

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

APR 12 2017

JAMES N. HATZEN, Clerk
By: *[Signature]*
Deputy Clerk

UNITED STATES DISTRICT COURT for
the NORTHERN DISTRICT OF GEORGIA

UNITED STATES OF AMERICA and the
STATE OF GEORGIA,
ex rel. [UNDER SEAL],

Plaintiffs,

v.

[UNDER SEAL],

Defendants.

1:17-CV-1314
Civ. Action No.

QUITAM COMPLAINT
FILED UNDER SEAL
PURSUANT TO
31 U.S.C. § 3730(b)2
DEMAND FOR JURY TRIAL

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

APR 12 2017

JAMES N. HATTEN, Clerk
By:  Deputy Clerk

UNITED STATES DISTRICT COURT for
the NORTHERN DISTRICT OF GEORGIA

UNITED STATES OF AMERICA and the
STATE OF GEORGIA,
ex rel. MAXINE WHITAKER,

Plaintiffs,

v.

CARENOW SERVICES, LLC,

Defendants.

1:17-CV-1314
Civ. Action No.

**QUITAM COMPLAINT
FILED UNDER SEAL
PURSUANT TO
31 U.S.C. § 3730(b)2
DEMAND FOR JURY TRIAL**

COMPLAINT

On behalf of the United States of America and on behalf of the State of Georgia, Relator Maxine Whitaker files this *qui tam* Complaint against Defendant CARENOW, LLC (“CARENOW”) and alleges as follows:

INTRODUCTION

1. This is an action brought by Relator Maxine Whitaker to recover treble damages and civil penalties on behalf of the United States of America and the State of Georgia (collectively: the “Government”) in connection with a scheme designed by Defendant CARENOW, LLC (“CARENOW”) to manipulate Medicare, Medicaid, TRICARE and other Government-funded health insurance programs for false and fraudulent claims made or caused to be made through the payment of false claims for healthcare services including, but not limited to, counseling and psychiatric services in violation of the Federal False Claims Act, 31 U.S.C. §§ 3729 et seq., as amended (the “FCA”), and the Georgia Taxpayer Protection False Claims Act, GA Code §§23-3-120 to 23-3-127 (“GA FCA”).

2. CARENOW contracts with a network of Psychiatrists, Advanced Practice Registered Nurses (“APRN”), Licensed Clinical Social Workers (“LCSW”) or Master’s level professionals to provide counseling and psychiatric services at nursing facilities throughout the State of Georgia to the geriatric population and their families. CARENOW, acting through its contracted providers, regularly bills for services not rendered.

3. According to Relator, it is a common practice for CARENOW providers to bill for a service to a patient whether the provider actually treated the patient. According to Relator this is called “treating the charts” where the provider bills not for the service actually rendered to the patient but, for the service scheduled to be rendered to the patient whether rendered or not. As detailed below, this practice occurs in several ways.

4. First, Medicare rejects an unusually high number of CARENOW claims because the patient’s date of death precedes the purported date of service. In essence, CARENOW is *billing for services purportedly rendered to deceased patients*. This supports Relator’s contention that CARENOW providers are billing for services without ever seeing a patient.

5. Second, patient progress notes purportedly prepared by CARENOW employees at the time the service is rendered often include word-for-word identical narratives for different patients or for the same patient on different occasions. This further suggests that the CARENOW employees are not actually treating the patients at the time for which they are billing for services.

6. Third, CARENOW providers regularly bill for more total daily minutes than there are in full work day. This also suggests that CARENOW providers are billing for services not rendered.

7. In sum, CARENOW's improper conduct through its brazen and uncontrolled network of providers results in thousands of violations of the United States and State of Georgia FCAs causing substantial damages to the Government and the American taxpayers.

PARTIES

8. Relator Maxine Whitaker is a citizen of the United States and a resident of the State of Georgia. She worked for CARENOW since November 2015. Relator is an original source and has direct, personal, and independent knowledge of the information upon which the allegations herein are based. Relator was initially hired by CARENOW to improve the company's billing practices. In brief, Relator understood her job description to ensure that CARENOW properly billed Government-funded health plans and private payers for everything which CARENOW was legally entitled to bill. However, in the process of reorganizing CARENOW's billing practices that Relator discovered that CARENOW was regularly submitting claims for payment to Government-funded health programs to which the company was not entitled. Upon learning of the improper billing, Relator voluntarily ended her association with CARENOW.

