

William A. Coates, Fed. ID No. 183  
ROE CASSIDY COATES & PRICE P.A.  
1052 North Church Street  
Greenville, SC 29601  
wac@roecassidy.com

Stephen S. Hasegawa\*  
PHILLIPS & COHEN LLP  
100 The Embarcadero, Suite 300  
San Francisco, CA 94105  
shasegawa@pcsf.com  
\* *Motion for admission Pro Hac Vice to be filed*

Michael A. Filoromo, III  
KATZ, MARSHALL & BANKS, LLP  
1845 Walnut Street, 25th Floor  
Philadelphia, PA 19103  
[filoromo@kmblegal.com](mailto:filoromo@kmblegal.com)  
\* *Motion for admission Pro Hac Vice to be filed*

*Attorneys for Qui Tam Plaintiff and Relator  
Thomas Baker*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

UNITED STATES OF AMERICA, and the  
STATES OF CALIFORNIA, COLORADO,  
CONNECTICUT, DELAWARE, FLORIDA,  
GEORGIA, HAWAII, ILLINOIS, INDIANA,  
IOWA, LOUISIANA, MARYLAND,  
MASSACHUSETTS, MICHIGAN,  
MINNESOTA, MONTANA, NEVADA, NEW  
JERSEY, NEW MEXICO, NEW YORK,  
NORTH CAROLINA, OKLAHOMA, RHODE  
ISLAND, TENNESSEE, TEXAS, VERMONT,  
VIRGINIA, WASHINGTON, and the  
DISTRICT OF COLUMBIA, *ex rel.* THOMAS  
BAKER,

Plaintiffs,

- against -

RESMED INC. and RESMED CORP.,

Defendants.

Civil Action No. 3:16-987-PMD

**AMENDED COMPLAINT**

**FILED UNDER SEAL  
PURSUANT TO 31 U.S.C. §  
3730(b)(2)**

**JURY TRIAL DEMANDED**

*Qui Tam* Plaintiff and Relator Thomas Baker (“Relator”), through his attorneys Phillips & Cohen LLP; Roe Cassidy Coates & Price P.A.; and Katz, Marshall & Banks, LLP, on behalf of the United States of America, the States of California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Vermont, Virginia, Washington, and the District of Columbia (collectively “the States”), for his complaint against Defendants ResMed Inc. and ResMed Corp., (collectively, “ResMed,” or “Defendants”) alleges, based upon personal knowledge, relevant documents, and information and belief, as follows:

## **I. INTRODUCTION**

1. This is an action to recover damages and civil penalties on behalf of the United States of America and the States arising from false and/or fraudulent claims caused to be made by ResMed and/or its agents, employees, and co-conspirators in violation of the federal False Claims Act, 31 U.S.C. §§ 3729 *et seq.* (“the Act” or “FCA”), the federal Anti-Kickback Statute (“AKS”), 42 U.S.C. § 1320a-7b(b), and analogous laws of the States. This is also an action by Relator to recover damages for ResMed Corp.’s retaliation against him in violation of the anti-retaliation provisions of the FCA, 31 U.S.C. § 3730(h), and the California False Claims Act, Cal. Gov’t Code Ann. § 12653 (“CFCA”). Relator also seeks to recover damages under state tort law for ResMed Corp.’s wrongful termination of his employment in violation of California public policy.

2. The federal False Claims Act originally was enacted during the Civil War. In 1986, after finding that fraud in federal programs was pervasive and that the FCA was in need of modernization, Congress substantially amended the FCA to enhance the ability of the United States Government to recover losses sustained due to fraud against it and to

protect relators from retaliation. The FCA allows any person with information about an FCA violation to bring an action on behalf of the United States and to share in any recovery. The FCA requires the Complaint to be filed under seal for a minimum of 60 days (without service on the defendant during that time) to allow the government time to conduct its own investigation and to determine whether to join the suit. The anti-retaliation provisions of the FCA and its California analogue, the CFCA, make it unlawful to discharge, demote, threaten, harass, or otherwise discriminate against an employee, contractor, or agent in the terms and conditions of employment because of lawful acts done in furtherance of a suit under the FCA or CFCA or other efforts to stop one or more violations of the FCA or CFCA. 31 U.S.C. § 3730(h)(1); Cal. Gov't Code Ann. § 12653.

3. ResMed competes in the market to sell supplies for use with Continuous Positive Airway Pressure (“CPAP”) machines to home health equipment supply companies and hospitals. The home health equipment supply companies and hospitals provide those CPAP supplies to patients undergoing CPAP treatment and bill the appropriate entities for those supplies. Government health care programs, including Medicare, state Medicaid programs, TRICARE, and CHAMPVA, reimburse ResMed’s customers for a substantial portion of the CPAP supplies those customers provide to patients undergoing CPAP therapy.

4. ResMed also offers and provides, in exchange for a service fee, “resupply” services—services and technology to assist home health equipment supply companies and hospitals in obtaining orders from patients to restock those patients’ CPAP supplies.

