

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

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United States of America, *ex rel*
Deborah Louise Christensen,
Benjamin Clark,
Jimmy Peter Cassis,
Dulce Maria Bustamante,
Reba E. Shoenfelt,
Carlese Abrielle D'Andrea, and
James Robert Connolly

Plaintiffs,

v.

Preferred Healthcare Consultants, Inc.
Compass Health Systems, P.A.
Behavioral Healthcare Corporation,
Behavioral Healthcare Corporation of
Delaware,
BHC Fort Lauderdale Hospital, Inc. d/b/a
Fort Lauderdale Hospital,
Fort Lauderdale Hospital Management,
LLC., d/b/a Fort Lauderdale Hospital
Edward Stack,
Carol Caldwell,
Neil Curry,
William Nolan,
Rachel St. John,
Michael Davis,
Michael Gerber,
Donna Putnam,
Nicole Nicasastro,
Preferred Healthcare Consultants, Inc.,
DOE I d/b/a "Interphase",
Barry Goldstein,
Jonathan Huttner,
Samuel Konnell,
DOE II d/b/a "Sandalfoot,"
DOE III d/b/a "Continued Care, Inc.,"
Changing Times, Inc. d/b/a "The Cove",
DOE IV d/b/a "Changing Times",
1st Step Management Team, Inc.,
Daniel S. Young, III,
Foundation, Inc.
The Retreat,
Westchester Healthcare Network,
Westchester General Hospital, Inc.,
Westchester General Hospital, Inc.
d/b/a Southern Winds Hospital,
Compass Health Systems, P.A.
Dr. Richard Seely,
Dr. Sohail Punjwani, and
Does 1-100


Defendants

CASE NO. 98-3021-CIV-SEITZ

FILED IN CAMERA AND UNDER SEAL

FIRST AMENDED COMPLAINT FOR
DAMAGES AND OTHER RELIEF UNDER
THE FALSE CLAIMS ACT

Unsealed

FILED BY 
09 JUL 13 AM 11:27
CLERK OF DISTRICT COURT
SOUTH DISTRICT OF FLORIDA
MIAMI
DC

34/3

1 collective work experience in mental health. (DEBBIE CHRISTENSEN, BENJAMIN CLARK,
2 REBA E. SHOENFELT, JIMMY CASIS, CARLESE D'ANDREA, DULCE MARIA
3 BUSTAMANTE, and JAMES CONNOLLY hereinafter collectively referred to as "Relators".)
4

5 5. As required under the Act, Relators have furnished to the Attorney General of the
6 United States and to the United States Attorney for the Southern District of Florida
7 simultaneous with or prior to the filing of this Complaint, a statement of all material evidence
8 and information related to the Complaint. This disclosure statement supports the existence of
9 overcharges and false claims by the Defendants.
10

11 6. Relator DEBBIE CHRISTENSEN is a citizen of the United States and a resident
12 of the State of Florida. In 1970, the State of Pennsylvania licensed Ms. CHRISTENSEN as a
13 Registered Nurse. In 1981, the State of Florida also licensed Ms. CHRISTENSEN as a
14 Registered Nurse and in 1987 further certified Ms. CHRISTENSEN as a Psychiatric Nurse. In
15 1984, Relator CHRISTENSEN began *per diem* employment at Fort Lauderdale Hospital, as a
16 Head Nurse in the hospital's Adolescent Unit. In 1988, FORT LAUDERDALE HOSPITAL
17 hired CHRISTENSEN as a full time employee. Beginning on or about September, 1991, and
18 continuing until on or about January, 1998, Fort Lauderdale Hospital employed Ms.
19 CHRISTENSEN as Charge Nurse/Relief Supervisor in the Rapid Stabilization Unit ("RSU").
20 Beginning on or about January, 1998, until on or about February, 1998, Fort Lauderdale
21 Hospital employed Relator CHRISTENSEN as a Charge Nurse in its Substance Abuse Unit.
22 On or about February, 1998, until on or about March, 1998, Relator CHRISTENSEN served as
23 supervisor on the 3 pm to 11 pm shift and assisted in admitting and receiving. On or about
24 March, 1998, Relator CHRISTENSEN began serving as intake coordinator in Fort Lauderdale
25 Hospital's Admitting and Receiving Department, the position in which she served until
26 defendants BHC and FORT LAUDERDALE HOSPITAL illegally terminated her employment
27 on or about September 12, 1998 for blowing the whistle on the fraud outlined in this complaint.

28 Because of Relator's observations of BHC's admission and rejections of patients, Relator

1 CHRISTENSEN had frequent contact with employees of other mental health programs and
2 facilities especially with regard to the appropriateness of patient admissions and the control of
3 patient referrals, admissions, and discharges by Defendants PREFERRED HEALTHCARE
4 CONSULTANTS, INC., SAMUEL KONNELL, JONATHAN HUTTNER, and their affiliates.
5 Relator discovered that defendants were engaging in false and fraudulent conduct. Christen was
6 then fired for reporting that conduct to corporate management.

7
8 7. Beginning on or about January 1997, FORT LAUDERDALE HOSPITAL
9 employed Relator BENJAMIN CLARK as intake coordinator, the position in which he
10 served until BHC and FORT LAUDERDALE HOSPITAL discharged Relator CLARK on or
11 about September 24, 1998. Relator CLARK is a citizen of the United States and a resident of
12 the State of Florida. Because of Relator's observations of BHC's admission and rejections of
13 patients, Relator CLARK had frequent contact with employees of other mental health programs
14 and facilities especially with regard to the appropriateness of patient admissions and the control
15 of patient referrals, admissions, and discharges by Defendants PREFERRED HEALTHCARE
16 CONSULTANTS, INC., SAMUEL KONNELL, JONATHAN HUTNER, and their affiliates.
17 Relator CLARK discovered that defendants were engaging in false and fraudulent conduct and
18 objected to the fraud on numerous occasions to management of FORT LAUDERDALE
19 HOSPITAL and BHC. Clark was fired as a result.

20
21 8. Relator DULCE MARIA BUSTAMANTE began employment with
22 Community Psychiatric Corporation's CPC Pineville Hospital (a suburb of Charlotte, N.C.) in
23 1994. In 1995, CPC transferred Relator BUSTAMANTE to FORT LAUDERDALE
24 HOSPITAL where she began employment as the Assessment and Referral Coordinator. On or
25 about February, 1998, FORT LAUDERDALE HOSPITAL transferred Relator BUSTAMANTE
26 to its Utilization Review Department, the position which she currently serves FORT
27 LAUDERDALE HOSPITAL. Ms. BUSTAMANTE received her Bachelors in Clinical
28 Psychology from the Universidad Rafael Urdaneta in 1987, and her Masters in Arts (Clinical

1 Psychology) from the University of North Carolina - Charlotte in 1994. Relator
2 BUSTAMANTE is a citizen of Venezuela and a resident of the State of Florida. Relator
3 BUSTAMANTE observed that defendants were engaging in false and fraudulent conduct and
4 objected on numerous occasions to management of FORT LAUDERDALE HOSPITAL. As a
5 result, she was retaliated against and denied promotions.

6
7 9. Relator JIMMY CASIS is a Registered Nurse. On or about October 12, 1992,
8 Relator CASSIS began employment at FORT LAUDERDALE HOSPITAL as a Charge Nurse
9 in the Adolescent Unit during the evening shift. On or about June 1, 1993, FORT
10 LAUDERDALE HOSPITAL promoted Relator CASSIS to Nurse Manager of the PHP
11 Program. On or about March 1, 1998, FORT LAUDERDALE HOSPITAL promoted Relator
12 CASSIS to Assistant Director of Nursing. On or about March 23, 1998, FORT LAUDERDALE
13 HOSPITAL promoted CASSIS to Acting Director of Nursing. Relator frequently observed
14 BHC's patients, treatments, therapies, and services for patients housed in BHC's FORT
15 LAUDERDALE HOSPITAL. Relator CASSIS discovered that defendants were engaging in
16 false and fraudulent conduct and objected on numerous occasions to management of FORT
17 LAUDERDALE HOSPITAL and BHC. CASSIS was fired as a result. Relator CASSIS is a
18 citizen of Canada and Portugal and a resident of the United States

19
20 10. Relator REBA SHOENFELT (hereinafter, "SHOENFELT") is Registered Nurse
21 since 1996. On or about May 18, 1998, Relator SHOENFELT began employment at Fort
22 Lauderdale Hospital, as a nurse in the Partial Hospitalization Program ("PHP"), the position in
23 which SHOENFELT served until she resigned /was constructively discharged from her
24 employment on or about September 4, 1998, due to defendants' Medicare fraud. Relator
25 SHOENFELT is a citizen of the United States and a resident of the State of Florida. Relator
26 SHOENFELT frequently observed BHC's patients, treatments, therapies, and services for
27 patients admitted to FORT LAUDERDALE HOSPITAL's PHP Unit, and therefore, discovered
28 that Defendants were engaging in false and fraudulent conduct. Relator SHOENFELT resigned

1 from employment at FORT LAUDERDALE HOSPITAL on September 4, 1998 due to
2 Medicare fraud.

3
4 11. Relator CARLESE ABRIELLE D'ANDREA (hereinafter, "D'ANDREA") is
5 a Registered Nurse licensed by the State of Florida in 1994 and received her Certification in
6 Psychiatric Mental Health in 1997. In 1982, the State of Illinois issued Relator D'ANDREA
7 her License in Practical Nursing. On or about February 26, 1998, Relator D'ANDREA began
8 employment at FORT LAUDERDALE HOSPITAL, as Nurse Manager for the Forensic Unit.
9 Relator D'ANDREA possesses approximately four years work experience in mental health.
10 Relator D'ANDREA is a citizen of the United States and a resident of the State of Florida.
11 Relator frequently observed FORT LAUDERDALE HOSPITAL's patients, treatments,
12 therapies, and services for patients housed in FORT LAUDERDALE HOSPITAL's Forensic
13 Unit, Relator D'ANDREA discovered that Defendants were engaging in false and fraudulent
14 conduct. Relator D'ANDREA discovered that defendants were engaging in false and
15 fraudulent conduct and objected on numerous occasions to management of FORT
16 LAUDERDALE HOSPITAL (Donna Putnam) and BHC (Carol Caldwell).

17
18 12. Relator JAMES ROBERT CONNOLLY (hereinafter, "CONNOLLY") began
19 employment at Fort Lauderdale Hospital, on or about September, 1996, as a Mental Health
20 Technician, the position in which he served until Fort Lauderdale Hospital and/or BHC
21 permanently "laid off" Relator CONNOLLY on or about October 9, 1998. Relator
22 CONNOLLY worked often on the Rapid Stabilization Unit ("RSU"), Adult Long Term Unit
23 ("ALT"), Geriatric Unit, Adult Psychiatric Unit, and, beginning in March, 1998, working on the
24 day shift in the Forensic Unit. Relator CONNOLLY frequently observed BHC's patients,
25 treatments, therapies, and services for patients housed in BHC's Forensic Unit, and, therefore,
26 discovered that Defendants were engaging in false and fraudulent conduct. Relator is a citizen
27 of the United States and a resident of the State of Florida and has worked in mental health since
28 on or about March, 1989. Connolly was "laid off"/terminated because of his knowledge of the

1 fraud and because he opposed it.

2
3 DEFENDANTS

4
5 13A. Defendant BEHAVIORAL HEALTHCARE CORPORATION, a Delaware
6 corporation, is a privately held corporation which maintains its headquarters in Nashville,
7 Tennessee. This defendant also conducts business under the name "BEHAVIORAL
8 HEALTHCARE CORPORATION", a name which is not registered with the Florida Secretary
9 of State, Division of Corporations. (This Defendant along with defendant BEHAVIORAL
10 HEALTHCARE CORPORATION OF DELAWARE are hereinafter referred to as "BHC").
11 On or about October, 1996, defendant BHC acquired Community Psychiatric Corporation
12 (hereinafter "COMMUNITY PSYCHIATRIC"), a nation wide operator of psychiatric facilities.
13 Relators estimate that Defendant BHC owns, controls, and operates approximately 43
14 psychiatric facilities nationwide.

15 13B. Relators are informed and believe and based thereon allege that Defendant
16 BEHAVIORAL HEALTHCARE CORPORATION OF DELAWARE, is a tradename, alias,
17 alter ego or subsidiary of Defendant BEHAVIORAL HEALTHCARE CORPORATION.
18 (Defendants BEHAVIORAL HEALTHCARE CORPORATION and BEHAVIORAL
19 HEALTHCARE CORPORATION OF DELAWARE are hereinafter collectively referred to as
20 "BHC".)

21 14. On or about October, 1996, BHC acquired Fort Lauderdale Hospital through a
22 merger with COMMUNITY PSYCHIATRIC. Relators are informed and believe and based
23 thereon allege that BHC owns and controls Defendant BHC FORT LAUDERDALE
24 HOSPITAL d/b/a FORT LAUDERDALE HOSPITAL. (This Defendant is hereinafter referred
25 to as "FORT LAUDERDALE HOSPITAL".) FORT LAUDERDALE HOSPITAL owns and
26 operates an eighty (80) bed facility located at 1601 East Los Olas Blvd. in Fort Lauderdale,
27 Broward County, Florida.

1 15. Relators are informed and believe and based thereon allege that Defendant
2 EDWARD STACK is a Director of Defendant BHC and, furthermore, is a major or the
3 controlling shareholder of Defendant BHC. (This individual defendant is hereinafter referred to
4 as "STACK".)

5
6 16. At all times relevant until on or about November 19, 1998, Defendant NEIL
7 CURRY is a Regional Vice President of Defendant BHC whose territory includes, inter alia,
8 Defendnt FORT LAUDERDALE HOSPITAL. On or about November 19, 1998, BHC demoted
9 CURRY to administrator of FORT LAUDERDALE HOSPITAL. (This individual defendant is
10 hereinafter referred to as "CURRY".)

11
12 17. Defendant WILLIAM NOLAN is an officer, employee, or agent of Defendant
13 BHC. Relators are informed and believe and based thereon allege that Defendant NOLAN is
14 BHC corporate officer in charge of compliance. (This individual defendant is hereinafter
15 referred to as "NOLAN").

16
17 18. Defendant CAROL CALDWELL is an officer, employee, or agent of Defendant
18 BHC. Relators are informed and believe that Defendant CALDWELL is Vice President of
19 Clinical Services of Defendant BHC. (This individual defendant is hereinafter referred to as
20 "CALDWELL").

21
22 19. Defendant RACHEL ST. JOHN is an officer, employee, or agent of Defendant
23 BHC. Beginning on or about August 1, 1998, until on or about September 30, 1998, Defendant
24 ST. JOHN, was present at FORT LAUDERDALE HOSPITAL. (This individual defendant is
25 hereinafter referred to as "ST. JOHN").

26
27 20. Defendant MICHAEL DAVIS is an officer, employee, or agent of Defendant
28 BHC. (This individual defendant is hereinafter referred to as "DAVIS"). Relators are informed

1 and believe and based thereon allege that, DAVIS was, at all relevant times, Senior Vice
2 President/Chief Financial Officer of Defendant BHC.

3
4 21. Defendant MICHAEL GERBER became Administrator of Fort Lauderdale
5 Hospital on or about March, 1998, and continued to serve as such until on or about November
6 19, 1998. (This individual defendant is hereinafter referred to as "GERBER").

