

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

8:15 cv 1408 T 30 EAS

UNITED STATES OF AMERICA,)
ex rel. Geraldine Petrowski)

CIVIL ACTION NO. _____

STATE OF FLORIDA, *ex rel.*)
Geraldine Petrowski;)

COMPLAINT FOR FALSE CLAIMS
ACT VIOLATIONS UNDER 31 U.S.C
§ 3729(a)(1)(A)(B)(C) AND FLORIDA
LAW COUNTERPARTS

Plaintiffs,)

JURY TRIAL DEMANDED

v.)

Epic Systems Corporation,)

and

ACCESS Community Health Network;)

Advantagecare Physicians;)

Adventist Medical Center - Portland;)

Akron Children's Hospital;)

Alegent Creighton Health;)

Allegheny Health Network (AHN);)

Allina Health Systems;)

Altru Health System;)

Ann & Robert H. Lurie Children's)

Hospital;)

Anne Arundel Medical Center;)

Asante Health Systems;)

Aspirus;)

Atlantic Health;)

Atrius Health;)

Aurora Health Care;)

Austin Regional Clinic;)

Baptist Health Medical Center -)

Arkansas;)

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Baptist Health System;)
Baptist Memorial Health Care)
Corporation;)
Bassett Healthcare;)
Baylor College of Medicine;)
Beaumont Health System;)
Bon Secours Health System;)
Boston Medical Center;)
Bronson Healthcare Group;)
Brookdale University Hospital and)
Medical Center;)
Buffalo Medical Group;)
CHI St. Luke's Health;)
CVS/MinuteClinic;)
Cadence Health;)
Cambridge Health Alliance;)
Capital Area Shared Services)
Organization;)
Care New England;)
Carilion Clinic;)
Carle Foundation Hospital & Physician)
Group;)
Catholic Health Services of Long Island)
(CHS);)
Cedars-Sinai Health System;)
CentraCare Health and Affiliates;)
Cheyenne Regional Medical Center;)
Children's Health System of Texas;)
Children's Healthcare of Atlanta;)
Children's Hospital & Medical Center of)
Omaha;)
Children's Hospital & Research Center)
at Oakland;)
Children's Hospital Colorado;)
Children's Hospital of Wisconsin;)
Cincinnati Children's Hospital and)
Medical Center;)
Cleveland Clinic;)
Community Health Network;)
Community Healthcare System;)
Community Medical Centers;)

Cone Health;)
Confluence Health;)
Connecticut Children's Medical Center;)
Contra Costa County Health Services)
Department;)
Cooper University Health Care;)
Covenant Health;)
Dartmouth-Hitchcock;)
Dayton Children's Hospital;)
Deaconess Health Systems;)
Dean Clinic, SSM Health Care)
of WI & Affiliates and Associated)
Practice Groups;)
Dreyer Medical Clinic;)
Driscoll Children's Hospital;)
Duke University Health System;)
Edward Elmhurst HealthCare & DuPage;)
East Boston Neighborhood Health)
Center;)
Medical Group;)
Elliot Health System;)
Essentia Health;)
Fairview;)
Florida Hospital;)
Franciscan Alliance;)
Franciscan Health System;)
Froedtert & Community Hospital;)
Geisinger;)
Genesis HealthCare System;)
Glens Falls Hospital;)
Grady Health System;)
Greater Hudson Valley Health System;)
Group Health Centre;)
Group Health Cooperative Washington)
(GHC);)
Group Health Cooperative of South;)
Central Wisconsin (GHCSW);)
Gundersen Lutheran Medical Center,)
Inc.;)
HCA Central and West Texas Division;)
Gundersen Clinic, Ltd.;)