5. For at least two years, ResMed has been engaged in a scheme to provide kickbacks to customers in exchange for purchases of ResMed’s products. In order to induce purchases of its CPAP supply products, ResMed has provided those valuable services at no charge to customers in exchange for those customers’ purchases, recommendations, and provision to patients of ResMed’s CPAP supplies.

6. ResMed's conduct violates the AKS, which prohibits any person or company from offering or providing anything of value to induce the purchase or recommendation of any goods that are reimbursed by a federal government health care program. ResMed knowingly has provided and is providing something valuable (resupply services, for which ResMed ordinarily charges a fee) to providers in order to induce purchases of CPAP supplies, a substantial portion of which are reimbursed by federal government health care programs. Accordingly, ResMed's conduct violates the AKS.

7. ResMed's conduct also violates the FCA. The FCA prohibits, among other things, knowingly causing the presentation of a false or fraudulent claim for payment or approval to the federal government or to a grantee of the federal government. 31 U.S.C. § 3729(a)(1)(A). Any person who violates the FCA is liable for a civil penalty of up to \$11,000 for each violation occurring prior to August 1, 2016 and \$21,563 for each violation occurring on or after August 1, 2016, plus three times the amount of the damages the United States sustains. *Id.* § 3729(a)(1). Claims for payment tainted by violations of the AKS are "false claims" under the FCA. 42 U.S.C. § 1320a-7b(g).

8. ResMed's actions alleged in this Complaint also violate the laws of the States, each of which has enacted a false claims act analogous to the federal FCA, each of which requires compliance with the AKS as a condition of payment of Medicaid reimbursement for medical devices that ResMed sold, and many of which have their own analogous anti-kickback statutes. Specifically, ResMed's conduct violates the California False Claims Act, Cal. Gov't Code §§ 12650 *et seq.*; the Colorado Medicaid False Claims Act, Colo. Rev. Stat. §§ 25.5-4-303.5 *et seq.*; the Connecticut False Claims Act, Conn. Gen. Stat. §§ 17b-301a *et seq.*; the Delaware False Claims and Reporting Act, 6 Del. C. §§ 1201 *et seq.*; the Florida False Claims Act, Fla. Stat. Ann. §§ 68.081 *et seq.*; the Georgia State False Medicaid Claims Act, Ga. Code Ann. §§ 49-4-168 *et seq.*; the Hawaii False Claims Law, Haw. Rev. Stat. §§ 661-21 *et seq.*; the Illinois Whistleblower Reward

and Protection Act, 740 Ill. Comp. Stat. §§ 175/1 *et seq.*; the Indiana False Claims and Whistleblower Protection Act, Ind. Code Ann. §§ 5-11-5.5-1 *et seq.*; the Iowa False Claims Act, Iowa Code §§ 685.1 *et seq.*; the Louisiana Medical Assistance Programs Integrity Law, La. Rev. Stat. §§ 46:437.1 *et seq.*; the Maryland False Health Claims Act, Md. Code Ann., Health-Gen. §§ 2-601 *et seq.*; the Massachusetts False Claims Law, Mass. Gen. Laws ch. 12, §§ 5A *et seq.*; the Michigan Medicaid False Claims Act, Mich. Comp. Laws §§ 400.601 *et seq.*; the Minnesota False Claims Act, Minn. Stat. §§ 15C.01 *et seq.*; the Montana False Claims Act, Mont. Code Ann. §§ 17-8-401 *et seq.*; the Nevada False Claims Act, Nev. Rev. Stat. Ann. §§ 357.010 *et seq.*; the New Jersey False Claims Act, N.J. Stat. §§ 2A:32C-1 *et seq.*; the New Mexico Medicaid False Claims Act, N.M. Stat. Ann. §§ 27-14-1 *et seq.*; the New York False Claims Act, N.Y. State Fin. Law §§ 187 *et seq.*; the North Carolina False Claims Act, N.C. Gen. Stat. §§ 1-605 *et seq.*; the Oklahoma Medicaid False Claims Act, Okla. Stat. tit. 63 §§ 5053 *et seq.*; the Rhode Island False Claims Act, R.I. Gen. Laws §§ 9-1.1-1 *et seq.*; the Tennessee False Claims Act, Tenn. Code Ann. §§ 4-18-101 *et seq.*, and the Tennessee Medicaid False Claims Act, Tenn. Code Ann. §§ 71-5-181 *et seq.*; the Texas Medicaid Fraud Prevention Law, Tex. Hum. Res. Code Ann. §§ 36.001 *et seq.*; the Vermont False Claims Act, 31 Vt. Stats. Ann., Ch. 7, Subch. 8, § 630 *et seq.*, the Virginia Fraud Against Taxpayers Act, Va. Code Ann. §§ 8.01-216.1 *et seq.*; the Washington State Medicaid Fraud False Claims Act, Wash. Rev. Code §§ 74.66.005 *et seq.*; and the District of Columbia False Claims Act, D.C. Code §§ 2-381.01 *et seq.*

9. All claims that providers submitted for supplies tainted by ResMed's illegal kickbacks are ineligible for reimbursement by Medicare, Medicaid, and other federal and state-funded health care programs. ResMed caused its customers to submit those kickback-tainted claims. As a result, ResMed has damaged the United States and the States in a significant amount.

