as gatekeepers to patients seeking to be placed on the national kidney waitlist.

35. UNOS must approve these transplant hospitals before they are eligible to refer patients to the kidney transplant waitlist. Hospitals like Swedish must agree to be bound by UNOS's published policies and procedures to act as a transplant hospital. They then act as UNOS's agent in managing the national transplant waitlist.

36. The national kidney waitlist is maintained using UNOS software, known as UNet. When a new patient is added to the waitlist, the referring hospital enters the patient's name and

1 relevant medical information, including eGFR scores, into the UNet software, which tracks
2 patient medical information and wait time.

3 37. Each time a donor kidney becomes available, UNet's algorithm considers the
4 information maintained in UNet and generates a list of potential medical matches, known as a
5 match run, which ranks the medical matches on the national kidney waiting list by allocation
6 score. These kidneys are then offered to patients through the transplant hospitals, in accordance
7 with the UNet-generated rankings.
8

9 38. In the UNet algorithm, qualifying wait time is worth 1/365 points per day, or one
10 point per year. These wait time points are a significant factor in determining candidates' ranking
11 in UNet's match runs, and ultimately which candidate will be awarded any particular kidney.
12

13 39. Indeed, because all other factors for which candidates are assigned points are
14 race-neutral, wait time acts as a sort of tie breaker between similarly situated Black and non-
15 Black candidates. That is, the race-based coefficient caused Black candidates to accrue less wait
16 time than similarly situated non-Black candidates. Non-Black candidates therefore appeared
17 higher in match runs, and were awarded kidneys first.

18 40. Importantly, referral to the waitlist does not automatically start the clock on
19 qualifying wait time. Generally, to accrue qualifying wait time, either a patient's eGFR score
20 must fall below 20 ml/min or the patient must begin dialysis.
21

22 **B. The Defendants applied a racially discriminatory coefficient to Black patients'**
23 **eGFR scores.**

24 41. UNOS is responsible for enacting policy that determines which patients receive
25 which donor kidneys. In this regard, UNOS offers as one of its strategic goals to "[p]rovide
26 equity in access to transplants[.]" UNOS has fallen far short of its stated goal.

1 42. For decades, despite claiming to “give all patients a fair chance at receiving the
2 organ they need,” UNOS applied a race-based coefficient to artificially inflate eGFR scores for
3 Black Americans, overstating their kidney function by 16–18%, based upon the unsupported
4 assumption that Black Americans have greater muscle mass and thus naturally have more
5 creatinine in their bodily systems.

6 43. As noted above, patients do not begin accruing wait time on the national kidney
7 waitlist until their eGFR score reaches 20 ml/min. But for Black patients, even when their
8 unadjusted eGFR score fell below 20 ml/min, the race-based coefficient artificially inflated their
9 eGFR scores above 20 ml/min, preventing them from qualifying to accrue wait time. Thus, Black
10 patients’ eGFR scores had to fall well below 20 ml/min before they began to accrue wait time.

11 44. This practice led to many Black kidney disease patients never qualifying for wait
12 time by eGFR score because their addition to the waitlist was delayed until the patients had to
13 start of dialysis (which is recommended when kidney function falls below 15 ml/min).

14 45. UNOS’s policy encouraged and allowed for use of the race-based coefficient, and
15 UNOS knowingly used modified eGFR scores and manipulated wait times when ranking patients
16 for kidney transplants. Specifically, UNOS is and has at all times been aware that its UNet
17 software includes an algorithm that uses wait time as the primary factor in ranking patients for
18 donor kidneys, and that its UNet software includes wait times for Black patients that have been
19 manipulated by application of the race-based coefficient, including Mr. Maddox’s original wait
20 time calculation. To be clear, this modification was made to Black patients’ eGFR scores entirely
21 because of their race and was not applied to other racial groups.

22 46. There has never been any serious scientific research to support use of the race-
23 based coefficient to artificially increase Black patients’ eGFR scores. Instead, the race-based
24

1 coefficient is based on eugenics-style racism and stereotypes that assume Black Americans are
 2 more physically fit than White Americans and other racial groups.