HCA Mountain Division;)
HSHS Division - Eastern Wisconsin)
and Prevea Health;)
Hackensack University Medical Center;)
Harris County Hospital District;)
Hattiesburg Clinic and Forrest General)
Hospital;)
Hawaii Pacific Health;)
Health Ventures of Central Iowa;)
HealthEast Care System;)
HealthPartners;)
HealthSpan;)
Heart of Texas CHC;)
Hennepin County Medical Center;)
Henry Ford Health System;)
HonorHealth;)
Hurley Medical Center;)
Indiana University Health Arnett;)
Infirmary Health Systems;)
Inova Health System;)
Institute For Family Health;)
JPS Health Network;)
John Muir Health;)
Johns Hopkins Medicine;)
Kadlec Health Systems;)
Kaiser Georgia;)
Kaiser Northwest;)
Kaiser Permanente Colorado;)
Kaiser Permanente Hawaii;)
Kaiser Permanente Mid-Atlantic;)
Kaiser Permanente Northern California;)
Kaiser Permanente Southern California;)
Kelsey-Seybold Clinic;)
Kettering Health Network;)
King's Daughters Medical Center;)
Lahey Health;)
Lakeland Regional Health System;)
Lancaster General Health;)
Lee Memorial Health System;)
Legacy Health;)
Lehigh Valley Health Network;)

Leon Medical Centers;)
Lexington Medical Center;)
Lifespan;)
Loma Linda University Health System;)
Louisiana State University Health)
System;)
Loyola University Medical Center;)
MaineHealth;)
Maricopa Integrated Health System;)
Martin Health System;)
MediSys Health Network;)
Medical University of South Carolina;)
Memorial Health University Physicians;)
Memorial Healthcare System (MHS);)
MemorialCare;)
Mercy Health Services;)
Mercy Health System;)
Mercy Health- NWA, OK, KS Area;)
Mercy Health- OH, KY;)
Mercy Health- SGF, HTSP, FTSM,)
Joplin, Lebanon, Rolla;)
Mercy Health- STL and WASH;)
Mercy Medical Center - MercyCare;)
Meriter Hospital, Meriter Medical Group)
and Community Connect Partners;)
Methodist Hospitals;)
Metro Health Hospital;)
MetroHealth;)
Monroe Clinic;)
Montefiore Medical Center;)
Mount Sinai Medical Center FL;)
MultiCare Health System;)
NYU Langone Medical Center;)
Nationwide Children's Hospital;)
Nebraska Medicine;)
Nemours;)
New Hanover Regional Medical Center;)
North Memorial Health Care;)
North Oaks Health System;)
NorthShore University HealthSystem;)
Northwest Community Hospital;)

Northwestern Memorial Healthcare;)
Norton Healthcare;)
Novant Health;)
OCHIN;)
OSF Healthcare;)
Oakwood Healthcare, Inc;)
Ochsner Health Systems;)
Ohio State University's Wexner)
Medical Center;)
OhioHealth;)
Oregon Health & Science University;)
Overlake Hospital Medical Center;)
Owensboro Health;)
Pacific Medical Centers;)
Park Nicollet Health Services;)
Parkland;)
Parkview Health;)
Partners HealthCare;)
Patient Care Hub;)
PeaceHealth;)
Piedmont Healthcare;)
Premier Health;)
Presbyterian Healthcare Services;)
Presence Health;)
Prohealth Care;)
Providence Health & Services Alaska;)
Providence Health Network - Waco, TX;)
Providence Health and Services Oregon)
and California;)
Providence Health and Services;)
Washington and Montana;)
Rady Children's Hospital;)
Reading Health System;)
Reliant Medical Group, Inc.;)
Renown Health;)
Riverbend Medical Group;)
Riverside Medical Clinic ;)
Rochester General Health System;)
Rockford Health System;)
Rush University Medical Center;)

SCL Health;)
SSM Health Care & Affiliates, and)
Associated Physician Practices;)
Saint Francis Health System;)
Saint Louis University;)
Saint Luke's Health System;)
Salem Health;)
Samaritan Health Services;)
Sanford Health;)
Sansum Clinic;)
Santa Clara Valley Medical Center;)
Scott and White Healthcare;)
Sentara Healthcare;)
Singing River Health System;)
Southcoast Health;)
Sparrow Health System;)
Spectrum Health Ambulatory Clinics;)
St Francis Care;)
St. Anthony's Medical Center;)
St. Elizabeth Health Care;)
St. Joseph's Hospital Health Center;)
St. Luke's Health System;)
Stanford Children's Health;)
Stanford Hospital & Clinics;)
and University Healthcare Alliance;)
Stormont-Vail Healthcare;)
Sutter Health Affiliates)
and Community Connect Practices;)
Swedish Medical Center;)
SwedishAmerican Health System;)
Tampa General Hospital;)
Temple Health;)
Texas Children's Hospital;)
Texas Health Resources;)
The Children's Hospital of Philadelphia;)
The Christ Hospital;)
The Everett Clinic;)
The Guthrie Clinic;)
The Mount Sinai Health System;)
The Portland Clinic;)
The Queen's Health Systems;)