7
8 22. Defendant DONNA PUTNAM became Director of the PHP Program at FORT
9 LAUDERDALE HOSPITAL on or about March 16, 1998, and approximately one week
10 thereafter, became Director of the Forensic Unit. (This individual defendant is hereinafter
11 referred to as "PUTNAM"). Relators are informed and believe and based thereon allege that,
12 on or about March, 1998, Defendant PUTNAM began employment (on the payroll) for
13 Defendant PREFERRED HEALTHCARE CONSULTANTS but PUTNAM continues, through
14 the present time, to be an officer, employee, or agent of Defendant BHC and/or FORT
15 LAUDERDALE HOSPITAL.

16
17 23. Defendant NICOLE NICASTRO became Director of the Partial Hospitalization
18 Program ("PHP") at FORT LAUDERDALE HOSPITAL on or about early April, 1998. (This
19 individual defendant is hereinafter referred to as "NICASTRO".) Relators are informed and
20 believe and based thereon allege that, on or about April, 1998, Defendant NICASTRO began
21 employment (on the payroll) for Defendant PREFERRED HEALTHCARE CONSULTANTS
22 but Defendant NICASTRO continues, through the present time, to be an officer, employee, or
23 agent of Defendants BHC and/or FORT LAUDERDALE HOSPITAL.

24
25 24. Defendant DR. RICHARD SEELY, M.D. is a Psychiatrist licensed to practice
26 medicine in the State of Florida. DR. SEELY operates a practice with offices at 555 SW
27 148th Avenue in Sunrise, Broward County, Florida. (This defendant is hereinafter referred to
28 as "DR. SEELY".) Beginning on or about March 18, 1998, and continuing until late August,

1 1998, DR SEELY was the attending physician for all or almost all of the patients referred to
2 FORT LAUDERDALE HOSPITAL by defendants HUTTNER, KONNELL, GOLDSTEIN,
3 PHCI, INTERPHASE, and/or CONTINUED CARE.

4
5 25. Defendant DR. SOHAIL PUNJWANI, M.D. is a Psychiatrist licensed to practice
6 medicine in the State of Florida. (This defendant is hereinafter referred to as "DR.
7 PUNJWANI".) DR. PUNJWANI directed the admission of and/or was the attending physician
8 for many of the patients at issue in this action. Furthermore, on or about September, 1998,
9 FORT LAUDERDALE HOSPITAL promoted DR. PUNJWANI to Medical Director. DR.
10 PUNJWANI began attending to patients at FORT LAUDERDALE HOSPITAL on or about
11 1996. Beginning on or about late August, 1998, and continuing through the present time, DR.
12 PUNJWANI was the attending physician for all or almost all of the patients referred by
13 defendants HUTTNER, KONNELL, GOLDSTEIN, PHCI, INTERPHASE, and/or
14 CONTINUED CARE. DR. PUNJWANI is a resident of the State of Florida.

15
16 26. COMPASS HEALTH SYSTEMS, P.A. is a Florida corporation which maintains
17 its principal offices at 1065 on 125 th Street in North Miami, Dade County, Florida. Relators
18 are informed and believe and based thereon allege that Defendant, DR. PUNJWANI is an
19 employee, officer, and/or shareholder of defendant COMPASS HEALTH SYSTEMS, INC.
20 (This corporate defendant is hereinafter referred to as "COMPASS".) (Doctors SEELY,
21 PUNJWANI, and SEGAL and their partners and agents whose identities are still unknown to
22 Relators are hereinafter collectively referred to as the "STAFF PHYSICIANS".)

23
24 27. Defendant PREFERRED HEALTHCARE CONSULTANTS, INC. is a Florida
25 Corporation which maintains its principal offices in Biscayne Park, Dade County, Florida.
26 (This corporate defendant is hereinafter referred to as "PHCI"). Relators are informed and
27 believe that defendants HUTTNER and GOLDSTEIN often use business names other than
28 PREFERRED HEALTHCARE CONSULTANTS interchangeably when referring to their

1 organization. The entity referred to as "INTERPHASE" is a prominent example.

2
3 28. Relators are informed and believe and based thereon allege that defendant
4 JONATHAN HUTTNER is President of corporate defendant PHCI. JONATHAN HUTTNER
5 is also the Chief Executive Officer of defendant INTERPHASE. Relators are informed and
6 believe and based thereon allege that HUTTNER is also an officer, employee, agent, or alter ego
7 of defendants INTERPHASE and CONTINUED CARE. (This individual defendant is
8 hereinafter referred to as "HUTTNER"). Relators are informed and believe and based thereon
9 allege that defendant HUTTNER is an agent, nominee or proxy for defendant BARRY
10 GOLDSTEIN. Relators are further informed and believe and based thereon allege, that
11 defendant HUTTNER is an agent for defendant BHC and/or FORT LAUDERDALE
12 HOSPITAL

13
14 29. Relators are informed and believe and based thereon allege that, at all relevant
15 times, a person referred to as BARRY GOLDSTEIN is an officer or owner of, or exercised *de*
16 *facto* control over corporate defendants PHCI, CONTINUED CARE, and/or INTERPHASE
17 and individual defendants HUTTNER and/or KONNELL. Relators are informed and believe
18 that GOLDSTEIN is also an officer, employee, agent, or alter ego of defendant INTERPHASE.
19 (This Doe defendant is hereinafter referred to as "GOLDSTEIN".)

20
21 30. Defendant SAMUEL KONNELL is an officer, employee or agent (i.e., Court
22 Liason and Forensic Program Director) of BHC's Fort Lauderdale Hospital beginning on or
23 about March, 1998, and continuing through the present time. Mr. KONNELL is also the Court
24 Liason and Forensic Program Director for WESTCHESTER GENERAL HOSPITAL and
25 SOUTHERN WINDS HOSPITAL both doing business as WESTCHESTER HEALTHCARE
26 NETWORK. (This individual defendant is hereinafter referred to as "KONNELL".) Mr.
27 KONNELL is also an officer, employee, and/or agent of INTERPHASE, PHCI, and/or
28 CONTINUED CARE, INC.

1 31. Relators are informed and believe and based thereon allege that Defendants
2 HUTTNER, GOLDSTEIN, and KONNELL and persons whose identity is known to the
3 defendants but who are currently unidentified, transact business under the name "Interphase", an
4 unregistered fictitious name. (This entity and the person(s) who own, operate, are members
5 of it, and/or control it are hereinafter referred to as "INTERPHASE" or, alternatively DOE I).
6 Defendant INTERPHASE purports to be "A Network of Treatment Programs for the Dually
7 Diagnosed". Relators are informed and believe and based thereon allege that the so-called
8 "members" of this "Network of Treatment Programs" include the following psychological
9 facilities: FORT LAUDERDALE HOSPITAL, WESTCHESTER GENERAL HOSPITAL,
10 SOUTHERN WINDS HOSPITAL, and THE RETREAT and, additionally, includes numerous
11 residential group living facilities including, CHANGING TIMES, THE COVE, 1st STEP
12 MANAGEMENT TEAM, FOUNDATIONS. Relators are informed and believe and based
13 thereon allege that the following programs are also owners, agents, or nominees for defendant
14 INTERPHASE: Phoenix Clinic, Safe Passage Program, Florida Behavioral Health, Efaró
15 Behavioral Health, Caring Center, Metro Dade Center, Partners Program, Sandalfoot Program,
16 Utopia Half Way House, as well as additional programs as yet unidentified by Relators.
17 Relators are informed and believe that Defendant INTERPHASE maintains its offices at 2514
18 Hollywood Boulevard, Suite 408, in Hollywood, Broward County, Florida.

19
20 32. Relators are informed and believe and therefore allege that individual defendants
21 GOLDSTEIN, KONNELL, HUTTNER, and/or corporate defendants PHCI and/or
22 INTERPHASE operate and/or operated businesses known as "SANDALFOOT" and
23 "CONTINUED CARE, INC." as alter egos, parent corporations, agents, or subsidiaries of such
24 defendants. (These DOE defendants are hereinafter referred to as "SANDALFOOT" and
25 "CONTINUED CARE", respectively.) Relators are informed and believe and based thereon
26 allege that HUTTNER and/or his affiliates owns, controls, receives or pays compensation for
27 patient referrals to or from the following programs located within this jurisdictional district:
28 Phoenix Clinic, Safe Passage Program, Florida Behavioral Health, Efaró Behavioral Health,

1 Caring Center, Metro Dade Center, Partners Program, Sandalfoot Program, Utopia Half Way
2 House.

3
4 33. Defendant CHANGING TIMES, INC. operates a 3/4 Way House program known
5 as "The Cove." (This corporate defendant is hereinafter referred to as "THE COVE.")
6 Defendant THE COVE maintains its principal offices at 911 Village Boulevard in West Palm
7 Beach or elsewhere (possibly Boca Raton) in Palm Beach County, Florida. Relators are
8 informed and believe and based thereon allege that Defendants HUNTER, KONNELL,
9 GOLDSTEIN, INTERPHASE, CONTINUED CARE, INC, and/or PHCI control, operate,
10 and/or own THE COVE or are agents for THE COVE.

11
12 34. Defendant DOE IV owns and/or operates a 3/4 Way House program known as
13 "Changing Times" at a facility located at 655 NE 149th St. North Miami, Dade County,
14 Florida. (This defendant is hereinafter referred to as "CHANGING TIMES".) Relators are
15 informed and believe and based thereon allege that Defendants HUNTER, KONNELL,
16 GOLDSTEIN, INTERPHASE, CONTINUED CARE and/or PHCI control, operate, and/or own
17 CHANGING TIMES or are agents for CHANGING TIMES.

18
19 35. Defendant 1st STEP MANAGEMENT TEAM, INC. is a Florida corporation
20 which owns and operates a 3/4 Way House program known as FIRST STEP at a facility
21 located at 508 NE 1st Avenue in Fort Lauderdale, Broward County, Florida. (This defendant is
22 hereinafter referred to as "FIRST STEP".) Relators are informed and believe that Defendants
23 HUNTER, KONNELL, GOLDSTEIN, INTERPHASE, CONTINUED CARE, and/or PHCI
24 control, operate, or own FIRST STEP or are agents of FIRST STEP.

25
26 36. Defendant Mr. DANIEL S. YOUNG, III is president of FIRST STEP. (This
27 individual defendant is hereinafter referred to as "YOUNG".)
28

1 37. Defendant FOUNDATIONS, INC., owns and operates a 3/4 Way House known
2 as "The Foundation" located at 999 West Prospect Road, Fort Lauderdale, Broward County,
3 Florida. (This defendant is hereinafter referred to as "FOUNDATIONS".)

4
5 38. Defendant DOE V owns and operates a psychiatric facility that provides PHP and
6 inpatient programs known as THE RETREAT at a facility located at 555 SW 14th Avenue in
7 Sunrise, Broward County, Florida. (This defendant is hereinafter referred to as "THE
8 RETREAT".)

9
10 39. Defendant WESTCHESTER GENERAL HOSPITAL, INC. owns and operates a
11 free standing hospital which includes a psychiatric unit known as SOUTHERN WINDS
12 HOSPITAL. This facility is located at 2500 S.W. 75 Avenue in Miami, Florida. (Defendants
13 WESTCHESTER GENERAL HOSPITAL, INC. and SOUTHERN WINDS HOSPITAL are
14 hereinafter collectively referred to as "SOUTHERN WINDS".)

15
16 40. Defendant SOUTHERN WINDS HOSPITAL is an inpatient psychiatric facility
17 located in Miami and Hialeah, Florida. SOUTHERN WINDS HOSPITAL is a fictitious name
18 registered to defendant WESTCHESTER GENERAL HOSPITAL. (This defendant,
19 collectively with its corporate owner, defendant WESTCHESTER GENERAL HOSPITAL, is
20 hereinafter referred to as "SOUTHERN WINDS".)

21
22 41. Relators are informed and believe and based thereon allege that Defendant
23 WESTCHESTER HEALTHCARE NETWORK is an unregistered fictitious entity believed to
24 be controlled and/or operated by defendants WESTCHESTER GENERAL HOSPITAL,
25 SOUTHERN WINDS, and/or INTERPHASE for the purpose of procuring patients for
26 SOUTHERN WINDS HOSPITAL. (This "DOE" defendant is hereinafter referred to as
27 "WESTCHESTER HEALTHCARE NETWORK".) Defendant KONNELL is the "Court
28 Liason" and "Forensic Unit Director" for defendant WESTCHESTER HEALTHCARE

1 NETWORK.

2

3 42. The true names and capacities, whether individual, corporate, associate or
4 otherwise, of defendants Does 1 through 100, inclusive, and each of them, are unknown to
5 Relator who, therefore, sues these Defendants by such fictitious names and will ask leave of
6 court to amend this Complaint when the same shall have been ascertained. Relator is informed
7 and believes and upon such information and belief alleges that each Defendant designated
8 herein as a Doe is responsible, for the events and happenings referred to herein which caused the
9 submission of false claims to the United States of America, and to the State of Florida.

10

11 43. At all times herein mentioned, each of the Defendants, was an agent, servant or
12 employee of each of the remaining Defendants, and was at all times acting within the purpose or
13 scope of said agency or employment, and was acting with the express or implied knowledge,
14 permission or consent of the remaining Defendants, and each of them.

15

16 **PRELIMINARY STATEMENT**

17

18 44. Defendants BHC and FORT LAUDERDALE HOSPITAL provided in-patient
19 and out-patient psychiatric services to the United States Government including, but not limited
20 to, the United States Department of Health and Human Services (“HHS”) and its predecessor,
21 the Department of Health, Education and Welfare (“HEW”), through the federal Medicare
22 program, and to the Department of Defense pursuant to the Civilian Health and Medical
23 Program of the Uniformed Services (“CHAMPUS”) program. Defendants further provided in-
24 patient and out-patient psychiatric services to members of the Seminole Tribe of Florida.

25

26 **STATUTORY AND REGULATORY FRAMEWORK**

27

28 Medicare, Medicaid and CHAMPUS Prohibit Reimbursement For Medically
Unnecessary or Unreasonable Services

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45. In 1965 Congress enacted Title XVIII of the Social Security Act (“Medicare” or the “Medicare Program”) to pay for the cost of certain hospital services and care.

46. HHS, through the Health Care Financing Administration (“HCFA”) administers the Medicare Program, which is a system of health insurance for the aged and disabled created under Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395, et seq. Medicare Part A covers the costs incurred by eligible beneficiaries for certain hospital services. (HHS also administers the Indian Health Services Program which was also defrauded by Defendants). Reimbursement under Medicare Part A for psychiatric hospitals such as FORT LAUDERDALE HOSPITAL, SOUTHERN WINDS, and THE RETREAT are accomplished through submission by the hospital of a cost report, which is a claim for payment containing a breakdown of the costs associated with treatment of eligible Medicare beneficiaries. Defendants DR. SEELY, DR. PUNJWANI, and COMPASS indirectly received funds from Part A through salaries paid by BHC and/or FORT LAUDERDALE HOSPITAL and directly received Medicare Part B funds for “doctor payments” for psychiatric treatments.

47. Through HCFA, HHS also administers the Medicaid Program, which insures certain groups, including the poor and disabled, and which is funded in part from federal funds and in part from the state where the facility is located. 42 U.S.C. §§ 1396, et seq.; Fl. Stat. §§ 409.901, et seq. HCFA, in discharging those responsibilities, contracted with private insurance companies, known as intermediaries, to receive, review, and pay appropriate claims for reimbursement for the provision of psychiatric services to Medicare Program beneficiaries.