3 47. This, of course, is junk science supported only by racial stereotypes, and not any
 4 valid scientific studies. As described in an article titled *Systemic Kidney Transplant Inequities for*
 5 *Black Individuals: Examining the Contribution of Racialized Kidney Function Estimating*
 6 *Equations*, the theory supporting the race-based modification to Black patients' eGFR scores has
 7 "not been substantiated by rigorous scientific evidence[.]"
 8

9 48. Years before UNOS took any action to review its policy allowing for use of the
 10 race-based coefficient, the practice was criticized by doctors for its racially discriminatory
 11 nature. For example, in November of 2011, Dr. Toni Martin published an article in the *American*
 12 *Journal of Kidney Diseases* that questioned the practice, explaining that when she attempts to
 13 explain the policy to Black patients, she "get[s] a snort of disbelief[.]" and noting the history of
 14 purported genetic differences being used against Black Americans against a backdrop of
 15 "separate and unequal."³
 16

17 49. Use of the race-based coefficient seriously diminishes Black patients' chances of
 18 receiving a donor kidney. For Black patients that overcome the odds and do receive a kidney
 19 from the national waitlist, their wait time is still significantly increased. Indeed, because of this
 20 eGFR manipulation, many Black patients never qualified to accrue wait time because of their
 21 eGFR score, and only began to accrue wait time when they began dialysis.
 22
 23
 24
 25
 26

³ To be clear, Mr. Maddox was unaware of this article, and Mr. Maddox was further unaware that his race affected his position on the waitlist until August of 2023.

1 50. All other factors being equal, the above-described practices have resulted in non-
2 Black patients receiving numerous kidneys that would otherwise have been given to Black
3 applicants had their wait time been calculated without consideration of race.

4 51. The failure to receive donor kidneys has caused significant harm to Black
5 Americans. The unfortunate reality is that many Black Americans, who could have survived if
6 fairly considered for a donor kidney, have already passed away.

7 52. Other Black Americans have suffered worsened kidney disease and/or been
8 forced into dialysis treatment because of the lengthened wait time for a donor kidney, which has
9 also caused myriad resulting health problems.

10
11 **C. Even after UNOS admitted that the race-based coefficient discriminates against**
12 **Black Americans, Defendants refused to timely address the problem.**

13 53. In June of 2020, UNOS acknowledged the racial inequity plaguing the transplant
14 system and the need for reform. In an article found at [https://unos.org/news/racial-equity-in-](https://unos.org/news/racial-equity-in-transplantation/)
15 [transplantation/](https://unos.org/news/racial-equity-in-transplantation/), UNOS professed a “commitment” to “saving and improving lives through
16 transplantation, regardless of background, including race and ethnicity.” But the race-based
17 coefficient would remain in effect for years to come.

18 54. In June of 2022, UNOS admitted the racially discriminatory nature of the race-
19 based coefficient for Black Americans, approving “a measure to require transplant hospitals to
20 use a race-neutral calculation when estimating a patient’s level of kidney function.” In its press
21 release, UNOS explained that:

22
23 For a number of years, some eGFR calculations have included a modifier for
24 patients identified as Black. This practice has led to a systemic underestimation of
25 kidney disease severity for many Black patients. Specifically in organ
26

transplantation, it may have negatively affected the timing of transplant listing or the date at which candidates qualify to begin waiting time for a transplant.⁴

55. UNOS posted the following passage on its website:



Organ donors

Patients

What are other issues with the race variable in eGFR?

EGFR calculations rely on a binary approach to race. When the race variable is used in formulas, eGFR calculators only offer two response options: "Black" or "Not Black."

These options do not include a designation for mixed race or multi-racial individuals, and do not account for the existing genetic diversity within the Black population. The concept of race is a social construct and an unreliable proxy for genetic difference, therefore not a biological marker or clinical measure.

56. UNOS's policy officially changed on July 27, 2022, with UNOS's policy prior to that time expressly allowing for use of the race-based coefficient to artificially increase Black patients' eGFR scores.

57. Nonetheless, UNOS continued to use the race-based coefficient as a default. For more than six months, UNOS took no affirmative steps to adjust wait times and correct for previous use of the race-based coefficient.

58. On January 5, 2023, UNOS announced a new policy that would require donor hospitals to provide two notifications to patients on the national kidney waitlist, one notifying patients that Black Americans will be considered for wait time adjustments where the race-based coefficient delayed their accrual of wait time, and a second notification confirming this process was completed and informing patients of their status. UNOS also directed donor hospitals to

⁴ This Press release is publicly available at <https://unos.org/news/optn-board-approves-elimination-of-race-based-calculation-for-transplant-candidate-listing/>.

1 investigate which patients are eligible for a wait time adjustment, and to request said adjustments
2 with UNOS within a year, i.e., by January of 2024.