10. Accordingly, *Qui Tam* Plaintiff and Relator Thomas Baker seeks to recover all available damages, civil penalties, and other relief for federal and state-law violations alleged in this Complaint in every jurisdiction to which ResMed's misconduct has extended.

## **II. THE PARTIES**

### **A. The Defendants**

11. ResMed Inc. is a Delaware corporation with its principal place of business in San Diego, California. ResMed Inc. describes itself as a global leader in the development, manufacturing, distribution and marketing of medical products for the diagnosis, treatment, and management of respiratory disorders, with a focus on sleep-disordered breathing. Through its subsidiary, ResMed Corp., ResMed Inc. sells CPAP durable equipment and consumable CPAP supplies throughout every jurisdiction in the United States. ResMed Inc. and ResMed Corp. will collectively be referred to herein as "ResMed." In July 2015, ResMed acquired CareTouch, a provider of internet-based solutions and therapy-focused resupply programs for home medical equipment providers, and rebranded CareTouch as ResMed ReSupply. ResMed ReSupply is operated as a business unit of ResMed Corp.

### **B. The Relator**

12. *Qui Tam* Plaintiff and Relator Thomas Baker lives in Linden, Michigan. Relator began working as a Territory Manager at ResMed in October 2008. Relator's principal duties in this role were to sell ResMed's products throughout his territory, which covered a portion of the state of Michigan, including the metropolitan areas of Detroit, Flint, and Lansing. He excelled in his position, regularly earning recognition for exceeding his sales quota, including two President's Club Awards, awarded to the top 7 percent of salespeople in the company based on sales growth and volume.

13. After Relator began to oppose ResMed's fraudulent schemes, described herein, and informed his supervisor that he believed the practices to be illegal, ResMed

began a campaign of retaliation against him. ResMed placed Relator on an unjustified performance improvement plan (“PIP”) in late January 2016. Over the next several months, Relator’s supervisor manufactured allegations of misconduct and customer complaints, took control of key accounts from Relator, stripped him of commissions, and extended Relator’s PIP despite his fulfillment of the majority of the prior PIP’s objectives. Finally, on June 30, 2016, ResMed terminated Relator’s employment.

14. Relator has personal knowledge of the facts alleged herein.

### **III. JURISDICTION AND VENUE**

15. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1367, 31 U.S.C. § 3730(h)(2), and 31 U.S.C. § 3732, the last of which specifically confers jurisdiction on this Court for actions brought pursuant to 31 U.S.C. §§ 3729 and 3730. In addition, 31 U.S.C. § 3732(b) confers jurisdiction on this Court over the state-law claims asserted in Counts V through XXXIV of this Complaint.

16. This Court has personal jurisdiction over Defendants pursuant to 31 U.S.C. § 3732(a), which authorizes nationwide service of process, and because Defendants have minimum contacts with the United States. Moreover, Defendants can be found in, reside, and/or transact or have transacted business in this District.

17. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1395(a), 31 U.S.C. § 3730(h)(2), and 31 U.S.C. § 3732(a) because Defendants can be found in and/or transact or have transacted business in this District. At all times relevant to this Complaint, Defendants regularly conducted substantial business, maintained employees, and/or made significant sales in this District. In addition, statutory violations, as alleged in this Complaint, occurred in this District.

#### **IV. FEDERAL AND STATE-FUNDED HEALTH CARE PROGRAMS**

##### **A. Medicare**

18. Medicare is a federally funded health-insurance program primarily benefitting the elderly. The allegations in this Complaint implicate Medicare Part B, the Voluntary Supplemental Insurance Plan. Part B covers the cost of certain services and equipment that physicians and certain other health care providers perform if the services are medically necessary and the provider personally and directly provides them.

19. The Centers for Medicare and Medicaid Services (“CMS”), an agency of the Department of Health and Human Services (“HHS”), administers the Medicare program.

20. Medicare covers CPAP therapy for Medicare beneficiaries who have been diagnosed with obstructive sleep apnea pursuant to published criteria. *See* Continuous Positive Airway Pressure (CPAP) Therapy for Obstructive Sleep Apnea (OSA), *Medicare Nat’l. Coverage Determinations Manual*, Pub. 100-03, § 240.4. If a beneficiary meets those criteria, Medicare reimburses providers for an initial period of 12 weeks of therapy for that beneficiary. *Id.* Coverage beyond the initial 12-week period is limited to beneficiaries who benefit from CPAP therapy during the initial period. *Id.*

##### **B. Medicaid**

21. Medicaid was created in 1965 under Title XIX of the Social Security Act. The federal Government and the states jointly fund it. States design their own Medicaid programs to provide medical services to the poor, subject to federal guidelines and requirements. 42 U.S.C. §§ 1396 *et seq.* The states provide those services, and, each quarter, the federal Government reimburses states for a percentage of their Medicaid expenditures under the state plan. *Id.* § 1396b(a)(1).