48. Eligible persons age 65 years and over may enroll in Medicare Part B to obtain health insurance benefits in return for payment of monthly premiums in an amount established by HCFA. Such individuals are known as “beneficiaries” under the program.

1 49. Part B of the Medicare Act was pay for home services for Medicare beneficiaries
2 who needed physicians services.

3
4 50. When a beneficiary obtains medical services from a Part B provider the
5 beneficiary may either pay for the service himself or herself, and submit the provider's bills to
6 Medicare for reimbursement ("unassigned claims") or the beneficiary may assign the right to
7 reimbursement to his or her provider, in which case the provider then submits a bill to Medicare
8 and receives the Medicare reimbursement as the beneficiary's assignee ("assigned claims").

9
10 51. Only providers who are "participants" may submit assigned claims for payment.

11
12 52. In order to become a Medicare Part B participant provider physicians and others
13 must agree to certain conditions of participation, including, *inter alia*, the following program
14 requirements:

15 A. not to make false statements or misrepresentations of material facts
16 concerning requests for reimbursement, 42 U.S.C. §§ 1320a-7b(a)(1)(2),
17 1320a-7, 1320a-7a; 42 C.F.R. § 1001.101(a)(1);

18
19 B. to bill Medicare only for reasonable and necessary services, 42 U.S.C.
20 §1395y(a)(1)(A). Medicare reimbursement is not permitted for unnecessary or
21 unreasonable care and services;

22
23 C. Moreover, Medicare precludes reimbursement for "custodial care." 42 U.S.C. §
24 1395y (a) (9);

25
26 D. to provide economical medical services, and then, only when medically
27 necessary, 42 U.S.C. §13320c-5(a)(1);
28

1 E to assure that such services are not substantially in excess of the needs of such
2 patients, 42 U.S.C. §13320a-7(b)(6)(B); and

3
4 F. to certify that the service claimed is a medical necessity. 42 U.S.C.
5 §1395n(a)(2)(B).

6
7 53. 42 U.S.C. §1395nn(b) prohibits referrals to any entity with which the physician
8 has a financial relationship, compensation agreement, or from whom the physician receives any
9 form of remuneration.

10
11 54. The Medicaid and SLIAG programs incorporate the afore described prohibitions.
12 *See e.g.*, 42 U.S.C. Section 1396 b. Many of the afore described prohibitions are also
13 incorporated into the FEHBP via HIPAA, the Health Insurance Portability and Accountability
14 Act, Title II. Public 105-32 (1997).

15
16 55. The Civilian Health and Medical Program of the Uniformed Services
17 (“CHAMPUS”) and its successor, TRICARE, provide medical benefits, including inpatient
18 mental health coverage to dependents of active duty members of the Uniformed Services, as
19 well as retired members and their dependents and dependents of deceased members. 10 U.S.C.
20 §§ 1071, *et seq.* (CHAMPUS and TRICARE are hereinafter collectively referred to as
21 “CHAMPUS”.)

22
23 56. The Medicare program reimburses only care that is “reasonable and necessary” for
24 the treatment or diagnosis of illness or injury. 42 U.S.C. § 1395y (a) (1) (A). Medicare
25 reimbursement is not permitted for unnecessary or unreasonable care and services. Moreover,
26 Medicare precludes reimbursement for “custodial care.” 42 U.S.C. § 1395y (a) (9).

27
28 57. The Medicare program also allows payment to inpatient psychiatric hospitals only

1 for "active treatment" which can reasonably be expected to improve a patient's condition. For
2 services in a psychiatric hospital to be designated as "active treatment," they must be: (a)
3 provided under and individualized treatment of diagnostic plan, (b) reasonably expected to
4 improve the patient's condition or for the purpose of diagnosis, and (c) supervised and evaluated
5 by a physician. Medicare Hospital Manual, HCFA-Pub. 10, § 212.1.

6
7 58. The Medicaid program reimburses only care that is medically necessary and
8 provided in accordance with state and federal law. Fl. Stat. § 409.905. Any payments under
9 the program must also be consistent with "efficiency, economy and quality of care." 42 U.S.C.
10 § 1396a (a)(30a). Moreover, Medicaid reimbursement is not permitted for unnecessary or
11 inappropriate care. Fl. Stat. § 409.913 (5) (a).

12
13 59. CHAMPUS reimburses only necessary and reasonable care and services. 32
14 C.F.R. §§ 199.4 (b) (1) (iv) and 199.4 (b) (6) (i). Billing for medically unnecessary and
15 inappropriate care falls within the CHAMPUS regulatory definitions of fraud (with appropriate
16 scienter) and abuse. 32 C.F.R. §§ 199.2 (b), 199.9 (b), 199.9 (b) (3) and 199.9 (c) (5).
17 Moreover, CHAMPUS precludes reimbursement for "custodial care." 32 C.F.R. §§ 199.2 (b)
18 and 199.6 (b) (4) (v) (B).

19
20 60. A psychiatric hospital must maintain accurate and current medical records as a
21 condition of participation in the Medicare, Medicaid, and CHAMPUS Programs. 32 C.F.R. §§
22 199.2 (b), 199.6 (b) (1) (iii) and 199.6 (b) (4) (iv) (D); 42 C.F.R. §§ 482.60 and 482.61; Fl. Stat.
23 § 409.907 (3) (b).

24
25 61. The failure to maintain adequate medical records and the falsification of medical
26 records falls within the CHAMPUS regulatory definitions of fraud (with appropriate scienter)
27 and abuse. 32 C.F.R. §§ 199.9 (b), 199.9 (b) (5), 199.9 (c), 199.9 (c) (6 -7).

28

1 62. Seeking reimbursement is not permitted under either the Medicare or CHAMPUS
2 program unless adequate documentation exists in the beneficiary's medical file to demonstrate
3 the performance and medical necessity of the services for which reimbursement is claimed by
4 the provider.

5
6 63. The Medicare and CHAMPUS programs require that therapists meet certain
7 eligibility requirements before a hospital may bill for their services. 32 C.F.R. §§ 199.4 (c) (3)
8 (ix) (A), 199.4 (c) (3) (x), 199.6 (c); 42 C.F.R. § 482.56; Medicare Hospital Manual, HCFA
9 Pub. No. 10, §§ 210.8 and 210.9.

10
11 64. Medicaid payments may only be made to entities that comply with state law. Fl.
12 Stat. § 409.907.

13
14 65. Both CHAMPUS and HHS require that hospitals be accredited by the Joint
15 Commission for the Accreditation of Hospital Organizations ("JCAHO"), which inspects
16 hospitals for accreditation purposes.

17
18 **THE CLAIMS**

19
20 66. Defendants BHC and FORT LAUDERDALE HOSPITAL directly or indirectly
21 submitted a substantial number of claims totaling several million dollars for reimbursement to
22 the United States Government or its agents for reimbursement for providing patient care to
23 psychiatric patients pursuant to the federal Medicare and CHAMPUS programs. The Plaintiffs
24 estimate that the number of false claims arising from the Defendant STAFF PHYSICIANS
25 probably exceed 1,000 in number. The amount of these overpayments is substantial. Relators
26 have not yet determined the number of false claims submitted by the remaining defendants but
27 are informed and believe that the amount of the overpayments to those defendants is also
28 substantial. If the Court finds that the Defendants committed the fraudulent acts described in

1 this Complaint, the Defendants are subject to a statutory civil penalty of between five thousand
2 dollars (\$5,000) to ten thousand dollars (\$10,000) for *each* false claim submitted and automatic
3 treble damages applied to the amount of the overpayments.

4
5 67. From a period beginning on or about 1996, until the present time, Defendants
6 BHC and/or FORT LAUDERDALE HOSPITAL and Defendants STAFF PHYSICIANS
7 received a substantial portion of their funds from the United States Government through
8 provisions of the Federal Medicare and CHAMPUS Programs. At all relevant times, the
9 amount of funds received was governed under regulations promulgated by the Health Care
10 Financing Administration (HCFA) and Department of Defense which provided for payments to
11 psychiatric hospitals for Medicare qualified and CHAMPUS qualified patients, respectively.
12 These payments were based upon diagnoses made on patients under Defendants' custody and
13 care.

14
15 **INPATIENT SERVICES AT FORT LAUDERDALE HOSPITAL**

16
17 68. Applicable Federal regulations and statutes provide for payments to psychiatric
18 hospitals, including Defendants BHC and FORT LAUDERDALE HOSPITAL, based upon
19 inpatient hospital services furnished while an inpatient of a psychiatric hospital. Payment for
20 inpatient psychiatric hospital services is to be made only for 'active treatment' which can
21 reasonably be expected to improve the patient's condition. For services in a psychiatric hospital
22 to be designated as 'active treatment', they must be: (a) provided under an individual treatment
23 or diagnostic plan, (b) reasonably expected to improve the patient's condition or for the purpose
24 of diagnosis, and (c) supervised and evaluated by a physician. Similarly, the Federal
25 CHAMPUS program will reimburse the Defendants for inpatient psychiatric services only if the
26 patient is sufficiently acute to require a regular observation such as a fifteen minute watch (i.e.,
27 "Q-15").
28

1 69. In summary, a psychiatric hospital is paid a specified base rate for each Medicare
2 and CHAMPUS qualified inpatient it treats. These funds are paid by the United States
3 Government through its Federal Medicare and CHAMPUS programs. Whether the psychiatric
4 hospital inpatient is Medicare or CHAMPUS qualified is ostensibly determined by the hospital's
5 diagnosis of the patient. The hospital is charged with the responsibility of assigning the correct
6 diagnosis to an inpatient.

7
8 70. The primary diagnosis is determined by the patient's primary physician who
9 documents the principal diagnosis and other "secondary" diagnoses in the physician's Admitting
10 Orders and the Treatment Plan in the patient's medical records.

11
12 71. The diagnosis and admissions documents are supported by entries in the Daily
13 Medical Records which record symptoms purportedly exhibited by the patient and the patient's
14 alleged progress. The hospital uses these patient records to justify and support its diagnosis of
15 a condition which is eligible for reimbursement from the Federal Medicare or CHAMPUS
16 programs.

17
18 72. At all relevant times (beginning on or before November 30, 1992) and continuing
19 through the time of trial, Defendant FORT LAUDERDALE HOSPITAL, acting on behalf of
20 Defendant BHC, knowingly defrauded the United States Government by:

- 21
22 (a) falsifying patient intake documentation;
23 (b) falsifying Physician's Admitting Orders;
24 (c) falsifying Treatment Plans or using non-individualized Treatment Plans;
25 (d) falsifying Daily Medical Records; and
26 (e) falsifying the inpatient claims for reimbursement submitted to the Federal Medicare
27 and CHAMPUS programs.
28

1 This fraud harmed the Treasury of the United States. Relators are informed and believe and
2 based thereon allege, numerous fraudulent claims continue to be submitted to the Federal
3 Medicare and CHAMPUS programs by Defendants BHC and FORT LAUDERDALE
4 HOSPITAL. Further, Defendant BHC knew of Defendant FORT LAUDERDALE
5 HOSPITAL's fraudulent activities and failed to report such and both Defendants refused to
6 allow their employees to discontinue such practices or report any or all of these fraudulent acts
7 to proper authorities.

8
9 74. Defendant FORT LAUDERDALE HOSPITAL, acting on behalf of BHC, and
10 Defendant BHC, through its officers, employees, and agents, ordered certain employees under
11 their direct supervision to falsify and submit for reimbursement from the Federal Medicare and
12 CHAMPUS programs inpatient claims which:

- 13
14 (a) contained fraudulent Principal Diagnosis;
15 (b) described treatment which was not actually rendered or was inadequately performed;
16 (c) described treatment, which although actually or partially rendered, could not be
17 reasonably expected to improve the patient's condition or to be rendered for purpose of
18 diagnosis;
19 (d) described treatment which was not provided by licensed therapists; and/or
20 (e) described treatment which was not supervised and evaluated by a physician.

21
22
23 75. The phrase "at all relevant times" as used in this Complaint, means the period
24 beginning on or about December 5, 1992 (i.e, violations that occurred within 6 years of the
25 filing of this Complaint) unless otherwise specified.

26
27 76. At all relevant times and continuing through the time of trial, Defendant BHC
28 through its officers, employees, and agents and FORT LAUDERDALE HOSPITAL, acting on

1 behalf of Defendant BHC, fraudulently diagnosed and admitted patients by:

2
3 (a) embellishing and exaggerating particular patient behavior in order to support a
4 diagnosis of a condition which would qualify the patient's treatment as eligible for
5 reimbursement by the United States;

6
7 (b) creating a second, falsified diagnosis after Defendants' utilization review personnel
8 and/or Defendant BHC and/or FORT LAUDERDALE HOSPITAL's officers,
9 employees, or agents determined that the Defendants' initial diagnosis of the patient
10 could not be covered by Medicare;

11
12 (c) ordering psychiatric testing for patients who were incapable of participating in the
13 testing process and/or for patients who were known or believed to have non-acute
14 conditions;

15
16 (d) admitting patients and/or continuing to treat patients when Defendant observed that
17 the patient could not be reasonably expected to benefit from treatment and/or were
18 otherwise inappropriate;

19
20 (e) admitting patients who had conditions which are not treatable by psychiatric services
21 including repeatedly re-admitting patients who the Defendant BHC and FORT
22 LAUDERDALE HOSPITAL diagnosed as having an untreatable condition immediately
23 after the patient's previous discharge and/or who had not benefitted from similar
24 treatment during his/her previous visit (i.e., Defendants BHC and FORT
25 LAUDERDALE HOSPITAL frequently admitted numerous patients who had
26 untreatable psychiatric conditions and continued to discharge and then readmit such
27 patients);
28

1 (f) drafting non-individualized care plans to conform to the fraudulent diagnosis rather
2 than to treat the patient's actual condition, and/or failing to accurately describe the
3 treatment rendered;

4
5 (g) failing to update care plans;

6
7 (h) fraudulently "documenting" treatment not actually rendered or which was
8 perfunctorily and inadequately rendered;

9
10 (i) falsifying "documentation" as to patients' behavior or condition;

11
12 (j) Administering tranquilizing drugs to mask the symptoms of conditions which are not
13 treatable, such as combativeness of persons with schizophrenia and which could not be
14 expected to significantly alleviate the patient's medical condition;

15
16 (k) failing to satisfy minimum patient care standards;

17
18 (l) routinely falsely documenting improvement in patients' condition and/or behavior in
19 order to justify discharging the patient before the patient's length of stay exceeded
20 Medicare coverage (i.e., length of stay) limitations;

21
22 (m) altering or falsifying patient's primary diagnosis (for example, fabricating diagnoses
23 for psychiatric conditions (e.g., depression) when, in fact, patient's primary problem was
24 drug abuse, including crack or cocaine);

25
26 (n) altering or falsifying patient records to indicate treatment for a fraudulent primary
27 axis diagnosis when, in fact, the medications provided were to treat the patients' so-
28 called secondary diagnosis (e.g., narcotics or crack addiction);

