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DOJ Antitrust Division brings first criminal wage-fixing indictment

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On December 9, 2020, for the first time in the agency's enforcement history, the U.S. Department of Justice's Antitrust Division brought a criminal indictment for wage-fixing among horizontal competitors. According to the indictment, a former executive of a health care staffing company colluded with his competitors to set wages for physical therapists in the Dallas Fort Worth area in 2017.

The two-count indictment filed in the Eastern District of Texas alleges that Neeraj Jindal, the owner of Fit 4 Life Therapy, LLC, d/b/a Integrity Home Therapy (Integrity), violated Section 1 of the Sherman Antitrust Act when he and his competitors agreed to set wages for physical therapists and physical therapy assistants in the Dallas Fort Worth market. Jindal is alleged to have texted a competitor staffing company owner stating: "I am reaching out to my counterparts about lowering [physical therapy assistants] pay rates to $45." He is also alleged to have asked each competitor, "What are your thoughts if we all collectively do it together?" Another text claims to show Jindal telling another competitor, "I think we all collectively should move together."

Notably, this same conduct was the subject of an October 2019 Federal Trade Commission (FTC) administrative complaint asserting the conduct violated Section 5 of the Federal Trade Commission Act. The FTC settled that complaint with what proved to be a controversial 3-1-1 vote, with one commissioner criticizing the settlement's lack of monetary penalty or admission of facts or liability and another commissioner openly calling for the criminal investigation of the individuals involved.

The second count accuses Jindal of obstructing the FTC's 2017 investigation of his conduct in violation of 18 U.S.C. § 1505. According to the indictment, Jindal made false statements about his contacts with his competitors in testimony before investigators.

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