9. Defendant CARENOW is a Georgia Limited Liability Company with principle office address at 401 Bombay Lane, Roswell, Georgia 30076. CARENOW, registered with the Georgia Secretary of State since July 20, 2009, provides counseling and psychiatric treatment to older adults in skilled nursing facilities throughout the State.

JURISDICTION AND VENUE

10. Venue and jurisdiction are the same under the FCA. 31 U.S.C. § 3732. An action may be brought in any judicial district in which any defendant may be found or in which any proscribed act occurred. 31 U.S.C. § 3732(a). The United States District Court for the Northern

District of Georgia has jurisdiction and venue for any Complaint brought in the matter because the Defendant is located in this district and many of the proscribed acts occurred at Defendant's facilities in this district.

11. Relator is not aware that the allegations in this Complaint have been publicly disclosed. Further, to the extent Relator is aware of any public disclosures, this Complaint is not based on such public disclosures. In any event, the United States District Court for Northern District of Georgia has jurisdiction under 31 U.S.C. § 3730(e)(4) because the Relator is an "original source" because she has provided this information voluntarily to the Government before filing a Complaint, and has knowledge which is both direct and independent of any public disclosures to the extent they may exist.

12. In compliance with 31 U.S.C. §3730(e)(4), relator has, contemporaneously with the filing of this Complaint, served copies of a Disclosure Statement with exhibits along with a copy of this Complaint upon the United States Attorney for the Northern District of Georgia and upon the United States Attorney General in Washington, D.C.

13. In accordance with 31 U.S.C. § 3730(b)(2), this Complaint has been filed *in camera* and will remain under seal for a period of at least 60 days and shall not be served on the Defendants until the Court so orders.

GOVERNING LAWS, REGULATIONS, AND CODES OF CONDUCT

THE FALSE CLAIMS ACT

14. Originally enacted in 1863, Congress substantially amended the FCA in 1986 by the False Claims Amendments Act. The 1986 amendments enhanced the Government's ability to recover losses sustained as a result of fraud against the United States. Further clarifying amendments were adopted in May 2009 and March 2010.

15. The FCA imposes liability upon any person who “knowingly presents, or causes to be presented [to the Government] a false or fraudulent claim for payment or approval”; or “knowingly makes, uses or causes to be made or used, a false record or statement material to a false or fraudulent claim”; or “knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government.” 31 U.S.C. 3729(a)(1)(A), (B), (G) (emphasis added). Any person found to have violated these provisions is liable for a civil penalty of up to \$11,000 for each such false or fraudulent claim submitted on or before November 2, 2015 and up to \$21,563 for violations committed after November 2, 2015, plus three times the amount of the damages sustained by the Government for each and every violation of 31 U.S.C. § 3729 arising from Defendants’ unlawful conduct as described herein. See 28 C.F.R. §§ 85.3(a)(9).

16. Significantly, the FCA imposes liability where the conduct is merely “in reckless disregard of the truth or falsity of the information” and further clarifies that “no proof of specific intent to defraud is required.” 31 U.S.C. 3729(b)(1).

17. The FCA also broadly defines a “claim” as one that includes “any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that — (i) is presented to an officer, employee, or agent of the United States; or (ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest, and if the United States Government — (i) provides or has provided any portion of the money or property requested or demanded; or (ii) will reimburse such contractor,

grantee, or other recipient for any portion of the money or property which is requested or demanded.” 31 U.S.C. § 3729(b)(2)(A).

18. The *qui tam* provision of the FCA empowers private persons having information regarding a false or fraudulent claim against the Government to bring an action on behalf of the Government and to share in the proceeds of any recovery. The complaint must be filed under seal without service on any Defendant.

19. The complaint remains under seal while the Government conducts an investigation of the allegations in the complaint and determines whether to intervene in the action. 31 U.S.C. § 3730(b).

FEDERALLY FUNDED HEALTH INSURANCE PROGRAMS

1) Medicare

20. Medicare is a federally-funded health insurance program for the elderly and persons with certain disabilities, providing both hospital insurance, Medicare Part A, which covers the cost of inpatient hospital services and post-hospital nursing facility care, and medical insurance, Medicare Part B, which covers the cost of the physician’s services such as services to patients who are hospitalized, if the services are medically necessary and personally provided by the physician.