- 1 (o) detaining patients for a specified length of stay determined by patient's payment
2 factor (and therefore, deadline to release the patient or return to patient's three quarter
3 way house) rather than patient's actual condition;
4
- 5 (p) failing to provide adequate qualified personnel;
6
- 7 (q) "documenting" group therapy sessions which were not actually conducted or, if
8 conducted, were not conducted by qualified personnel;
9
- 10 (r) documenting levels of acute services, specifically one-to-one observations and fifteen
11 minute watches (i.e. "Q-15's") which were not actually rendered in order to obtain en-
12 hanced payments from the Federal Medicare Program or eligibility for reimbursement
13 from the Federal CHAMPUS program for inpatient treatment;
14
- 15 (s) documenting that patients participated in group therapy when such therapy was not
16 provided and/or such patient, although physically present, was unable or unwilling to
17 participate and therefore could not be reasonably expected to benefit from such group
18 therapy;
19
- 20 (t) documenting that patients participated in group therapy sessions which were eligible
21 for payment by the Federal Programs when, in fact, such sessions were ineligible for
22 payment because the groups' size exceeded the maximum allowable size; and
23
- 24 (u) submitting fraudulent attestations with pertinent data to agents of the United States
25 Government for payment. Defendant BHC, through its officers, agents, and employees,
26 instructs, requires, and assists its employees, agents, and subsidiaries in performing such
27 fraudulent acts and in concealing such acts.
28

1 77. In performing all of these acts set out herein, Defendants BHC and FORT
2 LAUDERDALE HOSPITAL, defrauded the United States Government by fabricating inpatient
3 diagnoses and medical records in order to receive payments from the Federal Medicare and
4 CHAMPUS programs. The fraud perpetrated by these Defendants consisted of one or more of
5 the following:

6
7 (a) the attestations, diagnosis, and reimbursement claims associated with a large
8 number of Medicare inpatients treated by Defendants during the period herein specified
9 were predominantly false and fraudulent (and continue to be false and fraudulent) in that
10 they were submitted in order to fraudulently obtain Federal Medicare payments for
11 psychiatric services which could not reasonably expected to benefit the patients;

12
13 (b) the attestations, diagnosis, and reimbursement claims associated with a large number
14 of Medicare and CHAMPUS eligible inpatients who were allegedly treated by Defend-
15 ants during the period herein specified were predominantly false and fraudulent (and
16 continue to be false and fraudulent) in that they were submitted in order to fraudulently
17 obtain Federal Medicare and CHAMPUS payments for psychiatric services which were
18 not actually rendered (and which the Defendants continue to fail to render);

19
20 (c) the attestations, diagnosis, and reimbursement claims associated with a large number
21 of Medicare and CHAMPUS eligible inpatients who were allegedly treated by
22 Defendants during the period herein specified were predominantly false and fraudulent
23 (and continue to be false and fraudulent) in that they were submitted in order to
24 fraudulently obtain Federal Medicare and CHAMPUS payments for psychiatric services
25 (including, but not limited to drug rehabilitation programs) which were (and continue to
26 be) rendered by persons who do not have the required licenses to provide such
27 treatments and are not adequately supervised by licensed persons; and
28

1 (d) the Defendants fraudulently altered and submitted (and continue to fraudulently alter
2 and submit) the altered and false patient records and other documents in order to justify
3 or substantiate Medicare payments.
4

5 78. Thereafter, Defendant BHC acting through its officers, employees, and agents, and
6 Defendant FORT LAUDERDALE HOSPITAL, and its employees presently unidentified, acting
7 on behalf of Defendant BHC, would submit false and fraudulent claims for payment to the
8 appropriate officers and/or employees of the United States Government pursuant to the
9 Medicare and CHAMPUS programs.
10

11 79. Defendants BHC and/or FORT LAUDERDALE HOSPITAL received payments
12 for these fraudulent claims. All monies received from the false claims were paid to and
13 received by the Defendants BHC and FORT LAUDERDALE HOSPITAL and were deposited
14 into the account of Defendants BHC and FORT LAUDERDALE HOSPITAL.
15

16 80. According to Relators' best estimate and based upon their investigation of these
17 fraudulent acts by Defendants BHC and FORT LAUDERDALE HOSPITAL, these Defendants
18 submitted a substantial number of false and/or fraudulent invoices for inpatient claims for
19 reimbursement from the Medicare and CHAMPUS programs to the United States Government,
20 its officers and/or employees. The Relators estimate that the number of false and/or fraudulent
21 claims submitted Defendants for services allegedly rendered at FORT LAUDERDALE
22 HOSPITAL probably exceeds 26,000 patient days and the overpayments are substantial. The
23 Relators believe the Plaintiffs are entitled to a substantial award consisting of statutory fines and
24 treble damages (i.e., three times the compensatory damages). The amount to be actually
25 awarded will be established at trial.
26

27 81. Accordingly, Plaintiffs will show that Defendants BHC and FORT
28 LAUDERDALE HOSPITAL through the acts of their officers, knowingly presented or caused

1 125. In summary, a partial hospitalization program is paid for eligible costs incurred
2 in treating patients who are eligible. In other words, the program is designed to reimburse non-
3 profit operators for all of their allowable costs incurred in treating Medicare eligible patients.
4 These funds are paid by the United States Government through its Federal Medicare program
5 and through federal contributions to the Medicaid program. The amount of such payments to
6 the program is partially determined by the physician's diagnosis of the patient, the services
7 performed by the program, and the payor's identity. The program is charged with the
8 responsibility of assigning the correct codes for services performed.

9
10 126. A partial hospitalization program ("PHP") is a program that is furnished by a
11 hospital to its outpatients or by a Community Mental Health Center. The purpose of admitting a
12 patient to a PHP is to provide treatment in a less less expensive and restrictive setting than
13 inpatient admission to persons who are at high risk of immediate onset of a serious condition
14 that could imminently cause an inpatient admission.

15
16 127. At all relevant times and continuing through the time of trial, FORT
17 LAUDERDALE HOSPITAL operated one or more PHP Programs.

18
19 128. At all relevant times and continuing through the time of trial, the patients'
20 treatment plans would target the patients' primary diagnosis (e.g., depression) although FORT
21 LAUDERDALE HOSPITAL knew that the patients' actual primary problem was drug or
22 alcohol abuse.

23
24 129. Beginning on or about March 18, 1998, and continuing through the time of trial,
25 Defendant FORT LAUDERDALE HOSPITAL routinely admitted persons to its PHP and
26 forensic units by Defendants PCHI, INTERPHASE, HUTTNER, and KONNEL, who had no
27 qualifications for admission other than eligibility for payment by the Medicare Program.
28 In order to efficiently fleece the Federal Programs, FORT LAUDERDALE HOSPITAL, by and

1 to be presented to an officer or employee of the United States Government a false or fraudulent
2 claim for approval to the damage of the United States Treasury.

3
4 82. Relators are further informed and believe that Defendants BHC and FORT
5 LAUDERDALE HOSPITAL, submitted false and fraudulent information to the United States
6 Government, through its Federal Medicare and CHAMPUS programs, in order to obtain
7 payment for inpatients who resided at the hospital but were ineligible for such Federal Medicare
8 or CHAMPUS benefits as described above. Relators are informed and believe that Defendants
9 FORT LAUDERDALE HOSPITAL and BHC, falsified the invoices and other documents
10 submitted to Medicare and CHAMPUS through the hospital's Fiscal Intermediary(s), to obtain
11 payment for:

12
13 (a) treatments based upon fraudulent diagnosis;

14
15 (b) treatments which were not actually rendered ;

16
17 (c) treatments which were rendered but not by qualified personnel;

18
19 (d) test results that were not received until after patient was discharged;

20
21 (e) treatment for patients which could not be reasonably expected to benefit from such
22 treatments; and

23
24 (f) a facility which did not provide adequate staff to meet the patients needs.

25
26 The result of submitting this fraudulent information resulted in overpayments to the hospital for
27 all of its Medicare and CHAMPUS inpatient and outpatient claims. Thus, almost all of the
28 claims for reimbursement for inpatient and outpatient psychiatric services submitted by the

1 Defendants for payment by the Federal Medicare and CHAMPUS programs were and continue
2 to be fraudulent. These overpayments continue to be received by the Defendants.

3
4 83. The Defendants have submitted thousands of false claims resulting in substantial
5 overpayments from the Federal Programs. Defendants, and each of them sued in this cause of
6 action, submitted or caused to be submitted false and fraudulent claims and records, by the
7 means set forth below.

8
9 84. Payment for psychiatric services is to made only for 'active treatment' which can
10 reasonably be expected to improve the patient's condition. For services in a psychiatric
11 program to be designated as 'active treatment', they must be: (a) provided under an individual
12 treatment or diagnostic plan, (b) reasonably expected to improve the patient's condition or for
13 the purpose of diagnosis, and (c.) supervised and evaluated by a physician.

14
15 **ADDITIONAL ALLEGATIONS COMMON TO ALL PROGRAMS**
16 **AT FORT LAUDERDALE HOSPITAL**

17 85. At all relevant times, Defendants FORT LAUDERDALE HOSPITAL and BHC
18 submitted claims which were false because the claims were not eligible for payment by the
19 Federal Programs.

20
21 86. At all relevant times and continuing through the time of trial, FORT
22 LAUDERDALE HOSPITAL failed to provide adequate number of licensed psychotherapists
23 and the number of patients attending group therapy sessions often exceeded the maximum
24 number (i.e., ten) allowed by FORT LAUDERDALE HOSPITAL Medicare Intermediary,

25
26
27 87. At all relevant times and continuing through the time of trial, FORT
28 LAUDERDALE HOSPITAL frequently admitted patients who had severe medical (non-

1 psychiatric) problems which rendered them inappropriate for admission to a non-medical,
2 (psychiatric) hospital.

3
4 88. At all relevant times and continuing through the time of trial, FORT
5 LAUDERDALE HOSPITAL frequently admitted patients who had admitted that the only illicit
6 drug that they used was “crack” or cocaine, thereby rendering such patients ineligible for
7 payment by the Medicare Program. Despite the patients’ ineligibility, FORT LAUDERDALE
8 HOSPITAL submitted claims and received payments for crack addicted, Federal beneficiaries.
9 For example, FORT LAUDERDALE HOSPITAL admitted patients including but not limited to
10 J.M., P.B. , A..C.

11
12 89. At all relevant times and continuing through the time of trial, the patients’ treatment
13 plans would target the patients’ primary diagnosis (e.g., depression) although FORT
14 LAUDERDALE HOSPITAL knew that the patients’ actual primary problem was drug or
15 alcohol abuse.

16
17 90. At all relevant times and continuing through the time of trial, FORT
18 LAUDERDALE HOSPITAL, by and through its supervisory nurses authorized and, by and
19 through CAROL CALDWELL (BHC’s Vice President of Clinical Services) ratified, Licenced
20 Practical Nurses (“LPN’s”) in the Intensive Outpatient Unit and Pride Unit --- removing (i.e.,
21 receiving and transcribing) physicians’ orders for medications in violation of the law. Relator
22 SHOENFELT complained to CAROL CALDWELL and RACHEL ST. JOHN (an officer or
23 agent of BHC then also serving as FORT LAUDERDALE HOSPITAL’s Acting Director of
24 Nursing) but the problem continued unabated.

25
26 91. At all relevant times and continuing through the time of trial, FORT
27 LAUDERDALE HOSPITAL routinely failed to provide individualized treatment plans.
28 Treatment Plans were assigned from a “canned text” provided by DONNA PUTNAM.

1 92. At all relevant times and continuing through the time of trial, defendant FORT
2 LAUDERDALE HOSPITAL admitted patients who were not reasonably likely to benefit from
3 treatment because these persons were recently been discharged from other out patient and
4 inpatient programs (typically, SOUTHERN WINDS HOSPITAL) as recently as earlier on the
5 day they were assessed for admission at BHC. On some occasions, Relators CLARK and
6 CHRISTIANSEN discovered that the prospective patient was recently discharged and
7 successfully prevented some of these persons from being admitted. For example, on or about
8 March 16, 1998, SOUTHERN WINDS HOSPITAL discharged Patient P.H. a few hours earlier
9 and Dr. Cabada (P.H.'s attending physician at SOUTHERN WINDS) had provided P.H. with an
10 after care plan for outpatient care only. (Relator CHRISTENSEN called BHC's so-called
11 ethics hotline to report that GERBER, KONNELL, and HUTTNER are putting pressure on her
12 (as well as other intake staff including Relator CLARK) and trying to make her commit
13 Medicare fraud. Despite Relators' allegations, BHC did not conduct an on-site "investigation"
14 until on or about August, 1998.)

15
16 93. At all relevant times and continuing through the time of trial, DR SEELY, DR.
17 PUNJWANI,, and COMPASS routinely billed the Federal Programs for
18 consultations/examinations which allegedly required 45 minutes or 15 minutes when, in fact,
19 the consultations routinely lasted an average of five minutes or less and very rarely exceeded ten
20 minutes. The treatment provided at FORT LAUDERDALE HOSPITAL was not adequately
21 supervised or rendered by physicians. For example, at all relevant times until his termination on
22 or about August, 1998, Defendant DR. SEELY , Defendant FORT LAUDERDALE
23 HOSPITAL's medical director (until on or about August, 1998), maintained extremely limited
24 office hours (typically less than 8 hours per week) and very rarely, if ever, consulted with
25 patients under Relator's care or the care of other mental health counselors. Beginning on or
26 about August 1, 1998, FORT LAUDERDALE HOSPITAL appointed DR. PUNJWANI as
27 Medical Director and DR. PUNJWANI similarly failed to adequately supervise patient
28 treatment.

1 94. FORT LAUDERDALE HOSPITAL, by and through DONNA PUTNAM,
2 routinely falsified patients' primary diagnosis and directed other employees operating under her
3 supervision and control to also falsify patient records in order to assure a diagnosis which the
4 Federal Programs would pay for.

5
6 95. At all relevant times, FORT LAUDERDALE HOSPITAL instructed its
7 employees to chart behavior according to the diagnosis and to not chart any patient behavior
8 which was inconsistent with the purported diagnosis and/or which would render the patients
9 ineligible for reimbursement by the Federal Programs

10
11 **FORT LAUDERDALE HOSPITAL'S**
12 **THIRD FLOOR (RAPID STABILIZATION UNIT)**

13 96. At all relevant times and continuing through the time of trial, FORT
14 LAUDERDALE HOSPITAL routinely submitted claims for payment by the Federal Programs
15 although these claims were not eligible for payment because, inter alia, Defendants BHC and
16 FORT LAUDERDALE HOSPITAL:

17
18 (A). Failed to conduct one-to-one watches (i.e., constant observation of one
19 patient by a health care employee) and falsely recorded that such watches were
20 performed on : (1) On September 30, 1998, FORT LAUDERDALE HOSPITAL
21 directed Relator CONNOLLY to chart one-to-ones on patient B. C. and Patient
22 M. [LNU]; (2) On September 29, 1998, FORT LAUDERDALE HOSPITAL
23 directed Relator CONNOLLY to chart one-to-ones on patient B.C. and Patient R.
24 [LNU]; (3) On September 28, 1998, FORT LAUDERDALE HOSPITAL
25 directed Relator CONNOLLY to chart one-to-ones on patient B.C. and Patient
26 M. [LNU]; (4) On September 22, 1998, FORT LAUDERDALE HOSPITAL
27 directed Relator CONNOLLY to chart one-to-ones on patient M. [LNU] while
28 supposedly providing direct contact for three other patients Patients A. [LNU],

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D. {LNU} and C. [LNU].