The Vancouver Clinic;)
ThedaCare;)
TriHealth;)
Trinity Mother Frances Health System;)
Tucson Medical Center;)
UC Davis Health System;)
UC Health;)
UC San Diego Health System;)
UCLA Medical Center;)
UCSF Health;)
UNC Health Care;)
UT Medicine San Antonio;)
UT Southwestern Medical Center;)
UTMB - Health;)
UW Health & Affiliates - Wisconsin;)
UW Medicine - Washington;)
UnityPoint Health;)
University Health;)
University Health Care System;)
University Hospital of New Jersey;)
University of Arizona Health Network;)
University of Arkansas for Medical)
Sciences;)
University of Chicago Medicine;)
University of Colorado Health;)
University of Florida Health;)
University of Iowa Hospitals and)
Clinics (UIHC);)
University of Kansas Hospital System;)
University of Maryland Medical System;)
University of Miami UHealth;)
University of Michigan Health System;)
University of Mississippi Medical Center;)
University of Pennsylvania Health)
Systems;)
University of Pittsburgh Medical Center)
(UPMC);)
University of Rochester Medical Center;)
University of Utah Health Care;)
University of Vermont Medical Center;)
University of Virginia Medical Center;)

Upstate Medical University;)
 Valley Medical Center;)
 Vidant Health;)
 Wake Forest Baptist Medical Center;)
 Washington Hospital Healthcare System;)
 Weill Cornell Medical College;)
 WellStar Health System;)
 Wellmont Health System;)
 West Bend Clinic & St. Joseph's)
 Hospital;)
 West Virginia University Healthcare;)
 Wheaton Franciscan Healthcare;)
 Yale New Haven Health System/Yale;)
 Medical Group (YNHHS/YMG);)
 Yuma Regional Medical Center;)
 Defendants.)
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COMPLAINT FOR FALSE CLAIMS ACT VIOLATIONS

UNDER 31 U.S.C. § 3729(a)(1)(A)(B)(C)

The United States of America and the State of Florida, by and through *qui tam* Relator, **Geraldine Petrowski (Petrowski)** brings this action under 31 U.S.C. § 3729(a)(1)(A)(B)(C) (“False Claims Act”) to recover all damages, penalties and other remedies established by the False Claims Act on behalf of the United States and themselves, and would show the following:

I. INTRODUCTION

1. Florida’s Medicaid is the state and federal partnership that provides health coverage for selected categories of people with low incomes. Its purpose is to improve the health of people who might otherwise go without medical care for themselves and their children.

2. Florida’s Medicare is a crucial safety net for individuals who are at least sixty-five (65) years old or have a permanent disability. The Medicare program costs are paid by U.S. citizens under the *Federal Insurance Contributions Act* (FICA). Overall, the program accounts for approximately thirteen

percent (13%) of the federal budget, with an estimated annual cost of two hundred and seventy-seven billion dollars (\$277,000,000,000).

3. Nationally, Medicaid and Medicare have been subject to fraud and abuse by unscrupulous providers who have put profits above the public good. Those fraudulent schemes have threatened to diminish the quality of care, burdened taxpayers, and degrade the medical profession. The Relator alleges extensive improper billing practices and noncompliance issues by **Epic Systems Corporation (ESC)** and other named **Defendants**.

4. This suit concerns fraud perpetrated against the U.S. Government through false and fraudulent billing in order to procure Medicare and Medicaid paid business. As a result of this nationwide scheme, **Defendants** reaped profits far beyond those they would have achieved from legitimate promotion of its business.

II. PARTIES

5. **Geraldine Petrowski** (“**Petrowski**” or “**Relator**”) is a citizen of the United States of America and a resident of the state of North Carolina. Relator brings this civil action for violations of 31 U.S.C. § 3729(a)(1)(A)(B)(C), for herself and for the United States Government pursuant to 31 U.S.C. § 3730(b)(1).