21. Medicare payments come from the Medicare Trust Fund, which is funded primarily by payroll deductions taken from the United States work force through mandatory Social Security deductions.

22. Medicare is generally administered by the Centers for Medicare and Medicaid Services (“CMS”), which is an agency of the Department of Health and Human Services. CMS

establishes rules for the day-to-day administration of Medicare. CMS contracts with private companies to handle day-to-day administration of Medicare.

23. CMS, through contractors, maintains and distributes fee schedules for the payment of physician services. These schedules specify the amounts payable for defined types of medical services and procedures.

2) Medicaid

24. Medicaid is a state and federal assistance program to provide payment of medical expenses for low-income patients. Medicaid was created in 1965 in Title XIX of the Social Security Act.

25. Funding for Medicaid is shared between the Federal Government and state programs that choose to participate in Medicaid.

26. At all relevant times to the Complaint, applicable Medicaid regulations relating to coverage of claims by providers and physicians have been substantially similar in all material respects to the applicable Medicare provisions described above.

3) TRICARE

27. TRICARE is a federal program which provides civilian health benefits for military personnel, military retirees, and their families. TRICARE is administered by the Department of Defense and funded by the Federal Government. See 32 C.F.R. 199.17.

28. At all relevant times to the Complaint, applicable TRICARE regulations relating to coverage of claims by providers and physicians have been substantially similar in all material respects to the applicable Medicare provisions described above.

29. Medicare, Medicaid, and TRICARE, and other similar federal programs are referred to collectively herein as “federal health insurance programs.”

SPECIFIC ALLEGATIONS

A. CARENOW REGULARLY BILLS FOR SERVICES NOT RENDERED

30. CARENOW and its providers regularly bill Government-funded healthcare programs for services not rendered. This is clearly evidenced in several ways: the unusually high number of claims for services rendered to deceased patients, the identical progress notes for different patients or for the same patients at different times and the billing for more daily minutes than there are in an actual work day.

a. CARENOW'S IMPROPER BILLING IS EVIDENCED BY UNUSUALLY HIGH NUMBER OF CLAIMS FOR SERVICES PURPORTEDLY RENDERED TO DECEASED PATIENTS

31. Kelly Freeman is a Licensed Clinical Social Worker who contracts with CARENOW to provide care for patients in need of counseling or psychiatric services.

32. On March 1, 2016, Ms. Freeman billed Patient A under CPT Code 90832 for 30 minutes of psychotherapy.¹ Ms. Freeman described the patient as “verbal interactive” and “pleasant” and noted that patient believed her wedding ring had been stolen and she needed help to go shopping for another one. Ms. Freeman billed the patient for the same service again on March 15 and again on March 29. On both occasions, Ms. Freeman recorded equally specific notes of her impressions of the patient. Ms. Freeman billed the patient yet again under the same CPT code on April 12 and April 26. However, the patient died before March 1, 2016.

33. CARENOW submitted claims for payment to the Government for services purportedly rendered to Patient A after she died. This is a clear violation of the FCA and subject

¹ To protect their identities and other private medical information under the Health Insurance Portability and Accountability Act (“HIPAA”), patients are herein referred to by arbitrary labels.

to statutory penalties regardless of whether the Government actually paid the claim. This is a clear example of how CARENOW providers frequently billed the Government for services which were never rendered.

34. Ms. Freeman's conduct was routine at CARENOW: she billed a patient for the service which the patient had been scheduled to receive rather than for services actually rendered. If Ms. Freeman took the time to see the patient to attempt to render treatment, Ms. Freeman would have known that the patient died and would likely not have billed for the purported service. Indeed, this is one of many documented examples of CARENOW providers billing for services allegedly rendered to deceased patients.

35. Between November 2015 and May 2016, CARENOW billed the Government for services rendered to at least twenty-five different deceased patients on at least thirty-nine different occasions.

36. That CARENOW billed the Government for services never rendered because the patient died is unambiguous documentary evidence that CARENOW and its providers routinely do not even see the patients on whose behalf they bill the Government.

b. CARENOW PROVIDERS ROUTINELY BILL FOR MORE TREATMENT MINUTES THAN THERE ARE IN THE WORK DAY.