(B). Routinely admitted and re-admitted patients to FORT LAUDERDALE HOSPITAL to the Rapid Stabilization Unit (“RSU”) without medical necessary or reasonable under the circumstances. For example, FORT LADUDERDALE HOSPITAL ‘s RSU admitted Patient C.T. on or about February 5, 1998, continuing until February 11, 1998. FORT LAUDERDALE HOSPITAL admitted Patient C.T. to its Forensic Unit on April 26, 1998, through May 5, 1998, and re-admitted this patient to the Forensic Unit on June 13, 1998, through June 24, 1998.

(C). Routinely treated patients’ so-called secondary diagnosis (frequently drug, including crack addiction) rather than the primary diagnoses;

(D) Routinely assigned falsified diagnosis to the patients in order to receive payment from the Federal Programs.

FORENSIC UNIT

97. Beginning on or about March 18, 1998, and continuing through the time of trial, Defendants PHCI, CONTINUED CARE, and/or INTERPHASE and/or its officers and agents, including, GOLDSTEIN, HUTNER, and KONNELL, gave bribes and other remunerations to doctors, hospitals, clinics, group homes, and other sources of patient referrals to encourage them to refer or direct patients to BHC/FORT LAUDERDALE HOSPITAL. These bribes, kickbacks, and remunerations, included but were not limited to the following:

A. A purported “salary” of sixty thousand dollars (\$60,000) per month paid by BHC to HUTTNER (and/or a management fee paid to PHCI);

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- B. A “finders fee” paid by defendant HUTTNER and/or BHC for each patient that defendant KONNELL referred who was subsequently admitted to BHC;

- C. Free services, *inter alia*, the “housing” or “holding” of “patients” at BHC until defendants PHCI, CONTINUED CARE, INTERPHASE, GOLDSTEIN, HUTNER, and/or KONNELL had other facilities available to admit such persons;

- D. Housing patients without charge or at reduced charge for HUTTNER, GOLDSTEIN, KONNELL, PCHI, INTERPHASE, and/or their affiliates for their convenience and/or to prevent the patient from being referred to an out patient home which was not affiliated with HUTTNER, GOLDSTEIN, KONNELL, PCHIINTERPHASE, or CONTINUED CARE.

- E. Provided free transportation for residents referred by HUTTNER, GOLDSTEIN, KONNELL, PCHI, INTERPHASE, and/or CONTINUED CARE even when such transportation would not be furnished to other residents.

98. Beginning on or about March 18, 1998, and continuing through the time of trial, patients referred by HUTTNER, KONNELL, PHCI, INTERPHASE, and/or CONTINUED CARE, were also admitted to other units of FORT LAUDERDALE HOSPITAL including, the PHP Program, and, especially beginning on or about September, 1998, (when defendants closed the Forensic Unit) to all other units of FORT LAUDERDALE HOSPITAL.

1 99. Beginning on or about March 18, 1998, and continuing until on or about
2 September, 1998, the parties' profit motivation and consequential bookkeeping burden were
3 greatly simplified by requiring all persons referred by PHCI, KONNELL, and/or HUTNER to
4 be housed in BHC/FORT LAUDERDALE HOSPITAL's Forensic Unit (on the fifth floor)
5 regardless of the person's psychiatric condition (if any) unless the Forensic Unit was already
6 full and then such referrals were admitted to other units of FORT LAUDERDALE HOSPITAL.
7 Some of the referrals were admitted directly to FORT LAUDERDALE HOSPITAL/PHCI's
8 PHP Program because they were not then eligible for Medicare payments for inpatient
9 treatment. .

10
11 100. In the alternative, BHC submitted claims to the Federal Programs for treatment
12 which BHC neither administered nor rendered by concealing that PHCI had performed the
13 treatment (or failed to provide such treatment at BHC's FORT LAUDERDALE HOSPITAL) ,
14 made the decision to admit the patient(s), and/or paid remuneration to the referral source
15 (thereby violating the Stark Act.)

16
17 **PARTICIPATION BY AGENTS OR RECIPIENTS OF KICKBACKS**

18
19 101. Beginning on a date as yet unknown to Relators but known to defendants,
20 Defendants INTERPHASE, PHCI, GOLDSTEIN, KONNELL, and HUTTNER, solicited
21 persons who were Medicare and/or Medicaid beneficiaries residing outside the State of Florida
22 including, but not limited to, Alabama, Georgia, New Jersey, New York, and North Carolina to
23 come to south Florida in order to enroll in their program(s). Relators are informed and believe
24 and based thereon allege that these defendants received kickbacks for referring such patients to
25 mental health care providers and facilities. Beginning on or about March 18, 1998, and
26 continuing through the time of trial, these defendants began referring patients to FORT
27 LAUDERDALE HOSPITAL.
28

1 102. Relators are informed and believe and based thereon allege that many of these
2 PHP patients were admitted to Defendants FORT LAUDERDALE HOSPITAL, SOUTHERN
3 WINDS, THE RETREAT, and, possibly THE COVE and/or INTERPHASE, and these
4 admissions were routinely made without valid physician's orders and/or an actual physician's
5 assessment.

6
7 **FORT LAUDERDALE HOSPITAL'S**
8 **FORENSICS UNIT**
9 **"CUSTODY RELEASE" PROGRAM**

10 103. Beginning on or about March 18, 1998, and continuing until September, 1998,
11 FORT LAUDERDALE HOSPITAL accepted many persons with a history of violent crime into
12 its newly opened, so-called Forensic Unit without providing adequate supervision and security
13 to assure patient safety in the Forensic Unit and for the patient population in all other units as
14 well.

15 104. BHC and FORT LAUDERDALE HOSPITAL by and through GERBER knew or
16 recklessly disregarded that KONNELL frequently told its hospital staff and patients that patients
17 were admitted as "court ordered" rather than as "custody releases."

18
19 105. FORT LAUDERDALE HOSPITAL detained "patients" after these persons
20 demanded that FORT LAUDERDALE HOSPITAL return them to jail.

21
22 106. FORT LAUDERDALE HOSPITAL's officers, employees and agents often
23 falsified testimony in order to obtain civil commitment orders (a/k/a "Baker Act") in order to
24 continue to detain Medicare beneficiaries at FORT LAUDERDALE HOSPITAL.

25
26 107. FORT LAUDERDALE HOSPITAL by and through officers employees and/or
27 agents as whose identify is yet unknown to Relators, provided controlled substances to patients
28 in order to induce the patients to remain in FORT LAUDERDALE HOSPITAL's treatment

1 programs.

2
3 108. Some of the patients admitted to the Forensic Unit suffered from cognitive
4 problems or disabilities which prevented the patient benefitting from psychological treatment.

5
6 109. Beginning on or about March 18, 1998, and continuing through the time of trial,
7 Defendant FORT LAUDERDALE HOSPITAL routinely represented to the Florida Department
8 of Corrections and counties (i.e., Dade and Broward Counties) that FORT LAUDERDALE
9 HOSPITAL is a "secured, locked, 100-bed psychiatric treatment facility."

10
11 110. Many of the patients referred by Defendants HUTTNER, KONNELL, PCHI,
12 CONTINUED CARE, to FORT LAUDERDALE HOSPITAL were on "custody release" from
13 Broward County Jail. Defendants accepted many persons convicted of violent felony crimes (up
14 to and including homicide) many of whom were active prisoners of the State of Florida (or
15 incarcerated in the County Jail due to insufficient prison space). Defendants often housed these
16 patients in the Forensic Unit, where many nonviolent persons were detained, and were allowed
17 to intermingle with the general patient population for approximately two hours per day with
18 only minimal supervision/observation.

19
20 110 (A). FORT LAUDERDALE HOSPITAL admitted Patient W.M. on several
21 occasions, including: (1) April 8, 1998, through April 15, 1998; (2) May 19, 1998,
22 through May 28, 1998; (3) June 20, 1998, through June 30, 1998; and (4) July 11, 1998,
23 through July 14, 1998. Patient W.M. refused to attend groups and refused to get out of
24 bed except for meals and cigarette breaks.

25
26 110 (B). FORT LAUDERDALE HOSPITAL admitted Patient F.G. on or about May 5,
27 1998, on custody release from the Dade County Jail System (where he was incarcerated
28 for assault and battery against a woman.) While on the Forensic Unit, F.G. expressed

1 violent intentions but was supervised so inadequately that he managed to crudely
2 converse with the adolescent females. Patient F.G. demanded to be returned to jail but,
3 instead, defendants had Patient F.G. involuntarily admitted under the Baker Act.
4 Patient F.G. was Baker Acted and, subsequently, constantly so heavily sedated that Dr.
5 Seely admitted that his medication was "at near toxic levels." Despite the threat to
6 patient and employee safety and, ultimately, to the Patient's life, FORT LAUDERDALE
7 HOSPITAL detained Patient F.G. until June 5, 1998.

8
9 110 (C). FORT LAUDERDALE HOSPITAL admitted Patient T.P. on or about April
10 30, 1998, and continued to house this patient until May 11, 1998. Patient T.P. refused to
11 participate in treatment and refused to leave his room except for meals and cigarette
12 breaks.

13
14 110 (D). FORT LAUDERDALE HOSPITAL admitted Patient F.P. on or about April
15 30, 1998, and continued to house this patient until May 18, 1998. Patient F.P. was
16 seldom cognizant of his surroundings, was disruptive or non-participating

17
18 110 (E) FORT LAUDERDALE HOSPITAL and Dr. SEELY admitted patient K.G. on
19 or about April 1, 1998, as a "custody release" although defendant's records indicate that
20 Patient K.G. was recently discharged from SOUTHERN WINDS HOSPITAL.
21 Nevertheless, FORT LAUDERDALE HOSPITAL housed Patient K.G. in its Forensic
22 Unit for twenty days (until on or about April 21, 1998 despite Patient's poor
23 participation in group therapy, combativeness, assaults against staff, poor hygiene and
24 other behavior indicating that Patient was not benefitting from the purported "treatment"
25 and indicating a cognitive disorder. FORT LAUDERDALE HOSPITAL allowed patient
26 K.G. to intermingle with the general patient population including adolescent girls.
27 FORT LAUDERDALE HOSPITAL readmitted Patient K.G. on or about June 23, 1998,
28 through on or about July 15, 1998.

1 110 (F). On or about June 30, 1998, through on or about July 27, 1998, FORT
2 LAUDERDALE HOSPITAL acquired Patient C.K. through the custody release
3 program. Patient C.K. had a history of violent crime (kidnaping, aggravated assault
4 with a knife, and other significant crimes). Patient C.K. was very disruptive in groups
5 and presented a danger to patients (especially adolescent and adult females) and staff
6 (especially, but not limited to, females). FORT LAUDERDALE HOSPITAL allowed
7 Patient C.K. to intermingle with the general patient population (along with as many as
8 sixteen other Forensic Unit patients) with only one mental health technician to monitor
9 these patients.

10
11 110 (G) On or about July 1, 1998, FORT LAUDERDALE HOSPITAL, by and
12 through its agents, INTERPHASE, PHCI, HUTTNER, and KONNEL, decided to
13 readmit Patient R.L. without any clinical information (i.e., no presenting problem(s),
14 medical history, or admitting diagnosis). Relators are informed and believe that this
15 patient was readmitted to Fort Lauderdale Hospital on or about July 1, 1998.

16
17 110 (F). FORT LAUDERDALE HOSPITAL and Dr. SEELY admitted Patient O.D. to
18 its Forensic Unit on six occasions: (1) March 1, 1998, through March 10, 1998; (2)
19 March 31, 1998, through April 16, 1998; (3) June 21, 1998, through June 23, 1998; (4)
20 July 15, 1998, through July 20, 1998; (5) July 23, 1998, through July 29, 1998; (6)
21 August 7, 1998, through August 31, 1998.

22
23 111. The threat to safety presented by these patients were so unsafe that physicians,
24 employees, and agents feared for their safety including: (1) Dr. MORALES, who refused to
25 enter the Forensic Unit, especially when Patients F.G. and C.K. were admitted; and (2)
26 KONNEL who refused to enter the Forensic Unit when Patient R.L. was admitted.

27
28 112. Despite the danger presented to patients and staff, FORT LAUDERDALE

1 HOSPITAL routinely failed to conduct close watches (a/k/a "Q-15's") and falsely recorded the
2 close watches on all of such patients while they were intermingling with patients from other
3 units, visitors, and employees, in elevators, the cafeteria, and/or taking cigarette breaks in an
4 outdoor "cage." Furthermore, FORT LAUDERDALE HOSPITAL failed to provide adequate
5 facilities and staffing for this inmate population.

6
7 113. Beginning on or about June, 1998, and continuing until September, 1998, (when
8 the Forensic Unit closed), Relator D'ANDREA repeatedly objected to DONNA PUTNAM, the
9 Program Director of FORT LAUDERDALE HOSPITAL's Forensic Unit, DONNA PUTNAM,
10 and objected to or reported her concerns about fraud in the Forensic Unit (especially that
11 patients' behavior did not evidence the admitting diagnosis) without appropriate follow-up
12 and/or corrective action. DONNA PUTNAM directed Relator D'ANDREA to document and
13 report patients' condition according to the diagnosis (or words to that effect).

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16 114. On or about September, 1998, Relator D'ANDREA informed CAROL
17 CALDWELL, BHC's officer (Vice President Clinical Services) and FORT LAUDERDALE
18 HOSPITAL's then-current acting Director of Nursing, that Relator was concerned about
19 defendant's practices on the Forensic Unit. Despite CALDWELL's actual knowledge of other
20 allegations of fraud and participation on BHC's so-called compliance team, CALDWELL never
21 discussed or responded to Relator's invitation to interview her until BHC's officer, RACHEL
22 ST. JOHN, terminated Relator's employment approximately three weeks later.

23
24 115. Despite the danger presented to patients, medical staff, and employees and
25 Defendants BHC and FORT LAUDERDALE HOSPITAL's actual knowledge of these unsafe
26 conditions, Defendants aggravated these dangerous conditions by closing the so called "Forensic
27 Unit" during September, 1998, but continued to admit the so called "custody release" patients
28 to other units of the hospital thereby placing these patients with the hospital's general

1 population 24 hours a day;

2
3 **FORT LAUDERDALE HOSPITAL'S**
4 **SECOND FLOOR (OPEN ADULT UNIT)**

5
6 116. At all relevant times and continuing through the time of trial, FORT
7 LAUDERDALE HOSPITAL submitted false and fraudulent claims for patients admitted to the
8 Open Adult Unit.

9
10 117. DR SEELY, DR. PUNJWANI, and COMPASS routinely billed the Federal
11 Programs (e.g., Medicare Part "B") for patients admitted to, *inter alia*, FORT LAUDERDALE
12 HOSPITAL's Open Adult Unit for purported psychiatric treatment although most of the
13 medication provided was appropriate for drug/alcohol detoxification programs and the
14 counseling provided, if any, was for drug and alcohol dependency.

15
16 118. DR SEELY, DR. PUNJWANI, and COMPASS routinely billed the Federal
17 Programs (e.g., Medicare Part "B") for patients admitted to FORT LAUDERDALE HOSPITAL
18 for purported psychiatric treatment although these physicians and their practice group knew or
19 recklessly disregarded that the vast majority of these patients had been treated for drug or
20 alcohol addiction for years (often under the admitting physician's care).

21
22 119. DR SEELY, DR. PUNJWANI,, and COMPASS routinely billed the Federal
23 Programs for consultations/examinations which allegedly required 45 minutes or 15 minutes
24 when, in fact, the consultations routinely lasted an average of five minutes or less and very
25 rarely exceeded ten minutes.