22. Individuals may be “dual eligible” for both the Medicare program (as the primary insurer) and the Medicaid program (as the secondary insurer).



23. Medicare beneficiaries known as “qualified Medicare beneficiaries” (“QMBs”) are elderly or disabled persons who qualify for Medicare but who—though not poor enough to qualify for Medicaid—cannot afford to pay Medicare Part B’s premiums, deductibles, and copayments. *Id.* § 1396d(p)(1). Federal law requires state Medicaid programs to pay the Medicare costs QMBs incur that the federal government does not reimburse. *Id.* §§ 1396a(a)(10)(E)(i), 1396d(p)(3). Since Medicare Part B pays only 80 percent of the approved charge for covered services, state Medicaid programs are responsible for paying the remaining 20 percent of a QMB’s copayments if the QMB lacks private insurance to cover those expenses.

24. The Medicaid programs of all 50 states and the District of Columbia cover CPAP therapy. *See* Department of Health and Human Services, Office of Inspector General, “Replacement Schedules for Medicare Continuous Positive Airway Pressure Supplies, OEI-07-12-00250, June 2013 (“June 2013 OIG Resupply Report”) at 8.

**C. Other Federal and State-Funded Health Care Programs**

25. The federal Government administers other health care programs that include, but are not limited to, TRICARE, CHAMPVA, and the Federal Employee Health Benefit Program.

26. TRICARE, which the United States Department of Defense administers, is a health care program for individuals and dependents affiliated with the armed forces.

27. CHAMPVA, which the United States Department of Veterans Affairs administers, is a health care program for the families of veterans with 100-percent service-connected disabilities.

28. The Federal Employee Health Benefit Program, which the United States Office of Personnel Management administers, provides health insurance for federal employees, retirees, and their survivors.

29. The States have programs providing health care benefits to certain individuals based on those individuals' financial need, employment status, or other factors. This Complaint refers to those programs as "state-funded health care programs."

30. Each of the programs described in paragraphs 25-29 above covers CPAP therapy.

## V. APPLICABLE LAW

### A. The Anti-Kickback Statute Prohibits the Offer or Provision of Things of Value to Induce Physicians to Purchase Supplies Paid for with Federal Funds

31. Congress enacted the AKS out of concern that kickbacks to health care providers would result in the provision or prescription of goods or services to patients in response to the providers' economic self-interest, rather than untainted medical judgment. The AKS addresses the substantial risk that kickback-tainted medical decisions may increase costs to federal health care programs and beneficiaries and may result in the overutilization of goods and services. The AKS also benefits the public fisc because it prohibits kickbacks and other inducements whose value may not be passed on to the government from affecting government-subsidized health care transactions. This helps ensure that the government shares in the benefit of economic incentives that act as price reductions in the health care marketplace. The AKS's prohibition against the payment of kickbacks applies regardless of whether a particular kickback actually gives rise to the effects Congress feared.

32. The AKS prohibits any person or entity from "knowingly and willfully offer[ing] or pay[ing] any remuneration (including any kickback, bribe or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person ... to purchase ... or arrange for or recommend purchasing ... any good, facility, service, or item for which payment may be made in whole or in part under a Federal healthcare program." *Id.* § 1320a-7b(b). "Remuneration" means anything of value. Accordingly, subject to certain exceptions not relevant here, companies cannot offer or provide

anything of value to induce customers to purchase medical supplies for which a federally funded health care program may pay.

**B. Health Care Providers Must Comply With the Anti-Kickback Statute to Receive Payment from Federal and State-Funded Health Care Programs**

33. Compliance with the AKS is an explicit condition of payment under federally funded health care programs. A claim that includes items or services resulting from a violation of the AKS constitutes a false or fraudulent claim for purposes of the False Claims Act. 42 U.S.C. § 1320a-7b(g).