37. Susan Greene is a Graduate Nurse Practitioner who contracts with CARENOW to provide care for patients in need of counseling or psychiatric services.

38. On September 1, 2015, Susan Greene's daily summary showed that she provided clinical services to thirty-two patients. Assuming an 8-hour workday, and assuming no breaks and one hundred percent efficiency (something wholly unheard of), a provider has 480 minutes

in which to treat her patients. On these assumptions, Ms. Greene would have needed to average no more than fifteen minutes per patient.

39. Depending on the patient, Ms. Greene billed her services that day under codes 99306, 99307, 99308 and 90836.

40. CPT 99306 is the code for an Initial Nursing Facility Care and requires that the provider take a comprehensive history of the patient, perform a comprehensive examination and make a medical decision of high complexity.

41. CPT 99307 is the code for a Subsequent Nursing Facility Care and requires two of the following three: problem focused interval history, problem focused examination and straightforward medical decision.

42. CPT 99308 is an alternate code for Subsequent Nursing Facility Care which requires two of the following three: expanded problem focused interval history, expanded problem focused examination and a medical decision of low complexity.

43. CPT code 90836 is an add-on code for individual psychotherapy of 45 minutes rendered at the same time as nursing facility care.

44. According to Ms. Greene's daily summary, twelve of her thirty-two patients that day were billed for 45 minutes of psychotherapy under CPT 90836 for a total of 540 minutes or nine hours. This means that if Ms. Greene's daily summaries were accurate and she worked nine hours at 100% efficiency with no breaks she would still have had twenty patients remaining on which to perform histories, examinations and medical decisions of increasing complexity. This is simply impossible. Ms. Greene either did not see certain of the patients for whom she billed or she overbilled for a significant number of the patients she did treat.

45. Ms. Greene's conduct is not unique among CARENOW employees. Other CARENOW employees engaging in similarly inflated reporting treatment minutes include but are not limited to Kelly Freeman and Renee Jester.

46. Specifically, Ms. Freeman's daily summaries for December 19, 2015 and December 22, 2015 showed 360 billed minutes each day.

47. Specifically, Ms. Jester's daily summary on April 7, 2015 showed 355 billed minutes.

**c. CARENOW PROVIDERS ROUTINELY CUT AND PASTE
PROGRESS NOTES FOR PATIENTS TO COVER-UP THAT
THEY DID NOT SEE THE PATIENT WHEN THE SERVICE WAS
PURPORTEDLY RENDERED**

48. On or about July 7, 2015, Ms. Susan Greene prepared a Psychiatric Medication Evaluation for Patient C.G. at the Quinton Memorial Health and Rehabilitation facility in Dalton, Georgia. In her evaluation, Ms. Greene states the following:

"Resident cooperative w staff. Enjoys socializing w the other residents. Participates in activities. Eats meals in dining room. Had recent episodes of tearfulness noted....Resident states: 'I am doing alright today.' Reinforced socialization and participation. Cont. to encourage socialization and participation in activities."

49. On that occasion, Ms. Greene billed the patient for fifteen minutes under CPT code 99307 and for forty-five minutes under code 90836. Approximately one month later, Ms. Greene prepared another evaluation of the same patient and again billed for fifteen minutes under CPT code 99307 and for forty-five minutes under code 90836. Ms. Greene's evaluation, on this second *purported* visit to the client, states the following:

"Resident cooperative w staff. Enjoys socializing w the other residents. Participates in activities. Eats most meals in dining room. No tearful episodes noted....Resident states: 'I am doing alright.' Reinforced socialization and participation. Cont. to encourage socialization and participation in activities."

50. Approximately two months later, Ms. Greene prepared another evaluation of the same patient and again billed for fifteen minutes under CPT code 99307 and for forty-five minutes under code 90836. Ms. Greene's evaluation, on this second purported visit to the client, states the following:

“Resident cooperative w staff. Enjoys socializing w the other residents. Participates in activities. Eats meals in dining room. No tearful episodes noted....Resident states: ‘I am feeling better today.’ Reinforced socialization and participation. Cont. to encourage socialization and participation in activities.”