26
27 120. At all relevant times and continuing through the time of trial, FORT
28 LAUDERDALE HOSPITAL frequently billed the Federal Programs for inpatient admissions

1 for patients who refused or were unable to attend therapy. For example, patient E.T. admitted
2 on or about April 13, 1998, through on or about May 29, 1998, and was subsequently
3 readmitted on or about June 30, 1998, through on or about July 16, 1998, or a total of sixty-two
4 (62) days.

5
6 121. At all relevant times and continuing through the time of trial, FORT
7 LAUDERDALE HOSPITAL frequently dispensed excessive levels of medications including
8 controlled substances especially to voluntary patients on the Open Adult Unit in order to induce
9 such patients to remain in the hospital for treatment.

10
11 122. At all relevant times and continuing through the time of trial, FORT
12 LAUDERDALE HOSPITAL and the STAFF PHYSICIANS routinely falsified primary axis
13 diagnosis to indicate a diagnosis that was eligible for Medicare reimbursement and falsely stated
14 that the patients' secondary axis (or problem) was drug or alcohol addiction.

15
16 123. At all relevant times and continuing through the time of trial, FORT
17 LAUDERDALE HOSPITAL and the STAFF PHYSICIANS frequently dispensed excessive
18 levels of medications, including controlled substances.

19
20 124. At all relevant times and continuing through the time of trial, FORT
21 LAUDERDALE HOSPITAL and the STAFF PHYSICIANS frequently ordered medications
22 appropriate for treating drug or alcohol addiction rather than the patients' primary diagnosis.

23
24 124 (A). At all relevant times and continuing through the time of trial, FORT
25 LAUDERDALE HOSPITAL admitted a few psychiatric patients (as compared to
26 drug/chemical addiction and/or dual diagnosis) but failed to provide treatment for the
27 patients' psychiatric condition.
28

1 124 (B). At all relevant times and continuing through the time of trial, Relators are
2 informed and believe and based thereon allege that FORT LAUDERDALE
3 HOSPITAL's Open Adult Unit conducted groups using counselors who did not have
4 the licenses required in order to receive Medicare payments for the groups but
5 submitted claims and received payments for such services.

6
7 124(C) At all relevant times and continuing through the time of trial, FORT
8 LAUDERDALE HOSPITAL including, *inter alia*, the hospital's Open Adult Unit
9 routinely facilitated group therapy sessions for up to approximately twenty (20) patients
10 at a time using only one so-called "counselor."

11
12 124 (D). At all relevant times and continuing through the time of trial, FORT
13 LAUDERDALE HOSPITAL frequently failed to obtain patient's written
14 acknowledgment of attendance as required for Medicare payment.

15
16 124 (E). At all relevant times and continuing through the time of trial, FORT
17 LAUDERDALE HOSPITAL's counselors, including but not limited to PATTY
18 SHERMAN, TONY D'MARTINO, PAUL ADAMS, SCOTT GELLER, routinely
19 failed to document any individualized record of patient participation. FORT
20 LAUDERDALE HOSPITAL and BHC submitted claims and received funds from the
21 Federal Programs. On or about March, 1998, BHC's officers, employees, and/or
22 agents (WILLIAM NOLAN, RACHEL ST. JOHN, NEIL CURRY, and another person
23 whose identity is presently unknown to Relators but is known to Defendants) knew that
24 these claims were ineligible for payment and retained the funds received without
25 notifying the Federal Programs.

26
27 **FORT LAUDERDALE HOSPITAL'S PARTIAL HOSPITALIZATION PROGRAM**

28

1 through GERBER, instructed hospital employees, including Relators CHRISTENSEN and
2 CLARK, to verify Medicare coverage and remaining days of inpatient eligibility without
3 requiring PCHI, INTERPHASE, HUTTNER, and KONNELL to provide any descriptive or
4 clinical information.

5
6 **FORT LAUDERDALE HOSPITAL'S PARTIAL HOSPITALIZATION PROGRAM**

7
8 130. FORT LAUDERDALE HOSPITAL seldom if ever provided PHP patients one-
9 on-one consultations with staff therapists until on or about September 1, 1998, when FORT
10 LAUDERDALE HOSPITAL's psychotherapists began meeting with some of the PHP patients
11 weekly.

12
13 131. Beginning on or about March 18, 1998, and continuing through the time of trial,
14 FORT LAUDERDALE HOSPITAL's PHP program admitted many patients who were
15 medically inappropriate for its PHP program: These patients include, but are not limited to:

16
17 131 (A). Patient D.B. admitted on or about 1998, although patient exhibited
18 symptoms of brain damage;

19
20 131 (B). Patient E.J. admitted on or about 1998, although patient exhibited
21 substantial cognitive impairment and/or mental retardation; did not understand
22 his reason for being in PHP and had no goals of participation;

23
24 131 (C). Patient J.E. admitted on or about 1998, was medically inappropriate
25 for the PHP Unit because he suffered from 3+ Edema, had difficulty in his lungs,
26 and needed a pacemaker. Furthermore, Patient J.E. refused to participate in
27 some groups, refused to attend other groups, and was often disruptive.
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131 (D). Patient E.J. admitted on or about 1998, although Patient did not comply with medication prescriptions, was cognitively impaired and did not comprehend his therapy or reasons for being admitted.

132. FORT LAUDERDALE HOSPITAL detained many patients (including but not limited to the patients identified below) for longer than was medically appropriate (if at all) because the patients failed to participate in therapy and/or comply attendance requirements:

132 (A). Patient M.F. admitted on or about April 27, 1998, and was absent April 28, 29, and 30th, 1998. (Relators are informed and believe that failure of a patient to attend PHP for three consecutive days requires patient discharge and renders the beneficiary ineligible for payment.

132 (B). Patient L.C. admitted on or about March 17, 1998, and failed to attend on April 6 through April 9, 1998, and should have been discharged immediately.

132 (C). Patient M.G. admitted on about 1998, who was argumentative and belligerent towards patients and staff during groups, refused to comply with PHP dress code, and attended but did not participate in groups (towards his treatment goals).

133. Beginning on or about March 18, 1998, FORT LAUDERDALE HOSPITAL's officers or agents (including but not limited to KONNELL) began "coaching," instructing and/or threatening persons to lie in order to gain admissions to FORT LAUDERDALE HOSPITAL. Such outpatients include, but not limited to:

133 (A). Patient A.C., admitted on or about March, 1998, although patient admitted he was coached to say he was depressed in order to receive housing and

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food.

133 (B). Patient S.R. admitted although, on or about March 18, 1998, Relator CHRISTENSEN informed GERBER and HUTTNER that S.R. informed staff that "Sam [KONNELL] said to tell you I was suicidal. He said to say I severely depressed and violent but I wasn't comfortable about lying about this." Patient S.R. also explained that KONNELL "threatened me with jail if I did not come here."

133 (C). Persons admitted to the Forensic Unit would routinely ask "did I do good?" (or words to that effect) or state "Sam said to tell you" (or words to that effect) or "I have to come here so I don't go to jail" (or words to that effect).

133 (D). Other persons informed FORT LAUDERDALE HOSPITAL that they were homeless and needed to be admitted in order to obtain food and shelter.

134. Other patients were inappropriate for admission to or continuing treatment at FORT LAUDERDALE HOSPITAL's PHP Program because FORT LAUDERDALE HOSPITAL's PHP Program did not offer counseling or therapy for their psychological condition including but not limited to:

134 (A). Patient HH admitted on or about July 6, 1998, through on or about August 3, 1998, for treatment for depression although the patient suffered from severe anorexia. Furthermore, BHC failed to take and/or analyze patient's EKG results to clear the severely anorexic patient for discharge.

134 (B). Other patients were inappropriate for admission to or continuing treatment at

1 FORT LAUDERDALE HOSPITAL's PHP Program because they presented a threat to
2 the health and/or safety of others. Examples of such patients include:

3
4 134 (C). On or about 1998, FORT LAUDERDALE HOSPITAL admitted Patient J.M.
5 to its PHP program although Patient J.M. suffered from multiple personality disordered
6 and frequently dissociated into alter ego Paco, a gang member who terrorized group
7 therapy sessions and hallways. Furthermore, Patient J.M. who never bathed, refused to
8 see the doctors and smelled of feces.

9
10 134 (D). On or about 1998, FORT LAUDERDALE HOSPITAL admitted a male
11 exhibitionist who frequently masturbated in the transport van in front of female sexual
12 trauma victims.

13
14 134 (E) On or about 1998, FORT LAUDERDALE HOSPITAL admitted Patient M.H.,
15 a delusional psychotic who was a danger to other persons and should not have been
16 admitted to a PHP Unit.

17
18
19 135. Other patients were medically inappropriate for a PHP program but met the
20 criteria for inpatient status. Nevertheless, FORT LAUDERDALE HOSPITAL and
21 PHCI/INTERHASE kept these patients on a PHP basis. Such patients include, but are not
22 limited to:

23
24 135 (A). Patient M.H. (admitted in 1998) who was delusional (e.g., stating that he was
25 a Medicare Investigator) and required restraint by at least 8 male employees on the date
26 he was admitted.

27
28 136. Beginning on or about March 18, 1998, FORT LAUDERDALE HOSPITAL

1 officer, employees and/or agents including, but not limited to: NICOLE NICASTRO,,
2 STANLEY PAYLEY and two therapists known to Relators as Bill [LNU] and David [LNU],
3 began maintaining a blackboard showing preplanned discharge dates for each patient. These
4 discharge dates were (usually) 30 days after admission and were posted without doctor's
5 direction.

6
7 137. Patient DT admitted on or about July 15, 1998, by BREKKA, KONNELL, and
8 employee(s) of FORT LAUDERDALE HOSPITAL's business office who are as yet unknown
9 to Relators, after an assessment by Relator CHRISTENSEN indicated no basis for admitting
10 this patient. Patient DT further told CHRISTENSEN that KONNELL instructed to lie in
11 order to be admitted to FORT LAUDERDALE HOSPITAL. Relator CHRISTENSEN
12 recommended that D.T. was not appropriate for admission to Fort Lauderdale Hospital. Fort
13 Lauderdale Hospital through BREKKA and KONNELL, attempted to intimidate
14 CHRISTENSEN. KONNELL attempted to justify his attempts to admit D.T. to Fort
15 Lauderdale Hospital's Forensic Unit because she was homeless. BREKKA ordered
16 CHRISTENSEN to allow KONNELL to speak to the prospective patient D.T. After this
17 conversation, D.T. suddenly began to portray symptoms of delusional behavior in order to be
18 admitted. BREKKA told Relator CHRISTENSEN "Now you can admit [D.T.], after speaking
19 to Sam [KONNELL], she is delusional" (or words to that effect). Relator CHRISTENSEN
20 refused to recommend that Fort Lauderdale Hospital admit D.T. and wrote a report complaining
21 about this incident. Despite Relator CHRISTENSEN's complaint, BHC and FORT
22 LAUDERDALE HOSPITAL ignored or disregarded CHRISTENSEN's complaint.

23
24 138. Many patients were rapidly and almost continuously readmitted in a rabid attempt
25 to syphon off Medicare funds for the beneficiaries eligibility for in patient treatment and, upon
26 exhaustion of such benefits, eligibility for out patient (e.g., PHP program) benefits. Despite
27 staff complaints that many patients were being admitted against their will, instructed to lie, were
28 inappropriate for admission, or did not evidence any behavior supporting inpatient status,

1 defendants BHC, FORT LAUDERDALE HOSPITAL and PHCI/INTERHASE /CONTINUED
2 CARE and DR. SEELY, DR. PUNJWANI, and COMPASS, frequently readmitted these
3 patients despite lack of improvement. Such patients include, but are not limited to:

4
5 138 (A). Patient J.C., admitted seven (7) times: (1) beginning on or about
6 March 1, 1998, through March 10, 1998 (9 days); (2) March 31, 1998, through
7 April 16, 1998, (16 days); (3) June 21, 1998, through June 23, 1998, (3 days); (4)
8 July 15, 1998, through July 20, 1998, (6 days); (5) July 23, 1998, through July
9 29, 1998, (6 days); (6) August 7, 1998, through August 13, 1998, (6 days); and
10 (7) September 27, 1998, through October [date presently unknown], 1998. These
11 admissions to FORT LAUDERDALE HOSPITAL total at least fifty-eight (58)
12 days;

13
14 138 (B). At all relevant times, DR. SEELY failed to see his patients weekly (as
15 required by Medicare) and, often, delegated the psychological evaluation to a
16 nurse. Relators are informed and believe that DR SEELY applied for and
17 received payments from the Federal Programs for such patients.

18
19 139. FORT LAUDERDALE HOSPITAL by and through NICOLE NICASTRO, its
20 Director the PHP Program, routinely failed to conduct weekly treatment meetings beginning on
21 or about March, 1998, and are informed and believe that FORT LAUDERDALE HOSPITAL's
22 failure to conduct weekly treatment team meetings continues through the present time and the
23 time of trial.

24
25 140. FORT LAUDERDALE HOSPITAL's non-physician employees decide whether
26 to discharge patients without consulting with the physician. FORT LAUDERDALE
27 HOSPITAL, DR. SEELY,
28

1 141. FORT LAUDERDALE HOSPITAL, by and through its supervisory nurses,
2 directed mental health technicians to complete discharge forms (including medications to take
3 after discharge). Relator SHOENFELT filed one or more incident report(s) complaining that
4 this conduct was illegal (or words to that effect) but the problem continued. without corrective
5 action.

6
7 142. At all relevant times, FORT LAUDERDALE HOSPITAL allowed unlicensed
8 and/or uncredentialed persons to provide psychotherapy sessions to patients in the PHP Unit.
9 FORT LAUDERDALE HOSPITAL, by and through its agent NICOLE NICASTRO (PHP Unit
10 Director) fraudulently made entries in patient records that she had attended and supervised the
11 psychotherapy sessions. Relator SHOENFELT complained to BHC officers including CAROL
12 CALDWELL (BHC's attorney) who did nothing.

13
14 143. FORT LAUDERDALE HOSPITAL and the STAFF PHYSICIANS provide
15 inadequate supervision of patients. For example, during DR. SEELY's employment at FORT
16 LAUDERDALE HOSPITAL, DR. SEELY attended approximately two (2) treatment team
17 meetings in the PHP.

18
19 144. FORT LAUDERDALE HOSPITAL and the Defendant Staff Physicians failed to
20 provide PHP patients with adequate after care upon and following patients' release from its PHP
21 program.

22
23 145. FORT LAUDERDALE HOSPITAL, STAFF PHYSICIANS, including, but not
24 limited to DR. SEELY, and employees, including, but not limited to NICOLE NICASTRO,
25 provide prescription drug samples from a cache in NICASTRO NICASTRO's office in FORT
26 LAUDERDALE HOSPITAL although she is not licensed to dispense medication.

27
28 145 (A). Relators are informed and believe and based on them allege that FORT

1 LAUDERDALE HOSPITAL employees, including, but not limited to, NICOLE
2 NICASTRO, (FORT LAUDERDALE HOSPITAL's Director of the PHP Program)
3 dispensed Wellbutrin, Paxil, Remeron, Zoloft, Buspar, and other drugs to patients
4 including H.N., C.E., and B.C., without prescription.