34. The States also have enacted statutes prohibiting kickbacks in connection with state Medicaid services. Pursuant to State statutes, regulations, and other administrative materials, the States have made compliance with both federal and State anti-kickback statutes and rules a prerequisite to a physician's right to receive or retain reimbursement payments from state-funded health care programs. *See* Cal. Welf. & Inst. Code §§ 14107.2(a), (b), 14107.11-(a)(2); 10 Colo. Code Regs. §§ 2505-10-8.076.1(7)(b), (j); Conn. Gen. Stat. §§ 53a-161c, 53a-161d; Conn. Agencies Reg. § 17b-262-531(b); Del. Code Ann. tit. 31, § 1005; D.C. Code § 4-802(c)–(d); Fla. Stat. §§ 409.907, 409.920(2)(e); Haw. Code R. § 17-1739.1-3(c); 305 Ill. Comp. Stat. 5/8A-3(b)(2), (c)(2); Ind. Code §§ 12-15-22-1, 12-15-24-2; 405 Ind. Admin. Code 1-1-4(a)(6); Iowa Code § 249A.47(f); La. Rev. Stat. Ann. § 46:438.2(2)(A)(2); Md. Code Ann., Crim. Law §§ 8-511, 8-516; Md. Code Regs. § 10.09.03.09; Mass. Gen. Laws ch. 118E § 41; 130 Mass. Code Regs. §§ 450.249(B)-(c), 450.261; Mich. Comp. Laws § 400.604; Minn. Stat. §§ 256B.064-1a(7), 256B.064-1b; Minn. R. §§ 9505.2165-4(C), 9505.2215-1A; Mont. Code Ann. § 45-6-313(1)(b)(i); Mont. Admin. R. §§ 37.85.406(10), 37.85.501(h), (k); Nev. Rev. Stat. § 422.560(1)(a); N.H. Rev. Stat. Ann. 167:58–62, 167:61-a(I)(i); N.J. Stat. Ann. § 30:4d-17(c); N.J. Admin. Code § 10:49-5.5(a)(17); N.M. Stat. Ann. § 30-44-7(A)(1); N.M. Code R. §§ 8.302.1.11, 8.351.2.9-13; N.Y. Soc. Serv. Law § 366-D(2); N.Y. Comp. Codes R. & Regs., tit. 18, §§ 515.2(b)(5), 518.1-2; N.C. Gen. Stat. §§ 108A-

63(g), (h), 108A-70.16; N.C. Admin. Code 22F.0301(5); Okla. Stat., tit. 56, § 1005(A)(6); R.I. Gen. Laws §§ 5-48.1-3(a), (b), 40-8.2-3(a)(2); R.I. Code R. § 0301.20(1); Tenn. Code Ann. § 71-5-118; Tenn. Comp. R. & Regs. §§ 1200-13-1-.05(1)(a)(6), 1200-13-1-.21(2), (3); Tex. Hum. Res. Code Ann. §§ 32.039(b), 32.039(c)(1); Tex. Penal Code Ann. § 35A.02(a)(5); Va. Code Ann. § 32.1-315; Wash. Rev. Code § 74.09.240; Wash. Admin. Code § 182-502-0016(1); *see also* Florida Medicaid Provider Handbook; Georgia Medicaid Manual; Hawaii State Medicaid Manual; Illinois Medicaid Handbook; Indiana Medicaid Provider Manual; Louisiana Medicaid Provider Manual; Michigan Medicaid Provider Manual; Minnesota Medicaid Provider Manual; Nevada Medicaid Services Manual; Oklahoma Medicaid Provider Billing and Procedure Manual; Virginia Medicaid Provider Manual.

35. Many states, including California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Virginia, and Washington, as well as the District of Columbia, also require Medicaid providers to enter into provider agreements requiring them to comply with all applicable federal and state Medicaid laws (sometimes with specific emphasis on the AKS) and/or conditioning the right to payment on compliance with those laws.

## **VI. FACTUAL BACKGROUND**

### **A. Government Reimbursement of CPAP Supplies**

36. The American Academy of Sleep Medicine recognizes a number of different sleep disorders which, taken together, affect approximately 40 million Americans each year. One of the most common of these disorders is obstructive sleep apnea (“OSA”). Patients who are diagnosed with OSA frequently are treated with a CPAP machine, a medical device used to keep a patient’s airway open during sleep to allow unobstructed breathing.

37. Under the Medicare program, patients undergoing CPAP therapy rent a CPAP machine for up to 13 months. After 13 months, ownership of the CPAP machine is transferred to the patient.

38. The CPAP machine itself is durable medical equipment, but its operation requires the use of supplies with a more limited useful life, including masks, cushions, filters, tubes, chinstraps, and humidifier chambers. Although those supplies are designed for multiple uses, they deteriorate over time and eventually may need to be replaced. Through Local Coverage Determinations, the four durable medical equipment Medicare Administrative Contractors have established a replacement schedule for CPAP supplies, identifying the maximum frequency and number of replacement supplies for which Medicare will pay. *See* Cigna Gov't. Servs. (L11518) dated Feb. 4, 2011; Nat'l. Gov't. Servs. (L27230) dated Oct. 1, 2011; National Heritage Insurance Company (L11504) dated Feb. 4, 2011; Noridian Admin. Servs. (L171) dated Oct. 1, 2011. For example, a Medicare beneficiary may replace CPAP tubing and a CPAP mask once every three months, a face mask interface once each month, and a chinstrap once every six months. *Id.* More frequent replacements than indicated on the replacement schedule are not considered medically necessary, and Medicare will not pay for them.

39. Many state Medicaid programs also have adopted replacement schedules. Those schedules usually, though not always, provide for replacement of CPAP supplies with the same frequency as or less frequently than permitted by the Medicare replacement schedule. *See* June 2013 OIG Resupply Report at 8.