51. These narrative notes, written one month apart, are nearly identical indicating that Ms. Greene may not have actually seen the patient on one or the other occasion, but instead simply copied her notes from a previous visit to the patient, with very minor edits to create the appearance of legitimacy, and filled out the rest of the evaluation form so that she could bill the patient for services that were never rendered.

B. CARENOW'S VIOLATIONS OF THE FALSE CLAIMS ACT CAUSED SUBSTANTIAL DAMAGE TO THE GOVERNMENT

52. CARENOW violated the FCA by routinely billing for services not rendered. The practice was known and condoned at the highest levels of CARENOW. CARENOW ignored patients' true needs through this scheme and damaged the Government significantly by causing millions of dollars in false or fraudulent claims for reimbursement.

C. DEFENDANTS' UNLAWFUL PRACTICES EXPOSED PATIENTS TO UNNECESSARY HARM.

53. Defendants' conduct resulted in numerous patients not receiving the counseling and/or psychiatric services they needed. Thus, CARENOW's conduct exposed these patients to the harms associated with failure to obtain proper mental health care.

D. CONCLUSION

54. Defendants caused the United States and State Governments to incur substantial damages by presenting, making, using or causing to be presented, made or used thousands of False Claims to Government-funded Health Programs in connection with its fraudulent schemes. The False Claims resulted in remuneration unlawfully received by Defendants. More specifically, Defendants violated numerous provisions of the FCA, including, but not limited to, the following: 31 U.S.C. § 3729(a)(1)(A); 31 U.S.C. § 3729(a)(1)(B); 31 U.S.C. § 3729(a)(1)(C); 31 U.S.C. § 3729(a)(1)(D); 31 U.S.C. § 3729(a)(1)(G) and Ga. Code Ann. §§ 23-3-120, et seq.

55. In light of the foregoing, Defendants are liable to the United States and the State of Georgia for civil penalties and treble damages. The estimated damages to the United States and the State of Georgia caused by the False Claims alleged herein are significant.

CLAIMS FOR RELIEF
COUNT I

False Claims Act: Presentation of False Claims
31 U.S.C. § 3729(a)(1)(A)

56. Relator repeats and incorporates by reference the allegations above as if fully contained herein.

57. As more particularly set forth in the foregoing paragraphs, by virtue of the acts alleged herein, Defendants have “knowingly present[ed], or cause[d] to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval” in violation of 31 U.S.C. § 3729(a)(1).

58. As a result of Defendants’ acts, the United States has been damaged, and continues to be damaged, in a substantial amount to be determined at trial, and the United States

is entitled to at least \$5,000 and as much as \$11,000 for each such false or fraudulent claim submitted on or before November 2, 2015 and up to \$21,563 for violations committed after November 2, 2015, plus three times the amount of the damages sustained by the Government for each and every violation of 31 U.S.C. § 3729 arising from Defendants' unlawful conduct as described herein. See 28 C.F.R. §§ 85.3(a)(9).

COUNT II
False Claims Act: Making or Using A False Record
or Statement to Cause Claim to be Paid
31 U.S.C. § 3729(a)(1)(B)

59. Relator repeats and incorporates by reference the allegations above as if fully contained herein.

60. As more particularly set forth in the foregoing paragraphs, by virtue of the acts alleged herein, the Defendants have “knowingly ma[de], use[d], or cause[d] to be made or used, a false record or statement – *i.e.*, the false certifications and representations made or caused to be made by the defendants – to get a false or fraudulent claim paid or approved by the Government” in violation of 31 U.S.C. § 3729(a)(2).

61. As a result of Defendants' acts, the United States has been damaged, and continues to be damaged, in a substantial amount to be determined at trial, and the United States is entitled to at least \$5,000 and as much as \$11,000 for each such false or fraudulent claim submitted on or before November 2, 2015 and up to \$21,563 for violations committed after November 2, 2015, plus three times the amount of the damages sustained by the Government for each and every violation of 31 U.S.C. § 3729 arising from Defendants' unlawful conduct as described herein. See 28 C.F.R. §§ 85.3(a)(9).

COUNT III
False Claims Act: Conspiracy to Commit a Violation

31 U.S.C. § 3729(a)(1)(C)

62. Relator repeats and incorporates by reference the allegations above as if fully contained herein.

63. As more particularly set forth in the foregoing paragraphs, by virtue of the acts alleged herein, the Defendant and its agents have “conspire[d] to commit a violation of subparagraph (A), (B), (D)...or (G)” in violation of 31 U.S.C. §3729(a)(1)(C).