3 59. While this adjustment in policy rightfully acknowledged the racially
4 discriminatory nature of the race-based coefficient, it lacked the requisite urgency, and for many
5 of the 27,500 Black Americans then on the national kidney waitlist, like Mr. Maddox, the policy
6 change was too little too late. During the 18 months of lag time in adjusting wait times, Black
7 Americans continued to suffer a race-based disadvantage in their candidacy for a donor kidney,
8 with UNet continuing to utilize the old, improperly calculated wait times when awarding
9 kidneys.
10

11 60. Indeed, as discussed below, Mr. Maddox suffered from serious health problems
12 near the end of the time period provided by UNOS for transfer hospitals to correct their wait time
13 calculations, some of which that could potentially been avoided had Defendants moved faster to
14 update their records.
15

16 **D. As a result of his additional wait time for a kidney transplant, Mr. Maddox suffered**
17 **significant harms.**

18 61. Had the race-based coefficient not been applied to Mr. Maddox's eGFR score,
19 Mr. Maddox would have qualified to join the national kidney waitlist December 21, 2017, his
20 eGFR measuring at 20 ml/min or below.

21 62. However, solely because Mr. Maddox is Black, the race-based coefficient was
22 applied to Mr. Maddox's eGFR score to artificially increase his score above 20 ml/min, and Mr.
23 Maddox was not added to the kidney waitlist.
24

25 63. In reality, Mr. Maddox was first placed on UNOS's national kidney waitlist on
26 November 21, 2019, when he began dialysis.

1 64. Since that time, Mr. Maddox has been required to undergo debilitating dialysis
2 treatments, first at home, and then at a dialysis clinic, as discussed above. The at-home
3 treatments left Mr. Maddox 60 pounds overweight, weak, tired, and emotionally drained. The
4 dialysis clinic treatments were extremely uncomfortable, required large, painful needles, trips to
5 the clinic three days per week, and, again, left Mr. Maddox physically and emotionally
6 exhausted.
7

8 65. Mr. Maddox also underwent many related health problems caused by his kidney
9 diseases and prolonged dialysis. As explained above, Mr. Maddox was forced to have emergency
10 surgery and almost died when his at-home dialysis failed. Moreover, Mr. Maddox also suffered
11 from physical disfigurement and serious depression.
12

13 66. Mr. Maddox was also forced to retire from his career of running shooting ranges
14 for the military, causing the loss of wages and serious financial difficulties for Mr. Maddox.
15

16 67. In sum, Mr. Maddox's kidney disease and prolonged dialysis treatments required
17 him to go through a litany of expensive, unpleasant medical procedures, resulting in physical
18 pain, an inability to work or enjoy life, and severe emotional distress. His diet was severely
19 limited and he could only drink minimal amounts of fluids.
20

21 68. Moreover, because, even after his extensive wait, Mr. Maddox was only offered a
22 kidney infected with Hepatitis C, Mr. Maddox's post-transplant regimen has been more
23 burdensome than if he were offered a healthy kidney.
24

25 69. Much, if not all, of this could have all been avoided had Defendants not
26 discriminated against Mr. Maddox. Mr. Maddox was entitled to join the waitlist in 2017, and Mr.
Maddox should have had more than five years on the waitlist before his at-home dialysis failed
in December of 2022, nearly causing his death. Absent Defendants' discrimination, upon

1 information and belief, Mr. Maddox would have received a donor kidney before his at-home
2 dialysis failed. Indeed, by December of 2022, UNOS had already banned use of the race-based
3 coefficient because of its discriminatory nature, but Defendants did nothing to adjust Mr.
4 Maddox's wait time.

5 **V. CAUSES OF ACTION**

6 **COUNT ONE**

7 **(Violation of Title VI of the Civil Rights Act of 1964)**

8 70. Mr. Maddox re-alleges and incorporates herein by reference, as though set forth in
9 full, each of the allegations set forth above.

10 71. This cause of action is brought by Mr. Maddox against all Defendants.

11 72. UNOS and Swedish receive significant financial assistance from the Federal
12 government.

13 73. In this regard, approximately 10% of UNOS's budget is provided by the Federal
14 government, in accordance with the National Organ Transplant Act's authorization of
15 \$7,000,000/year to fund a private, non-profit entity such as UNOS. These contracts were
16 intended by the Federal government to act as a subsidy to UNOS, not as compensation for any
17 goods or services provided by UNOS to the Federal government, for which there are none.
18 Moreover, UNOS acknowledges in its financial documents that this Federal government
19 assistance is a "grant."

20 74. Swedish receives significant financial assistance from the Federal government
21 and its programs, funding both patient care and other related operations.

22 75. Defendants have engaged in racial discrimination. As alleged in detail above,
23 Defendants allowed and encouraged use of the race-based coefficient to artificially inflate Black
24 patients' including Mr. Maddox's eGFR scores, with UNOS adopting, encouraging, and
25
26

COMPLAINT

() - 16

KELLER ROHRBACK L.L.P.