40. The CPAP supply replacement schedules are only intended to set limits on the maximum replacement frequency (rather than a prescribed replacement frequency). *Id.* at 7. Patients are not supposed to order replacements at that maximum frequency if their supplies do not need replacement. *Id.* In practice, however, CPAP suppliers have been so successful in encouraging unnecessary replacements at the maximum frequency

that, in 2012, CMS reported that many beneficiaries “had more than enough supplies on hand, often multiple months’ worth ....” *Id.* at 1.

**B. The CPAP Resupply Business**

41. Pursuant to the Medicare and Medicaid replacement schedules (and to replacement schedules adopted by insurers), patients undergoing CPAP therapy may reorder CPAP supplies as many as several times per year. The patients’ reordering of CPAP supplies is sometimes referred to in the industry as “resupply.”

42. Resupply is an important part of a CPAP supply provider’s business. Patients who continue their CPAP therapy for a long period of time may regularly deplete their CPAP supplies, and they therefore may need to reorder CPAP supplies repeatedly. A CPAP supply provider who can find, retain, or cultivate long-term CPAP users will have an opportunity to earn substantial revenue and profit from fulfilling resupply orders.

43. CPAP supply providers devote substantial effort to growing and maintaining their resupply business. A successful resupply business requires technology and labor to track patients’ adherence to their CPAP therapy regimen, to identify the maximum replacement frequencies permitted by the patient’s payor (*i.e.*, Medicare, a state Medicaid program, or private insurance), to monitor the patients’ resupply cycles, and to communicate with patients to obtain all necessary approvals and orders for supplies in a timely manner. These services will be referred to in this complaint as “resupply services.”

44. Because of the investment necessary to maintain a successful resupply business, many CPAP supply providers turn to third-party vendors for resupply services. One such vendor was CareTouch, which was founded in 2003. CareTouch provided CPAP resupply services, in exchange for service fees, to home health equipment supply companies and hospitals until its acquisition by ResMed in July 2015. Since the acquisition of CareTouch, ResMed has provided CPAP resupply services, in exchange for service fees, to home health equipment supply companies and hospitals.

C. **ResMed's Provision of Free CPAP Resupply Services to Induce Purchases of CPAP Supplies**

45. ResMed participates in the highly competitive market for the manufacture of CPAP supplies. It sells CPAP supplies mainly to two categories of customers: home health equipment supply companies and hospitals. The home health companies and hospitals then provide the CPAP supplies to the end patients and bill the appropriate payors for those supplies. As ResMed knows, a substantial number of patients treated with CPAP machines are participants in Medicare, Medicaid, or other government health care programs.

46. Even before its acquisition of CareTouch, ResMed's sales staff was responsible for promoting CareTouch's resupply services. ResMed determined that customers' use of resupply services would increase their resupply orders, and therefore would benefit ResMed's CPAP supply business. Accordingly, ResMed's sales staff was instructed to promote CareTouch's resupply services to home health equipment suppliers and other ResMed customers. ResMed provided its sales employees with training to assist them in doing so.

47. Customers who agreed to use CareTouch's resupply services generally were required to pay a service fee for doing so, including a per-patient charge. However, in November 2014, ResMed began offering a "promotion" to subsidize some of its customers' resupply services to induce the customers to purchase and recommend ResMed supplies. Under the terms of the promotion, ResMed agreed to pay the cost of CareTouch's services for patients using ResMed's CPAP supplies. In effect, ResMed agreed to pay for its customers' use of CareTouch's resupply services, but only to the extent that those customers purchased ResMed's CPAP supplies to provide to their patients. The "promotion" remained in effect until ResMed acquired CareTouch in July 2015.

48. ResMed similarly paid the cost of the resupply services of another third-party vendor, Brightree, for patients using ResMed's CPAP supplies. Again, ResMed in

effect agreed to pay for its customers' use of Brightree's resupply services, but only to the extent that those customers purchased ResMed's CPAP supplies to provide to their patients.

49. After ResMed acquired CareTouch in January 2015, ResMed began offering the services that CareTouch had formerly offered as a separate entity. ResMed's sales staff continued to promote those resupply services—now provided directly by ResMed—to home health equipment suppliers and other ResMed customers. Again, ResMed agreed to provide those services for free to the extent that its customers purchased ResMed supplies to provide to their patients, but charged a service fee to the extent that its customers purchased competitors' supplies.

50. ResMed formalized this arrangement in written contracts. Attached as Exhibit A is the standard form that ResMed used for its contracts to provide resupply services prior to late February 2016. The standard contract provided that the per-patient charge for a customer's "preferred patients" (those to whom the customer will provide ResMed supplies) was "\$0 per Patient" for three different services, but that the per-patient charge for other patients (*i.e.*, those to whom the customer will provide supplies manufactured by ResMed's competitors) was from \$1 to \$3 for those same services. Ex. A, §§ 2(a), 2(b). Attached as Exhibit B is an example of an executed version of that standard contract.