6. Defendant, **Epic Systems Corporation** (“**ESC**” or “**Defendant**”), is a national corporation with its principal place of business in Verona, Wisconsin. **ESC** conducts extensive business in the Tampa Bay region, the State of Florida and throughout the United States. **Epic Systems Corporation** is a privately held healthcare software company. According to the company, hospitals that use its software, hold medical records of 54% of patients in the U.S., and 2.5% of patients worldwide. **ESC** was founded in 1979 by Judith R. Faulkner. Originally headquartered in Madison, Wisconsin, **ESC** moved its headquarters to a large campus in the suburb Verona, Wisconsin in 2005, where it now employs more than 8000 people.

ESC's market focus is large health care organizations. ESC offers an integrated suite of health care software centered on a Caché database provided by InterSystems. Their applications support functions related to patient care, including registration and scheduling; clinical systems for doctors, nurses, emergency personnel, and other care providers, including systems for lab technologists, pharmacists, and radiologists. ESC also offers billing systems for private insurers and Medicare and Medicaid. In total, ESC has 315 customers. This includes 69% of Stage 7 U.S. Hospitals, 71% of children's hospitals, and 83% of Stage 7 Clinics.

All **Defendants** other than ESC are healthcare providers and customers of ESC who utilize ESC software to account for and bill all medical procedures including, but not limited to those procedures provided pursuant to Medicare and Medicaid. In 2003, Kaiser Permanente, the largest managed care organization in the United States, chose ESC for its electronic records system. **Defendant Tampa General Hospital** utilizes ESC's billing software and is located in Tampa Florida.

III. JURISDICTION AND VENUE

7. This action arises under the False Claims Act, 31 U.S.C. § 3729(a)(1)(A)(B)(C).
8. Jurisdiction over this action is conferred on this Court by 31 U.S.C. 3732(a) and 28 U.S.C. 1331 in that this action arises under the laws of the United States of America.
9. Venue is proper in the United States District Court for the Middle District of Florida, Tampa Division, pursuant to 28 U.S.C. § 1391(b) and (c), and 31 U.S.C. § 3732(a) because the **Defendant** transacts business in this District, and the practices forming the basis for the Complaint occurred in this District.

IV. PRELIMINARY STATEMENT

10. Relator, **Petrowski**, was employed by WakeMed Health and Hospitals from September 2008 to June 2014. From September 2008 to September 2012, Relator, **Petrowski** worked with the compliance team as a Compliance Review Specialist. From September 2012 to June 2014, Relator, **Petrowski** was the Supervisor of Physician's Coding, and served as the hospital liaison regarding **ESC's** implementation of its software at WakeMed Health and Hospitals.

11. Relator, **Petrowski**, has firsthand knowledge of **ESC's** Epic software coding protocols/settings that incorrectly bill anesthesia charges by hospitals which have obtained **Epic** Systems Electronic Health Records and billing software products.

12. On behalf of WakeMed Health and Hospital's in implementing Epic billing system, Relator, **Petrowski**, travelled to Verona, WI for a week of training for **Epic's** Resolute Billing Charge Capture system. After training, **Petrowski** became certified by **ESC** as a Charge Capture Analyst for **Epic's** 2012 and 2014 systems. As part of this effort, Relator, **Petrowski**, was involved in deciding which CPT codes to load, ensuring that pricing was correct, verifying that documentation was completed, and triggered the correct code which mapped to the same code on the claim form. Additionally, she set up several work queues so that **Petrowski's** coding staff would be able to receive their assigned work each day.

13. Relator, **Petrowski**, worked vigorously to ensure that the **ESC** software code regarding anesthesia billing and procedure coding complied with Medicare and Medicaid guidelines. It was during this process that Relator, **Petrowski**, began to develop major concerns in regard to incorrect billing practices that were driven by the **ESC** billing software.