5
6 145 (B). On numerous occasions, the patients' actual behavior did not resemble the
7 descriptions charted by employees of FORT LAUDERDALE HOSPITAL.

8
9 145 (C). Beginning on or about 1996, BHC and/or FORT LAUDERDALE
10 HOSPITAL employees

11
12 146. At all times relevant through the time of trial, FORT LAUDERDALE
13 HOSPITAL's officers instructed employees to record only specified behaviors in patient
14 records and prohibited employees from using terms which would render the patient ineligible
15 for payment and/or continuing stay.

16
17 147. Defendants BHC and FORT LAUDERDALE HOSPITAL continued to admit
18 patients owned or detained by PHCI, INTERPHASE, HUTTNER, KONNELL, and
19 GOLDSTEIN after FORT LAUDERDALE HOSPITAL Admitting & Receiving Staff,
20 including but not limited to Relators CHRISTIANSEN and CLARK, notified officers,
21 employees and agents of defendant BHC and/or FORT LAUDERDALE HOSPITAL, including
22 but not limited to:

- 23
24 (A) MICHAEL GERBER (Administrator of FORT LAUDERDALE HOSPITAL);
25 (B) NICOLE NICASTRO (Director of FORT LAUDERDALE HOSPITAL's PHP
26 Program);
27 (C). DONNA PUTNAM
28

1 despite knowing that such prospective patients did not meet criteria for admission to FORT
2 LAUDERDALE HOSPITAL. Many of these patients were subsequently admitted by other
3 admitting and receiving employees (other than Relators CHRISTIANSEN and CLARK) on
4 shifts when Relators were not on duty; Relators are informed and believe that many of the these
5 so-called "patients" were admitted to SOUTHERN WINDS HOSPITAL and THE RETREAT.
6 Relators CHRISTIANSEN and CLARK complained on numerous occasions to the afore
7 described officers that numerous patients told FORT LAUDERDALE HOSPITAL's employees
8 that patients referred by PHCI, CONTINUED CARE, and/or INTERPHASE told them that
9 KONNELL told these patients to tell hospital staff things that the patients knew were not true in
10 order to be admitted to FORT LAUDERDALE HOSPITAL. BHC and FORT LAUDERDALE
11 HOSPITAL's officers responded by belittling or ridiculing such employee complaints and
12 continued their improper admission practices. On or about November 18, 1998, defendant
13 FORT LAUDERDALE HOSPITAL finally stopped admitting patients referred directly by
14 KONNELL but did not terminate its contract with PCHI.

15
16 148. After numerous objections against fraud by the Relators, BHC's officers,
17 employees, and/or agents, including RACHEL ST. JOHN, WILLIAM NOLAN, and/or other
18 persons whose identity is as yet unknown to Relators, conducted an "audit" which, based upon
19 information and belief, identified at least fifty (50) patients who were ineligible for
20 reimbursement from the Federal Programs. Despite acquiring actual knowledge of the false
21 and fraudulent claims, defendants BHC and FORT LAUDERDALE HOSPITAL retained the
22 federal funds received and failed to notify the Federal Programs that they were entitled to
23 reimbursement.

24
25 149. Defendants BHC and FORT LAUDERDALE HOSPITAL, by and through their
26 officers, employees, and agents, further falsified the then-existing medical records of former
27 patients of FORT LAUDERDALE HOSPITAL in order to conceal the fact that defendants were
28 not eligible to receive reimbursement from the Federal Programs for "treating" these patients.

**RESIDENTIAL PSYCHIATRIC PROGRAMS OTHER THAN BHC:
and THREE QUARTER WAY HOUSES**

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4 150. Relators are informed and believe and based thereon allege that Defendants
5 INTERPHASE, PHCI and/or their officers and agents, including, GOLDSTEIN, HUTTNER,
6 and KONNELL, gave bribes and other remunerations to doctors, hospitals, clinics, and other
7 sources of patient referrals to induce them to refer or direct patients to CHANGING TIMES,
8 THE COVE, FIRST STEP, FOUNDATIONS, and other facilities and programs whose
9 identity is currently unknown to Relators but is known by the defendants. These bribes,
10 kickbacks, and remunerations were evidenced by:

- 11
12 A. BHC's instructions to Relators and other BHC employees to not allow any
13 person "owned" or referred by defendants PHCI, INTERPHASE, CONTINUED
14 CARE KONNELL, or HUTTNER, to leave FORT LAUDERDALE
15 HOSPITAL if FORT LAUDERDALE HOSPITAL did not admit them;
16
17 B. FORT LAUDERDALE HOSPITAL's and BHC's payment of remuneration to
18 PHCI, KONNELL, and/or HUTTNER for patient referrals;
19
20 C. The refusal by INTERPHASE, PHCI, KONNELL, and HUTTNER to refer
21 patients to FORT LAUDERDALE HOSPITAL until BHC and/or FORT
22 LAUDERDALE HOSPITAL agreed to pay bribes, kickbacks or other
23 remuneration to these defendants;
24
25 D. Statements by HUTTNER, CHRIS BECKA, and/or other officers, employees, or
26 agents of INTERPHASE, PHCI, and/or CONTINUED CARE that KONNELL
27 (or his affiliates) received a kickback or payment for each patient admitted to
28 FORT LAUDERDALE HOSPITAL (or words to that effect).

- 1 E. Statements by HUTTNER and KONNELL that they were also acting on
2 behalf of INTERPHASE and CONTINUED CARE.
- 3
- 4 F. Statements by HUTTNER, KONNELL, and/or BREKKA, that HUTTNER,
5 INTERPHASE, PCHI, and/or CONTINUED CARE own, control, or operate
6 other programs including THE COVE, CHANGING TIMES, and FIRST STEP.
- 7
- 8 G. Statements by HUTTNER and KONNELL that they THE RETREAT would
9 accept patients rejected by Relators CHRISTIANSEN and CLARK and other
10 hospital employees because the prospective patients were inappropriate;
- 11
- 12 H. Documents provided to Relators by HUTTNER stating that INTERPHASE
13 was a “network” of “treatment programs” for the dually diagnosed.
- 14
- 15 I. Employees of FIRST STEP, THE COVE, and CHANGING TIMES, frequently
16 threatened to report Relators CHRISTIANSEN and CLARK and other
17 employees of FORT LAUDERDALE HOSPITAL, to HUTTNER, KONNELL,
18 and GERBER, for denying their residents admission to FORT LAUDERDALE
19 HOSPITAL;
- 20
- 21 J. A document distributed by MARK EHRENSHAFT to all FORT LAUDERDALE
22 employees identifying “Associated Business with Jonathan Huttner” including
23 THE COVE, FIRST STEP, CHANGING TIMES and ten additional programs
24 including Phoenix Program, Safe Passage Program, Florida Behavioral Health,
25 Efaro Behavioral Health, Caring Center, Metro Dade Center, Partners Program,
26 Sandalfoot Program, Utopia Half Way House, Remy Half Way House.
- 27
- 28 K. FORT LAUDERDALE HOSPITAL by and through GERBER, KONNELL,

1 HUTTNER, ERINSHAFT, BREKKA, PUTNAM, NICASTRO, D’MARTINO,
2 and other officers and employees, instructed Relators and other employees to
3 discharge patients who were referred to FORT LAUDERDALE HOSPITAL by
4 PCHI, INTERPHASE, HUTTNER or KONNELL only to facilities who PCHI,
5 INTERPHASE, HUTTNER and/or KONNELL choose regardless of patients’
6 express complaints and stated desire.

7
8 L. Observations by Relators of Defendants’ referral patterns to and from FORT
9 LAUDERDALE HOSPITAL evidencing that these defendants frequently
10 received referrals from INTERPHASE, PHCI, HUTTNER, KONNELL of
11 patients controlled by this group.

12
13 M. Instructions by BHC/FORT LAUDERDALE HOSPITAL’s officers to Relators
14 and other employees to not release any person referred by INTERPHASE,
15 PHCI, HUTNER, or KONNELL from FORT LAUDERDALE HOSPITAL
16 until KONNELL HUTNER, and/or other employees of PHCI or
17 INTERPHASE picked up the patients.

18
19 N. BHC and FORT LAUDERDALE HOSPITAL, by and through GERBER, (their
20 facility administrator) instructed employees to place all persons from
21 KONNELL, HUTTNER, and/or PHCI in the Forensic Unit regardless of patients
22 mental condition or treatment needs. KONNELL, GERBER, CHRIS BREKKA,
23 MARK EHRENSHAFT, and NICOLE NICASTRO explained that this was
24 required in order to assure that referral sources “received credit” for their
25 referrals.

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27 O. BHC and FORT LAUDERDALE HOSPITAL’s offers of money or property to
28 employees, including Relator CHRISTENSEN, in order to induce employees to

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cease objecting to fraud on the Medicare Program;

- P. BHC and FORT LAUDERDALE HOSPITAL, by and through GERBER, instructed the Admitting and Receiving employees to NOT ask KONNELL, HUTTNER, or PHCI for clinical information prior to verifying candidates' Medicare eligibility and number of remaining days of Medicare eligibility for inpatient care.

- Q. BHC and FORT LAUDERDALE HOSPITAL, by and through GERBER, BREKNA, NICASTOR, PUTNAM, ERENSHAFT, HUTTNER, and KONNELL pressured, verbally abused, harassed, intimidated, cursed at and threatened FORT LAUDERDALE HOSPITAL Employees including, but not limited to Relators CHRISTIANSEN and CLARK if they did not admit certain patients who where known to be inappropriate (including patients who had been readmitted several times without evidencing improvement);

- R. FORT LAUDERDALE HOSPITAL, by and through GERBER, HUTTNER, NICASTRO, EHRENSHAFT, BREKKA, and KONNELL instructed Relators CHRISTIANSEN and CLARK to assign all patients referred by HUTTNER, KONNELL, PCHI, INTERPHASE, THE COVE, CHANGING TIMES, FIRST STEP, and FOUNDATIONS to DR. SEELY and, beginning on or about September, 1998, to DR PUNJWANI.

- S. The lucrative amount of the spoils to be gained from controlling the referrals of the residents;

- T. Employees and officers of Three Quarter Way Houses who insisted that their residents be admitted and/or threats to turn FORT LAUDERDALE HOSPITAL

1 employees in to HUTTNER; and

2
3 U. Offers of money or property made by defendants to Relator CHRISTENSEN after
4 she called BHC's corporate compliance "hot line".

5
6 151. On or about July, 1998, Relator CASSIS complained to GERBER that FORT
7 LAUDERDALE HOSPITAL's PHP patients were not provided medications and/or were not
8 capable of self administering medications and were not provided adequate medical supervision
9 by many of the THREE QUARTER WAY HOUSES (I.e., FIRST STEP, FOUNDATIONS
10 and THE COVE). Relator CASSIS described the need for discharge planning and patients'
11 right to chose placement. GERBER responded that this was good for business because it would
12 cause the patients to be readmitted to FORT LAUDERDALE HOSPITAL. Relator
13 SHOENFELT informed NICASTRO (Director of the hospital's PHP Program) expressed
14 similar concerns. Despite Relators' complaints, FORT LAUDERDALE HOSPITAL continued
15 to deny patients their right to chose alternative placement and forced all patients to return to
16 inadequate facilities affiliated with the HUTTNER, KONNELL and their affiliates.

17
18 152. Relators are informed and believe that the 3/4 WAY HOUSES warehouse people
19 typically by forcing up to four men to a bedroom in a men to share a two bedroom apartment
20 (or eight persons sharing a two bedroom apartment). Relators are informed and believe and
21 based thereon allege that this overcrowding and vermin infested housing violated local
22 ordinances. These residents were often involved in drugs, prostitution and other illegal
23 activities on premises of their group homes.

24
25 153. Relators are informed and believe and based thereon allege that these patients
26 did not receive adequate medical care (including a routine lack of medication administration
27 leading to frequent decompensation) and were inadequately supervised.

28

OTHER ALLEGATIONS:

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2
3 154. Relators are informed and believe and based thereon allege that each of the
4 patients referenced in this complaint were beneficiaries of the Medicare, Medicaid, CHAMPUS,
5 TRICARE, SLIAG, and/or FEHB Programs. Other patients were covered beneficiaries of
6 Federal Programs because they were members of the FLORIDA SEMINOLE TRIBE .

7
8 155. Thereafter, Defendants BHC, FORT LAUDERDALE HOSPITAL, the STAFF
9 PHYSICIANS, COMPASS, INTERPHASE, PCHI, CONTINUED CARE, SOUTHERN
10 WINDS, and THE RETREAT and other employees presently unidentified, acting on behalf of
11 these Defendants, would submit false and fraudulent claims for payment to the appropriate
12 officers and/or employees of the United States Government pursuant to the Medicare and
13 Medicaid programs. All monies received from the false claims were paid to and received by
14 the Defendants were deposited to their accounts or accounts of their officers, agents, directors,
15 shareholders or medical directors.

16
17 156. According to Relators' best estimate and based upon his investigation of these
18 fraudulent acts by Defendants BHC, FORT LAUDERDALE HOSPITAL, the STAFF
19 PHYSICIANS, COMPASS, INTERPHASE, PCHI, CONTINUED CARE and THE RETREAT,
20 these Defendants submitted a substantial number of false and/or fraudulent invoices for
21 outpatient claims for reimbursement from the Medicare and Medicaid programs to the United
22 States Government, its officers and/or employees. The Relators believe that the United States
23 of America is entitled to a substantial award consisting of a statutory fines and treble damages.

24
25 157. Accordingly, Plaintiff will show that Defendant COMPASS, SEGAL,
26 PUNJWANI, and SEELY, through the acts of their officers, knowingly presented or caused to
27 be presented to an officer or employee of the United States Government a false or fraudulent
28 claim for approval to the damage of the United States Treasury.

1 158. Relators are informed and believe and, therefore, allege that the aforesaid acts
2 have been undertaken by Defendants PHCI, GOLDSTEIN, HUTNER, KONNELL, since at
3 least March 17, 1994, and continue through the time of trial.

4
5 159. Relators are informed and believe and based thereon allege that the afore
6 described acts have been undertaken by Defendants BHC, GERBER, SEELY, PUTNAM,
7 NICASTRO, DR. SEELY, DR. PUNJWANI, DR. SEGAL, and COMPASS, since at least on
8 or about March 7, 1998, and continuing through the time of trial.

9
10 160. Relators are informed and believe and based thereon allege that the afore
11 described acts have been undertaken by Defendants CHANGING TIMES, THE COVE, FIRST
12 STEP, THE FOUNDATION, THE RETREAT, and SOUTHERN WINDS HOSPITAL, since
13 on or about November 1, 1992, and continuing through the time of trial.

14
15 FIRST CAUSE OF ACTION

16
17 161. Plaintiffs hereby reallege and incorporate paragraphs 1 - 160 as if fully set forth
18 herein.

19
20 162. Beginning on dates known to the Defendants but unknown to the Relators and
21 continuing through the time of trial, Defendants knowingly, or in reckless disregard of the truth,
22 presented false claims to the United States by submitting, for Federal Program beneficiaries,
23 requests for payment for the provision of psychological services (e.g., inpatient hospitalization,
24 group homes, etc.) and physician services that they knew were ineligible for reimbursement.

25
26 163. Defendants knowingly presented or caused to be presented to an officer or
27 employee of the United States government false or fraudulent claims for approval to the damage
28 of the United States.