64. As a result of Defendants’ acts, the United States has been damaged, and continues to be damaged, in a substantial amount to be determined at trial, and the United States is entitled to at least \$5,000 and as much as \$11,000 for each such false or fraudulent claim submitted on or before November 2, 2015 and up to \$21,563 for violations committed after November 2, 2015, plus three times the amount of the damages sustained by the Government for each and every violation of 31 U.S.C. § 3729 arising from Defendants’ unlawful conduct as described herein. See 28 C.F.R. §§ 85.3(a)(9).

COUNT IV
False Claims Act: Knowingly Delivers Less Than All of
Government’s Property in Defendant’s Possession
31 U.S.C. §3729(a)(1)(D)

65. Relator repeats and incorporates by reference the allegations above as if fully contained herein.

66. As more particularly set forth in the foregoing paragraphs, by virtue of the acts alleged herein, the Defendant “ha[d] possession, custody, or control of property or money used, or to be used, by the Government and knowingly deliver[ed], or cause[d] to be delivered, less than all of that money or property” in violation of 31 U.S.C. §3729(a)(1)(D).

67. As a result of Defendants' acts, the United States has been damaged, and continues to be damaged, in a substantial amount to be determined at trial, and the United States is entitled to at least \$5,000 and as much as \$11,000 for each such false or fraudulent claim submitted on or before November 2, 2015 and up to \$21,563 for violations committed after November 2, 2015, plus three times the amount of the damages sustained by the Government for each and every violation of 31 U.S.C. § 3729 arising from Defendants' unlawful conduct as described herein. See 28 C.F.R. §§ 85.3(a)(9).

COUNT V
False Claims Act: Knowingly Conceals Or Improperly Avoids an Obligation to Pay
Money to the Government
31 U.S.C. §3729(a)(1)(G)

68. Relator repeats and incorporates by reference the allegations above as if fully contained herein.

69. As more particularly set forth in the foregoing paragraphs, by virtue of the acts alleged herein, the Defendant "knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases and obligation of pay or transit money or property to the Government: in violation of 31 U.S.C. §3729(a)(1)(G).

70. As a result of Defendants' acts, the United States has been damaged, and continues to be damaged, in a substantial amount to be determined at trial, and the United States is entitled to at least \$5,000 and as much as \$11,000 for each such false or fraudulent claim submitted on or before November 2, 2015 and up to \$21,563 for violations committed after November 2, 2015, plus three times the amount of the damages sustained by the Government for

each and every violation of 31 U.S.C. § 3729 arising from Defendants' unlawful conduct as described herein. See 28 C.F.R. §§ 85.3(a)(9).

COUNT VI
Georgia Taxpayer Protection False Claims Act, GA Code
§§23-3-120 to 23-3-127

71. Relator repeats and incorporates by reference the allegations above as if fully contained herein.

72. By virtue of the acts alleged herein, Defendants knowingly, or acting with reckless disregard for the truth, presented and/or caused to be presented, false or fraudulent claims for payment or approval in connection with the sale of medical and/or industrial gases to the Georgia State Government.

73. By virtue of the acts described above, Defendants knowingly made, used, or caused to be made or used false records and statements, and omitted and/or falsified material facts, to induce the Georgia State Government to approve and pay such false and fraudulent claims.

74. The Georgia State Government, unaware of the falsity of the records, statements, and claims made, used, presented, or caused to be made used, or presented by Defendants, paid and continues to pay the claims that would not be paid but for the acts and/or conduct of Defendants alleged herein.

75. By reason of the Defendants' acts, the State of Georgia has been damaged, and continues to be damaged, in a substantial amount to be determined at trial.

76. Pursuant to the GA FCA, the State of Georgia is entitled to three times the amount of actual damages plus the maximum penalty for each and every false or fraudulent claim, record, or statement made, used, presented, or caused to be made, used, or presented by Defendants.