51. The purpose of ResMed's payment of its customers' per-patient charges to CareTouch and Brightree for patients using ResMed supplies, and of its price differentiation in its own contracts to provide resupply services, was to give ResMed's customers an incentive to purchase, recommend, and provide to their customers ResMed CPAP supplies. Customers who did so successfully would receive valuable resupply services for free; customers who did not would have to pay for those services.

52. ResMed's provision of free resupply services to induce purchases of ResMed CPAP supplies was a company-wide initiative. Relator learned of the initiative



from a November 14, 2014 corporate-wide email attached as Exhibit C. Relator subsequently had communications about the initiative with his immediate supervisor, Greg Gray, a ResMed Regional Manager. Gray told Relator that he had been trained to sell CareTouch's resupply services, that those services were now free to customers whose patients used ResMed's products, and that it was Relator's responsibility to sell the program to customers. In addition, ResMed's East Vice President, Bill Shoop, was in attendance on calls to discuss the "promotion," and encouraged sales staff to use it to increase ResMed's sales.

53. Relator soon found that most hospital systems were skeptical of the legality of the program. Some hospital customers informed him that they could not take free services and therefore were not interested in the program.

54. In a conference call around this time, as Shoop and Gray were instructing sales representatives to recruit customers to the free resupply program, Relator challenged its legality. Specifically, he questioned whether it was permissible, in light of anti-kickback laws, for ResMed simply to give things away. Relator added that a number of customers with whom he had spoken were wary of participating for fear of violating the law. Shoop and Gray assured the participants in the call that ResMed's legal department had vetted and approved the program, and they reiterated that the sales representatives had to sign people up for it.

55. In September 2015, Relator's supervisor, Thomas Melby, asked why Relator had not enlisted more customers in the free resupply program. Relator responded that he had concerns that the program was illegal. He described to Melby the response from one particular hospital customer, who had told Relator that because the hospital received Medicare and Medicaid, they could not legally accept free services. Relator added that he believed there was merit to what such customers were saying. Melby said he would speak with Shoop and, after doing so, assured Relator that the program was

legal and legitimate. Melby instructed Relator to immediately recruit two customers to the program or face potential disciplinary action.

56. In response to Relator's complaints about the legality of the free resupply program and his reluctance to recruit customers for it aggressively, ResMed placed Relator on a PIP on January 27, 2016. Melby claimed that the PIP was for "administrative reasons" related to things like the timing of his submission of sales reports. Melby acknowledged that Relator's sales and performance skills were good. In delivering the PIP, Beth Mann, a Human Resources representative, admitted to Relator that she did not understand why ResMed was placing him on a PIP. According to Mann, ResMed issued PIPs almost exclusively for significant deficiencies in an employee's performance or abilities, not for minor and easily resolvable clerical issues.

57. Later, in an East Area Accounts meeting in February 2016, corporate management cautioned sales staff not to promise customers that ResMed's provision of free resupply services in exchange for purchases of ResMed products would last forever. Shoop told attendees that they might be forced to stop doing so, but that ResMed would continue with the arrangement unless a regulatory agency told it that it had to stop.

58. From February through June 2016, Relator remained on a PIP, even as Human Resources acknowledged that the PIP made little sense. In a call with Mann on February 18, 2016, Relator noted that the PIP was strange and unexpected, and Mann again stated that PIPs for salespeople usually centered on sales performance and abilities. Relator reminded Mann that he was a two-time President's Award winner and former regional sales trainer, and said that the PIP made little sense to him.

59. In late February, Melby met with Relator to review his progress on the PIP. During the meeting, Melby said that Relator was addressing many of the administrative requirements the PIP had identified, and Melby cited no deficiencies or examples of shortcomings. In a follow-up email, however, Melby was much more

negative and critical. He referenced concerns that he had not raised with Relator and suggested that Relator was continuing to fail to meet expectations.

60. During a conference call with Mann on March 1, 2016, Relator reported to Mann that his meeting with Melby about his performance and his progress on the PIP was generally positive, but that Melby's recap of the meeting raised issues they had not discussed. Mann expressed concern and promised to speak with Melby. Nothing changed thereafter.

61. In February and March 2016, ResMed announced internally that it would cease providing resupply services in exchange for purchases of ResMed products. On or around February 22, 2016, ResMed circulated, via an email to all members of its sales team, a new standard resupply service agreement. ResMed explained the new agreement to its sales force in group telephone calls on March 9 and March 16, 2016. On those calls, Matthew Dolph, ResMed ReSupply's Director of Client Services (and the former owner of CareTouch), informed sales staff, including Relator, that ResMed was implementing a new resupply service agreement containing a new price structure. The new price structure did not include any free services or any price differentiation based on whether the customer purchased ResMed or a competitor's products. ResMed, however, would continue to honor the existing service agreements—those that provided resupply services for free to the extent that the customers purchased ResMed products—until June 30, 2016. Dolph informed territory managers that they were responsible for communicating changes to customers and for executing new service agreements to take effect no later than July 1, 2016.