1 164. By virtue of this scheme, Defendants defrauded the United States and the
2 Federal Programs of an amount substantially exceeding one million dollars.

3
4 **SECOND CAUSE OF ACTION**

5
6 165. Relator repeats and repleads and incorporates by reference each and every one of
7 the allegations contained in paragraphs 1- 160, inclusive, and Paragraph 162-164 of the First
8 Cause of Action as though fully set forth herein.

9
10 166. In performing the acts herein above alleged Defendants, and each of them,
11 knowingly made, used, or caused to be made or used, a false record or statement to get a false or
12 fraudulent claim paid or approved by the Government to the damage of the Treasury of the
13 United States.

14
15 **THIRD CAUSE OF ACTION**
16 **WRONGFUL DISCHARGE - CLARK**

17 167. Relator Clark realleges and incorporates by reference paragraphs 7 and 13-14,
18 66-156, 162-3, and 166 of this Complaint as though fully set forth herein.

19 168. This Court has subject matter jurisdiction pursuant to 28 U.S.C. 1331 and 31
20 U.S.C. § 3730(h).

21
22 169. This is an action against Behavioral Healthcare Corporation, Behavioral
23 Healthcare Corporation of Delaware, Inc. BHC Fort Lauderdale Hospital, Inc., d/b/a Fort
24 Lauderdale Hospital and Fort Lauderdale Hospital Management, LLC. At the time of the
25 retaliatory discharge, the Relator was employed by BHC Fort Lauderdale Hospital, Inc. d/b/a
26 Fort Lauderdale Hospital. Upon information and belief, its parent company was Behavioral
27 Healthcare Corporation and/or Behavioral Healthcare Corporation of Delaware, Inc. On or
28 about July 31, 1999, Fort Lauderdale Hospital Management, LLC, acquired BHC Fort

1 Lauderdale Hospital, Inc., d/b/a Fort Lauderdale Hospital, including its assets and liabilities.

2
3 170. In or about 1998, Relator Clark was engaged in lawful conduct in furtherance of
4 an action to be filed under the Federal Civil False Claims Act.

5
6 171. Relator Clark complained to his supervisors about the false claims being
7 committed as described hereinabove.

8
9 172. In the fall of 1998, Relator was discharged from his employment by Defendant as
10 a result of his lawful acts in furtherance of an action under this section, 31 U.S.C. § 3730 (h)
11 including investigation for an action under this section. Defendant knew that Relator Clark was
12 engaged in this protected activity, to wit, investigation of false billing, had in fact specifically
13 complained to Defendants and their agents, both in writing and orally, and wrongfully
14 discharged Relator Clark because of that activity.

15
16 173. As a direct and proximate result of Defendant's unlawful discharge in violation
17 of 31 U.S.C. § 3730 (h), Relator has suffered serious economic hardship, including lost wages
18 and special damages associated with his efforts to obtain alternative employment, in an amount
19 to be proved at trial.

20
21 174. That relator be awarded all relief necessary to make him whole including, but not
22 limited to, two times his back pay and other compensatory damages sustained by reason of
23 Defendant's discrimination and retaliation.

24
25 **FOURTH CAUSE OF ACTION**
26 **WRONGFUL DISCHARGE -CASSIS**

27
28 175. Relator Cassis realleges and incorporates by reference paragraphs 9 and 13-14,

1 66-156, 162-3, and 166 of this Complaint as though fully set forth herein. This Court has
2 subject matter jurisdiction pursuant to 28 U.S.C. 1331 and 31 U.S.C. § 3730(h).

3
4 176. This is an action against Behavioral Healthcare Corporation, Behavioral
5 Healthcare Corporation of Delaware, Inc. BHC Fort Lauderdale Hospital, Inc., d/b/a Fort
6 Lauderdale Hospital and Fort Lauderdale Hospital Management, LLC. At the time of the
7 retaliatory discharge, the Relator was employed by BHC Fort Lauderdale Hospital, Inc. d/b/a
8 Fort Lauderdale Hospital. Upon information and belief, its parent company was Behavioral
9 Healthcare Corporation and/or Behavioral Healthcare Corporation of Delaware, Inc. On or
10 about July 31, 1999, Fort Lauderdale Hospital Management, LLC, acquired BHC Fort
11 Lauderdale Hospital, Inc., d/b/a Fort Lauderdale Hospital, including its assets and liabilities.

12
13 177. In or about 1998, Relator Cassis was engaged in lawful conduct in furtherance of
14 an action to be filed under the Federal Civil False Claims Act.

15 178. Relator Cassis complained to his supervisors about the false claims being
16 committed as described hereinabove.

17 179. In the Fall of 1998, Relator was discharged from his employment by Defendant
18 as a result of his lawful acts in furtherance of an action under this section, 31 U.S.C. § 3730 (h)
19 including investigation for an action under this section. Defendant knew that Relator Cassis
20 was engaged in this protected activity, to wit, investigation of false billing, had in fact
21 specifically complained to Defendant both in writing and orally, and wrongfully discharged
22 Relator Cassis because of that activity.

23
24 180. As a direct and proximate result of Defendant's unlawful discharge in violation
25 of 31 U.S.C. § 3730 (h), Relator has suffered serious economic hardship, including lost wages
26 and special damages associated with his efforts to obtain alternative employment, in an amount
27 to be proved at trial.
28

1 181. That relator be awarded all relief necessary to make him whole including, but not
2 limited to, two times his back pay and other compensatory damages sustained by reason of
3 Defendant's discrimination and retaliation.

4
5 **FIFTH CAUSE OF ACTION**

6 **WRONGFUL DISCHARGE -CHRISTENSEN**

7 182. Relator Christensen realleges and incorporates by reference paragraphs 6 and 13-
8 14, 66-156, 162-3 and 166 of this Complaint as though fully set forth herein. This Court has
9 subject matter jurisdiction pursuant to 28 U.S.C. 1331 and 31 U.S.C. § 3730(h).

10
11 183. This is an action against Behavioral Healthcare Corporation, Behavioral
12 Healthcare Corporation of Delaware, Inc. BHC Fort Lauderdale Hospital, Inc., d/b/a Fort
13 Lauderdale Hospital and Fort Lauderdale Hospital Management, LLC. At the time of the
14 retaliatory discharge, the Relator was employed by BHC Fort Lauderdale Hospital, Inc. d/b/a
15 Fort Lauderdale Hospital. Upon information and belief, its parent company was Behavioral
16 Healthcare Corporation and/or Behavioral Healthcare Corporation of Delaware, Inc. On or
17 about July 31, 1999, Fort Lauderdale Hospital Management, LLC, acquired BHC Fort
18 Lauderdale Hospital, Inc., d/b/a Fort Lauderdale Hospital, including its assets and liabilities.

19
20 184. In or about 1998, Relator Christensen was engaged in lawful conduct in
21 furtherance of an action to be filed under the Federal Civil False Claims Act.

22
23 185. Relator Christensen complained to her supervisors about the false claims being
24 committed as described hereinabove.

25
26 186. In the Fall of 1998, Relator was discharged from her employment by Defendant
27 as a result of her lawful acts in furtherance of an action under this section, 31 U.S.C. § 3730 (h)
28 including investigation for an action under this section. Defendant knew that Relator

1 Christensen was engaged in this protected activity, to wit, investigation of false billing, had in
2 fact specifically complained to Defendant both in writing and orally, and wrongfully discharged
3 Relator Christensen because of that activity.

4
5 187. As a direct and proximate result of Defendant's unlawful discharge in violation
6 of 31 U.S.C. § 3730 (h), Relator has suffered serious economic hardship, including lost wages
7 and special damages associated with her efforts to obtain alternative employment, in an amount
8 to be proved at trial.

9
10 188. That relator be awarded all relief necessary to make her whole including, but not
11 limited to, two times her back pay and other compensatory damages sustained by reason of
12 Defendant's discrimination and retaliation.

13
14
15 **SIXTH CAUSE OF ACTION**
16 **WRONGFUL DISCHARGE -D'ANDREA**

17
18 189. Relator D'Andrea realleges and incorporates by reference paragraphs 11 and 13-
19 14, 66-156, 162-3 and 166 of this Complaint as though fully set forth herein. This Court has
20 subject matter jurisdiction pursuant to 28 U.S.C. 1331 and 31 U.S.C. § 3730(h).

21
22 190. This is an action against Behavioral Healthcare Corporation, Behavioral
23 Healthcare Corporation of Delaware, Inc. BHC Fort Lauderdale Hospital, Inc., d/b/a Fort
24 Lauderdale Hospital and Fort Lauderdale Hospital Management, LLC. At the time of the
25 retaliatory discharge, the Relator was employed by BHC Fort Lauderdale Hospital, Inc. d/b/a
26 Fort Lauderdale Hospital. Upon information and belief, its parent company was Behavioral
27 Healthcare Corporation and/or Behavioral Healthcare Corporation of Delaware, Inc. On or
28 about July 31, 1999, Fort Lauderdale Hospital Management, LLC, acquired BHC Fort

1 Lauderdale Hospital, Inc., d/b/a Fort Lauderdale Hospital, including its assets and liabilities.

2
3 191. In or about 1998, Relator D'Andrea was engaged in lawful conduct in
4 furtherance of an action to be filed under the Federal Civil False Claims Act.

5 192. Relator D'Andrea complained to her supervisors about the false claims being
6 committed as described hereinabove.

7 193. In the Fall of 1998, Relator was discharged from her employment by Defendant
8 as a result of her lawful acts in furtherance of an action under this section, 31 U.S.C. § 3730 (h)
9 including investigation for an action under this section. Defendant knew that Relator D'Andrea
10 was engaged in this protected activity, to wit, investigation of false billing, had in fact
11 specifically complained to Defendant both in writing and orally, and wrongfully discharged
12 Relator D'Andrea because of that activity.

13
14 194. As a direct and proximate result of Defendant's unlawful discharge in violation
15 of 31 U.S.C. § 3730 (h), Relator has suffered serious economic hardship, including lost wages
16 and special damages associated with her efforts to obtain alternative employment, in an amount
17 to be proved at trial.

18
19 195. That relator be awarded all relief necessary to make her whole including, but not
20 limited to, two times her back pay and other compensatory damages sustained by reason of
21 Defendant's discrimination and retaliation.

22
23 **SEVENTH CAUSE OF ACTION**
24 **WRONGFUL DISCHARGE -CONNOLLY**

25
26 196. Relator Connolly realleges and incorporates by reference paragraphs 12,
27 and 13-14, 66-156, 162-3, and 166 of this Complaint as though fully set forth herein. This Court
28 has subject matter jurisdiction pursuant to 28 U.S.C. 1331 and 31 U.S.C. § 3730(h).

1 197. This is an action against Behavioral Healthcare Corporation, Behavioral
2 Healthcare Corporation of Delaware, Inc. BHC Fort Lauderdale Hospital, Inc., d/b/a Fort
3 Lauderdale Hospital and Fort Lauderdale Hospital Management, LLC. At the time of the
4 retaliatory discharge, the Relator was employed by BHC Fort Lauderdale Hospital, Inc. d/b/a
5 Fort Lauderdale Hospital. Upon information and belief, its parent company was Behavioral
6 Healthcare Corporation and/or Behavioral Healthcare Corporation of Delaware, Inc. On or
7 about July 31, 1999, Fort Lauderdale Hospital Management, LLC, acquired BHC Fort
8 Lauderdale Hospital, Inc., d/b/a Fort Lauderdale Hospital, including its assets and liabilities.
9

10 198. In or about 1998, Relator Connolly was engaged in lawful conduct in furtherance
11 of an action to be filed under the Federal Civil False Claims Act.

12 199. Relator Connolly complained to his supervisors about the false claims being
13 committed as described hereinabove.

14 200. In the Fall of 1998, Relator was discharged from his employment by Defendant
15 as a result of his lawful acts in furtherance of an action under this section, 31 U.S.C. § 3730 (h)
16 including investigation for an action under this section. Defendant knew that Relator Connolly
17 was engaged in this protected activity, to wit, investigation of false billing, had in fact
18 specifically complained to Defendant both in writing and orally, and wrongfully discharged
19 Relator Connolly because of that activity.

20 201. As a direct and proximate result of Defendant's unlawful discharge in violation
21 of 31 U.S.C. § 3730 (h), Relator has suffered serious economic hardship, including lost wages
22 and special damages associated with his efforts to obtain alternative employment, in an amount
23 to be proved at trial.

24 202. That relator be awarded all relief necessary to make him whole including, but not
25 limited to, two times his back pay and other compensatory damages sustained by reason of
26 Defendant's discrimination and retaliation.
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PRAYER FOR RELIEF

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- 1. Judgment against the Defendants in an amount equal to three times the damages sustained by the United States as a result of Defendants' conduct;
- 2. A civil penalty of not less than five thousand dollars (\$5,000.00) and not more than ten thousand dollars (\$10,000.00) for each violation of 31 U.S.C. § 3729;
- 3. That Relators, as Qui Tam Plaintiffs, be awarded the maximum amount allowed pursuant to 31 U.S.C. §3730(d) and/or any other applicable provision of law;
- 4. Attorney's fees and costs pursuant to 31 U.S.C. § 3730 (d)(1) according to proof;
- 5. That relators be awarded all relief they are entitled to under 31 U.S.C. §3730(h), as a result of the Defendant's discrimination and retaliation.

For All Causes of Action

- 1. For such other and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

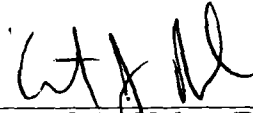
Relators demand a trial by jury for all issues so triable.

RESPECTFULLY SUBMITTED this 10th day of July, 2000.

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CERTIFICATION

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this
10th day of July, 2000 to: Lisa Barquist, Assistant United States Attorney, 99 NE 4th Street
Miami, FL 33132.



Kenneth J. Nolan, Esq.
Kenneth J. Nolan, P.A.
350 E. Las Olas Blvd., Suite 1270
Fort Lauderdale, FL 33301
Telephone (954) 929-4850
Fax: (954) 929-6603

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 maintaining the case sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**MAGISTRATE
BANDSTRA**

I (a) PLAINTIFFS United States of America, **DEFENDANTS** Preferred Healthcare Consultants, Inc., Compass Health Systems, P.A., Behavioral Healthcare Corporation of Delaware, Behavioral Healthcare Corporation, et.al.

ex rel, Deborah Louise Christensen, Benjamin Clark, Jimmy Cassis, Dulce Marie Bustamante, Reba E. Shoenfelt, Carlese Abrielle D'Andrea and James Robert Connolly

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

1:98cv3021-PAS/TEB

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Dade
(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, AND TELEPHONE NUMBER)

Donald E. Petersen
P.O. Box 1948
Orlando, FL 32802
(407) 648-9050

ATTORNEYS (IF KNOWN)

Action Arises in Dade County

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)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. 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: Qui Tam action brought pursuant to 31U.S.C. 3729 et. seq. concerning fraud against Medicare and other healthcare programs.

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Other Personal Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R R & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl Ret Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395H) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/OIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U S Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other		

VI. 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 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____ Check YES only if demanded in complaint **JURY DEMAND:** YES NO

VIII. RELATED CASE(S) IF ANY (See instructions): N/A JUDGE _____ DOCKET NUMBER _____

DATE: December 7, 1998 SIGNATURE OF ATTORNEY OF RECORD: *[Signature]* Saul Smolens

UNITED STATES DISTRICT COURT 515196 - \$150,000 12-10-98