PRAYER FOR RELIEF

WHEREFORE, for each of these claims, the Qui Tam Plaintiff requests the following relief from each of the Defendants, jointly and severally, as to the federal claims:

- a. Three times the amount of damages that the Government sustains because of the acts of Defendants;
- b. A civil penalty of \$11,000 for each violation;
- c. An award to the Qui Tam Plaintiff for collecting the civil penalties and damages;
- d. Award of an amount for reasonable expenses necessarily incurred;
- e. Award of the Qui Tam Plaintiff's reasonable attorneys' fees and costs;
- f. Interest;
- g. Such further relief as the Court deems just; and

WHEREFORE, for each of these claims, the Qui Tam Plaintiff requests the following relief from each of the Defendants, jointly and severally, as to the state claim:

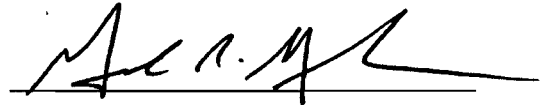
- a. Relator and the State Plaintiff be awarded statutory damages in an amount equal to three times the amount of actual damages sustained by the States as a result of Defendants' actions, as well as the maximum statutory civil penalty for each violation by Defendants within the States;
 - b. Relator be awarded her Relator's share of any judgment to the maximum amount provided pursuant to state false claims acts outlined above;
 - c. Relator be awarded all costs and expenses associated with each of the pendent State claims, plus attorney's fees as provided pursuant to state false claims acts outlined above;
- and,

d. Relator and the Plaintiffs be awarded such other and further relief as the Court may deem to be just and proper.

DEMAND FOR JURY TRIAL

Relator hereby demands trial by jury.

April 6, 2017

A handwritten signature in black ink, appearing to read 'Mark R. Mueller', written over a horizontal line.

Mark R. Mueller, Esq.
Georgia Bar No: 100108
MUELLER LAW PLLC
404 W. 7th St., Austin, TX 78701
Tel.: (512) 478-1236;
Fax: (512) 478-1473

ATTORNEY FOR RELATOR

CIVIL COVER SHEET **1:17-CV-1314**

JS44 (Rev. 11/16 NDGA)

The JS44 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 is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

United States of America and the State of Georgia, ex rel
[under seal]

DEFENDANT(S)

[under seal]

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Fulton
(IN U.S. PLAINTIFF CASES ONLY)

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

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

MUELLER LAW, PLLC; 404 W. 7th. St.; Austin, TX
78701; (tel.) 973-233-8290; (email)
william.hurlock@muellerlaw.com

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION
(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. GOVERNMENT PLAINTIFF
- 2 U.S. GOVERNMENT DEFENDANT
- 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
- 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)
(FOR DIVERSITY CASES ONLY)

- | | | | |
|---|----------------------------|---|----------------------------|
| PLF | DEF | PLF | DEF |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| CITIZEN OF THIS STATE | | INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE | |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| CITIZEN OF ANOTHER STATE | | INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE | |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| CITIZEN OR SUBJECT OF A FOREIGN COUNTRY | | FOREIGN NATION | |

IV. 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 District)
- 6 MULTIDISTRICT LITIGATION - TRANSFER
- 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
- 8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

31 U.S.C. 3730(b)(2) - Defendants have made false statements material to obtain payments from Government-funded health insurance programs.

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties.
- 2. Unusually large number of claims or defenses.
- 3. Factual issues are exceptionally complex.
- 4. Greater than normal volume of evidence.
- 5. Extended discovery period is needed.
- 6. Problems locating or preserving evidence.
- 7. Pending parallel investigations or actions by government.
- 8. Multiple use of experts.
- 9. Need for discovery outside United States boundaries.
- 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT \$ _____ APPLYING FP _____ MAG JUDGE (FP) _____
 JUDGE _____ MAG JUDGE _____ NATURE OF SUIT _____ CAUSE OF ACTION _____
 (Referral)

ELR 376 31:3730

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 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
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 750 OTHER LABOR LITIGATION
- 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395(f))
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/CC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTI TRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ _____

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

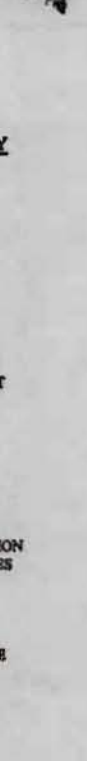
VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____ DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.


SIGNATURE OF ATTORNEY OF RECORD

4/07/17
DATE