14. Relator, **Petrowski**, explained that effective January 1st, 2012, Medicare changed its billing and reimbursement practices regarding anesthesia services. Under the new regulations, base units were automatically reimbursed and should not be reported/billed. Instead, the new regulations provided that only the physician's actual time on the procedure should be submitted/billed, because

the reimbursement protocol would automatically add-in and reimburse for the appropriate base unit associated with the medical procedure performed. The claim form for such billing was changed from form 4010 to form 5010. ESC's Epic software, however, continued to automatically include the base units as part of the bill. When received the automatic unit reimbursement protocol in place resulted in the provider being reimbursed twice for the unit component resulting in a double billing. Indeed, Relator **Petrowski** went so far as providing examples to Epic's representatives illustrating this unlawful practice. Initially, Relator, **Petrowski's** advice went unheeded, as she was told by ESC that **"all other hospitals are billing base units."**

15. Relator, **Petrowski**, met with Epic's representatives again after determining that their software's default protocol for anesthesia incorrectly billed base units which resulted in a double reimbursement to the provider. **Petrowski** finally succeeded in forcing ESC to take out the base units submission from the hospital's anesthesia billing module, but once again was told that they've **"built all other systems with this feature included"**.

The gravamen of Plaintiffs allegations are that ESC's software is designed to incorrectly bill in violation of federal Medicare and Medicaid regulations. Furthermore, even though Relator, **Petrowski**, specifically advised ESC of this their response was simply **"everybody bills base units"** and then failed to correct the billing software. It was only after Relator, **Petrowski**, reiterated her direction to fix this software setting that ESC relented and fixed it. Accordingly, absent challenge/intervention such as provided by Relator on behalf WakeMed Health and Hospitals, it is probable that most of ESC's software customers, (ie. the other listed Defendants) are using ESC's Epic billing software as written. These Epic software-generated bills incorrectly and unlawfully include base units in bills for anesthesia services thereby resulting in the double payment to the provider for base units for every anesthesia service bill provided under ESC's Epic software billing system. This unlawful billing protocol has resulted in the presentation of literally hundreds of

millions of dollars in fraudulent bills for anesthesia services being submitted to Medicare and Medicaid as false claims.

V. CAUSES OF ACTION:

COUNT I

FALSE CLAIMS ACT VIOLATION (31 U.S.C. § 3729(a)(1)(A)(B)(C))

16. The allegations of the preceding paragraphs are re-alleged as if fully set forth herein.

17. **Defendants**, by and through their officers, agents and employees, knowingly presented or caused to be presented to an officer or employee of the United States Government, false or fraudulent claims for payment and approval.

18. **Defendants**, by and through their officers, agents and employees, knowingly made, used, or cause to be made or used, false records or statements, to get false or fraudulent claims paid or approved.

19. Based upon the false claims described above, **Defendants** directly or indirectly obtained payment from the United States Government for its services it provides to patients covered under Medicare and Medicaid.

20. The United States Government has sustained damages because of the acts of the **Defendants** as a result of the **Defendant's'** violation of the False Claims Act, 31 U.S.C. § 3729(a)(1)(A)(B)(C).

21. As set forth in the preceding paragraphs, **Defendants** have knowingly violated 31 U.S.C. § 3729(a)(1)(A)(B)(C) and 42 U.S.C. §1320a-7b(b) and have thereby damaged the United States Government by its action in an amount to be determined at trial.

VI. DEMAND FOR JURY TRIAL

22. Pursuant to Federal Rule of Civil Procedure 38, Relator demands a trial by jury.

WHEREFORE, Relator respectfully request all relief described herein.

Dated: June 15, 2015

Respectfully submitted,

By: 

DAVID J. LINESCH, ESQ.

Florida Bar No. 0376078

Attorney for Plaintiff/Relator

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Email: Laborlaw@Lineschfirm.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been hand delivered by courier to: Clerk,
U.S. District Court 801 North Florida Avenue Tampa, Florida 33602 and mailed; postage prepaid,
U.S. First Class Certified Mail, this 15th day of June, 2015 to:

U.S. Attorney's Office 400 North Tampa Street, Room 329 Tampa, Florida 33602	Office of the Attorney General U.S. Department of Justice 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530-0001
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By: 

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

2015 JUN 15 PM 2:34


PLAINTIFF UNDER SEAL,)
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V.)
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DEFENDANT UNDER SEAL.)
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CIVIL ACTION NO. _____

FILED UNDER SEAL

JURY TRIAL DEMANDED

COMPLAINT FOR FALSE CLAIMS ACT VIOLATIONS
UNDER 31 U.S.C. § 3729(a)(1)(A)(B)(C) AND FLORIDA LAW COUNTERPARTS

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Dated: June 15, 2015