

Resolution No. 507 New

Report: N/A Date Submitted: 5/23/2025

Submitted By: Dr. Steven Saxe, delegate, Nevada

Reference Committee: D (Legislative, Governance and Related Matters)

Total Net Financial Implication: \$350,000 Net Dues Impact: \$4.00

Amount One-time: One-Time Amount On-going: _____

ADA Strategic Forecast Outcome: Public Profession: Increase and improve dental coverage and access.

SUPPORTING PLAINTIFFS' IN RE: ZELIS REPRICING ANTITRUST LITIGATION LAWSUIT TO PROMOTE FAIR REIMBURSEMENT AND TRANSPARENCY IN DENTAL INSURANCE

The following resolution was submitted on Friday, May 23, 2025, by Dr. Steven Saxe, delegate, Nevada.

Background: On June 11, 2025, *In Re: Zelis Repricing Antitrust Litigation* was refiled in the U.S. District Court for the District of Massachusetts (Case No. 1:25-cv-10734-BEM; consolidated with Case Nos.: 1:25-CV-11092-BEM and 1:25-CV-11167-BEM)); as an Amended and Consolidated Class Action Complaint, on behalf of Plaintiffs' Pacific Inpatient Medical Group, Inc., Frank Scaccia, M.D., F.A.C.S., L.L.C., Dennis C. Ayer, DDS, LLC and Danny Bachoua Chiropractic, APC (collectively "Plaintiffs") alleging a horizontal conspiracy among Zelis Healthcare, LLC, Zelis Claims Integrity, LLC and Zelis Network Solutions, LLC (collectively "Zelis") and major insurers (UnitedHealth Group, Elevance Health, Aetna, Humana, Inc. and The Cigna Group) to suppress out-of-network dental reimbursement rates through shared pricing algorithms (<https://paulllp.com/antitrust/zelis-lawsuit/>).

This lawsuit is one of the first to apply the Competitive Health Insurance Reform Act of 2020 (Pub. L. No. 116-327), which restored federal antitrust enforcement to health and dental insurers by repealing their exemption under the McCarran-Ferguson Act (Public Comment on Lack of Competition in the U.S. Dental Insurance Market, American Dental Association, May 21, 2025, pp. 2–4).

Plaintiffs' case directly addresses issues that impact ADA members nationally, including coercive repricing of out-of-network claims, contractual manipulation, and suppression of fees—trends long identified and documented by the ADA Health Policy Institute (HPI), led by the ADA's Chief Economist and Vice President, which provides extensive economic and insurer data on dental practice trends (Public Comment on Lack of Competition in the U.S. Dental Insurance Market, ADA, pp. 4–10).

The ADA possesses extensive internal data and analytics resources, including state-by-state fee trend analysis, evidence of code bundling and denial strategies, and prior investigative findings on dental insurer behavior that would be highly material to supporting Plaintiffs' claims and educating regulators and courts on broader industry patterns (Public Comment on Lack of Competition in the U.S. Dental Insurance Market, ADA, pp. 5–7, 9–12).

The ADA has already called for antitrust enforcement in the dental insurance market through its May 2025 public comment to the U.S. Department of Justice and can further that commitment by supporting this litigation directly with data, financial resources, and expert testimony (Public Comment on Lack of Competition in the U.S. Dental Insurance Market, ADA, pp. 10–13).

Resolution

507. Resolved, that the Board of Trustees be urged to formally support the plaintiffs in the federal antitrust case of in *Re: Zelis Repricing Antitrust Litigation* (Case No.: 1:25 -cv-10734-BEM; consolidated with Case Nos: 1:25 –CV-11092-BEM and 1:25-CV-11167-BEM), as a landmark enforcement of the Competitive Health Insurance Reform Act of 2020 (Pub. L. No. 116-327) among other claims, and be it further

Resolved, that the ADA allocate financial support and expert resources, subject to legal review and appropriate oversight, through the ADA Health Policy Institute (HPI)—including claims data, reimbursement trend reports, and coding analytics—to assist in the litigation and any resulting legal or policy actions, and be it further

Resolved, that the ADA collaborate with Plaintiffs' legal counsel to share relevant data, develop expert reports, and, where appropriate, submit or support legal filings such as amicus briefs, and be it further

Resolved, that the ADA utilize legal, public affairs, and Health Policy Institute resources to urge the U.S. Department of Justice and Federal Trade Commission to investigate alleged collusion and market manipulation in the dental insurance industry, consistent with the authority granted under the Competitive Health Insurance Reform Act of 2020 (Pub. L. No. 116-327).

BOARD COMMENT: The Board of Trustees appreciates and supports this resolution. Insurance issues are often top of mind for ADA members and the Board believes that supporting member efforts is prudent. However, considering that resources and expenses that would be needed to fully support the resolution as written, the Board offers a substitute that balances the need to support the complaint with the need to be fiscally responsible.

507B. Resolved, that the Board of Trustees be urged to formally support the plaintiffs in the federal antitrust case of in *Re: Zelis Repricing Antitrust Litigation* (Case No.: 1:25 -cv-10734-BEM; consolidated with Case Nos: 1:25 –CV-11092-BEM and 1:25-CV-11167-BEM), as a landmark enforcement of the Competitive Health Insurance Reform Act of 2020 (Pub. L. No. 116-327) among other claims, and be it further

~~**Resolved**, that the ADA allocate financial support and expert resources, subject to legal review and appropriate oversight, through the ADA Health Policy Institute (HPI)—including claims data, reimbursement trend reports, and coding analytics—to assist in the litigation and any resulting legal or policy actions, and be it further~~

~~**Resolved**, that the ADA assist collaborate with Plaintiffs' legal counsel, if needed to share existing relevant ADA data, develop expert reports, and, where appropriate, submit or support legal filings such as an amicus briefs, and be it further~~

Resolved, that the ADA utilize legal, public affairs, and Health Policy Institute resources to urge the U.S. Department of Justice and Federal Trade Commission to investigate alleged collusion and market manipulation in the dental insurance industry, consistent with the authority granted under the Competitive Health Insurance Reform Act of 2020 (Pub. L. No. 116-327).

1 BOARD RECOMMENDATION: Vote Yes on the Substitute.**2 Vote: Resolution 507B**

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| BERG | Yes | DOWD | Yes | KNAPP | Yes | STUEFEN | Yes |
| BOYLE | Yes | GRAHAM | Yes | MANN | Yes | TULAK-GORECKI | Yes |
| BROWN | Yes | HISEL | Yes | MARKARIAN | Yes | WANAMAKER | Yes |
| CAMMARATA | Yes | HOWARD | Yes | MERCER | Yes | | |
| CHOPRA | Yes | IRANI | Yes | REAVIS | Yes | | |
| DEL VALLE-SEPÚLVEDA | Yes | KAHL | Absent | ROSATO | Yes | | |