1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

1 implementing the race-based coefficient, and Swedish applying the race-based coefficient
2 directly, thus delaying Mr. Maddox's accrual of wait time, and prejudicing his chances of
3 receiving a donor kidney.

4 76. Defendants further knowingly input and used these modified wait times for Black
5 patients, including Mr. Maddox, in UNOS's UNet software, causing them to be ranked lower for
6 specific donor kidneys than non-Black patients. Even after UNOS admitted the practice was
7 racially discriminatory, Defendants failed to take prompt action to ensure Black patients'
8 (including Mr. Maddox's) wait times were recalculated.

9
10 77. The damages resulting from the above-described racial discrimination include but
11 are not limited to depriving and/or delaying Mr. Maddox's award of a donor kidney. This
12 discrimination also caused Mr. Maddox to incur economic injuries, including but not limited to,
13 continued medical costs such as dialysis costs and costs related to the failure of his at-home
14 dialysis, and also lost wages stemming from early retirement because of additional dialysis
15 treatments and other resulting medical conditions caused by Defendants' application of the race-
16 based coefficient.

17
18 78. The above-described racial discrimination caused additional damages including
19 but not limited to pain and suffering, severe emotional distress resulting in a looming fear of
20 death and accompanying tearful conversations with his wife and children, constant fatigue, the
21 inability to travel, and the loss of enjoyment of life.

22
23 **COUNT TWO**
24 **(Violation of Washington Law Against Discrimination,**
 Wash. Rev. Code § 49.60.010 et seq.)

25 79. Mr. Maddox re-alleges and incorporates herein by reference, as though set forth in
26 full, each of the allegations set forth above.

1 80. This cause of action is brought by Mr. Maddox against all Defendants.

2 81. Defendants have engaged in racial discrimination. As alleged in detail above,
3 Defendants allowed and encouraged use of the race-based coefficient to artificially inflate Black
4 patients including Mr. Maddox's eGFR scores, with UNOS adopting, encouraging, and
5 implementing the race-based coefficient, and Swedish applying the race-based coefficient
6 directly, thus delaying Mr. Maddox's accrual of wait time, and prejudicing his chances of
7 receiving a donor kidney.
8

9 82. Defendants further knowingly input and used these modified wait times for Black
10 patients, including Mr. Maddox, in UNOS's UNet software, causing them to be ranked lower for
11 specific donor kidneys than non-Black patients. Even after UNOS admitted the practice was
12 racially discriminatory, Defendants failed to take prompt action to ensure Black patients'
13 (including Mr. Maddox's) wait times were recalculated.
14

15 83. The damages resulting from the above-described racial discrimination include but
16 are not limited to depriving and/or delaying Mr. Maddox's award of a donor kidney. This
17 discrimination also caused Mr. Maddox to incur economic injuries, including but not limited to,
18 continued medical costs such as dialysis costs and costs related to the failure of his at-home
19 dialysis, and also lost wages stemming from early retirement because of additional dialysis
20 treatments and other resulting medical conditions caused by application of the race-based
21 coefficient by Defendants.
22

23 84. The above-described racial discrimination caused additional damages including
24 but not limited to pain and suffering, severe emotional distress resulting in a looming fear of
25 death and accompanying tearful conversations with his wife and children, constant fatigue, the
26 inability to travel, and the loss of enjoyment of life.

COUNT THREE
(Breach of Fiduciary Duty)

85. Mr. Maddox re-alleges and incorporates herein by reference, as though set forth in full, each of the allegations set forth above.

86. This cause of action is brought by Mr. Maddox against Swedish.

87. As the transplant hospital for Mr. Maddox, Swedish owed Mr. Maddox a fiduciary duty. Swedish acted as an intermediary between Mr. Maddox and the market for donor kidneys, similar to how a stock broker operates for his clients' benefit in the financial markets. Mr. Maddox, having no ability to communicate with UNOS or advocate for himself, trusted and relied on Swedish to act in his best interests in obtaining for him a life-saving kidney.

88. Swedish breached its fiduciary duty to Mr. Maddox by engaging in racial discrimination against him. Swedish knowingly submitted eGFR scores tainted by use of the race-based coefficient to UNOS for inclusion in its UNet algorithm, prejudicing Mr. Maddox's chances to receiving a donor kidney. Even after UNOS changed course and prohibited the use of the race-based coefficient, Swedish failed for more than a year to recalculate Mr. Maddox's wait time.

89. The damages resulting from the above-described breaches of fiduciary duty include but are not limited to depriving and/or delaying his award of a donor kidney. This discrimination also caused Mr. Maddox to incur economic injuries, including but not limited to, continued medical costs such as dialysis costs and costs related to the failure of his at-home dialysis, and also lost wages stemming from early retirement because of additional dialysis treatments and other resulting medical conditions caused by application of the race-based coefficient by Defendants.

1 90. The above-described breach of fiduciary duty caused additional damages
2 including, but not limited to, pain and suffering and severe emotional distress resulting in a
3 looming fear of death and accompanying tearful conversations with his wife and children,
4 constant fatigue, the inability to travel, and the loss of enjoyment of life.

5
6 **COUNT FOUR**
7 **(Outrage)**

8 91. Mr. Maddox re-alleges and incorporates herein by reference, as though set forth in
9 full, each of the allegations set forth above.

10 92. This cause of action is brought by Mr. Maddox against all Defendants.

11 93. Defendants' conduct, as described in this Complaint, can only be described as so
12 outrageous in character, and so extreme in degree, as to go beyond all possible bounds of
13 decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

14 94. Defendants' extreme and outrageous conduct, intentionally and/or recklessly
15 caused Mr. Maddox the harms and damages described herein, including severe emotional
16 distress.

17 95. The above-described outrage caused additional damages including, but not limited
18 to, pain and suffering and severe emotional distress resulting in a looming fear of death and
19 accompanying tearful conversations with his wife and children, constant fatigue, the inability to
20 travel, and the loss of enjoyment of life.

21
22 **VI. PRAYER FOR RELIEF**

23 WHEREFORE, Mr. Maddox prays for relief against Defendants as follows:

24 1. For damages in compensation for the economic, medical, personal injuries, pain
25 and suffering, and loss of consortium sustained by the Mr. Maddox in an amount to be
26 determined by evidence;

COMPLAINT
() - 20

KELLER ROHRBACK L.L.P.
1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

2. For pre-judgment interest on all damages awarded by this Court;
3. For reasonable attorneys' fees and costs of suit incurred herein; and
4. For such other and further relief as the Court deems just and proper.

VII. DEMAND FOR JURY TRIAL

Mr. Maddox hereby demands a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

DATED this 7th day of June, 2024.

KELLER ROHRBACK L.L.P.

By: /s/ David J. Ko

By: /s/ Daniel P. Mensher

David J. Ko, WSBA #38299

Daniel P. Mensher, WSBA #47719

1201 Third Avenue, Suite 3200

Seattle, WA 98101-3052

Telephone: (206) 623-1900

Facsimile: (206) 623-3384

Email: dko@kellerrohrback.com

dmensher@kellerrohrback.com

ELLIS GEORGE LLP

By: /s/ Matthew L. Venezia

Matthew L. Venezia, *pro hac vice forthcoming*

2121 Avenue of the Stars, Suite 3000

Los Angeles, CA, 90067

Telephone: (310) 274-7100

Fax: (340) 275-5697

Email: mvenezia@ellisgeorge.com

By: /s/ George Laiolo

George Laiolo, *pro hac vice forthcoming*

44 Montgomery Street, Suite 1280

San Francisco, CA 94014

Telephone: (415) 391-7100

Fax: (415) 391-7198

Email: glaiolo@ellisgeorge.com

Attorneys for Plaintiff

KELLER ROHRBACK L.L.P.

By: /s David J. Ko

By: /s Daniel P. Mensher

David J. Ko, WSBA #38299

Daniel P. Mensher, WSBA #47719

1201 Third Avenue, Suite 3200

Seattle, WA 98101-3052

Telephone: (206) 623-1900

Facsimile: (206) 623-3384

Email: dko@kellerrohrback.com

dmensher@kellerrohrback.com

ELLIS GEORGE LLP

By: /s Matthew L. Venezia

By: /s George Laiolo

Matthew L. Venezia, *pro hac vice forthcoming*

George Laiolo, *pro hac vice forthcoming*

2121 Avenue of the Stars, Suite 3000

Los Angeles, CA, 90067

Telephone: (310) 274-7100

Fax: (340) 275-5697

Email: mvenezia@ellisgeorge.com

glaiolo@ellisgeorge.com

Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Arthur Maddox

(b) County of Residence of First Listed Plaintiff Thurston County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Keller Rohrback L.L.P., 1201 Third Avenue, Suite 3200,
Seattle, WA 98101, 206-623-1900

DEFENDANTS

United Network for Organ Sharing; and Swedish Health Services d/b/a Swedish Medical Center

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☒ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

06/07/2024

SIGNATURE OF ATTORNEY OF RECORD

/s/ David J. Ko

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.