62. In the meantime, ResMed continued to retaliate against Relator, building a paper trail in an apparent attempt to justify his termination. For example, on May 6, 2016, Melby met with Relator again to discuss the PIP, which had been slated to end around that time. Despite Relator's objective progress in fulfilling the requirements of the PIP, Melby told him that ResMed was extending the PIP. As he had in January 2016,

Melby told Relator that his overall performance was good. Melby claimed, however, that administrative issues persisted, and that these warranted further disciplinary action.

63. A few weeks later, on May 23, 2016, Melby held a conference call with Relator's largest customer – without informing Relator. Over the customer's objections, Melby said that he, not Relator, would be handling the account going forward. The customer had historically accounted for approximately one-third of Relator's annual sales. Losing the account would make it very difficult to meet, let alone exceed, his sales quota in the future, and would ensure that he received lower commissions going forward.

64. By early June 2016, it became clear that ResMed was not going to wait for Relator to leave voluntarily. On June 9, 2016, Relator participated in a conference call with Mann and Melby. During the call, Melby made numerous unfounded accusations, claiming without evidence that numerous customers had complained about Relator, and that he had failed to visit certain potential customers. Melby added that he believed that Relator was unable to do his job – the first time he or anyone else at ResMed had suggested as much during Relator's highly successful eight-year tenure. Relator responded that he had had a very successful career at ResMed, and that he had endeavored to do everything that Melby had told him to do. He said that he did not understand why Melby would on the one hand acknowledge that he was fulfilling the requirements of the PIP, but then say his performance was nonetheless lacking. Mann, who had previously been skeptical of the PIP, suggested that Relator might want to consider separating from the company.

65. The very next day, Melby wrote to Kyung Kim, Senior Data Administrator for Sales Compensation, and instructed him to reassign commission and sales credit for one of Relator's largest accounts. Rather than Relator receiving 60 percent of the credit for the account, as he had previously, Melby ordered that he would receive only 50 percent. The change likely would have cost Relator \$80,000 in commissions.

66. Four days later, on June 13, 2016, Relator spoke with Mann. Relator reiterated his perplexity with the issuance of the PIP and Melby's conduct during its pendency and, in particular, how Melby had misrepresented their meetings, had stolen his largest account, and had made numerous untrue allegations about his performance. Mann offered no explanation. Relator explicitly expressed his belief that Melby's behavior was retaliatory. Mann did not disagree with Relator but said that she could not comment.

67. Over the next two weeks, Relator heard very little from Melby or any of his colleagues. He noticed, however, that management was refusing to approve incentives for his customers. Typically, as a fiscal year wound down, sales representatives would be allowed to offer customers discounts and extended payment terms, which would elicit larger orders. Because of the sizes of the contracts at issue, such discounts required approval from managers, such as Melby and Shoop. While other colleagues received such approval for many of their accounts upon request, Relator did not.

68. On June 30, 2016, Mann called Relator and informed him that ResMed was terminating his employment, effective immediately. She gave no performance-based reason for his termination and said only that Relator was an at-will employee, and that ResMed had decided to move in another direction. As severance, ResMed offered Relator the equivalent of approximately two weeks' salary – after eight years of high performance with the company.

69. Home health equipment supply companies and hospitals who have received, and who continue to receive, ResMed's CPAP resupply services at no cost in exchange for agreeing to purchase ResMed's CPAP supplies include: H-Care, Inc., a home health equipment supply company in Michigan; Sparrow Health System, a hospital and health-services company in Michigan; Hillsdale Home Oxygen, the home oxygen unit of a hospital in Michigan; and Munson Medical Center, a hospital system in Travers City, Michigan, among many others nationally. Those customers have purchased CPAP

supplies from ResMed, have provided those products to patients, and have billed payors, including Medicare, state Medicaid programs, and other government health care programs, for the supplies.

**D. ResMed's Kickbacks Violated the AKS and the FCA**

70. As set forth above, the AKS prohibits “knowingly and willfully offer[ing] or pay[ing] any remuneration (including any kickback, bribe or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person ... to purchase ... or arrange for or recommend purchasing ... any good, facility, service, or item for which payment may be made in whole or in part under a Federal healthcare program.” *Id.* § 1320a-7b(b).

71. The CPAP resupply services that ResMed provided to customers constituted “remuneration.” “Remuneration” means anything of value. ResMed’s CPAP resupply services have financial value. ResMed charges a service fee for those services (except when the services are offered as an inducement, as set forth herein). ResMed’s resupply services enable ResMed’s customers (home health equipment supply companies and hospitals) to increase or maintain their revenue and profit from their resupply lines of business.

72. ResMed provided the remuneration described above to induce its customers—home health equipment supply companies and hospitals providing CPAP supplies to patients—to purchase, recommend, and provide to their patients ResMed’s CPAP supplies.

73. Government health care programs paid for a substantial portion of the CPAP supplies that ResMed sold to the entities who received free resupply services. ResMed’s kickbacks tainted all of the purchases of CPAP supplies by customers who received free resupply services. Half or more of the supplies those customers purchased under the kickback arrangements described above were provided to patients whose CPAP supplies were reimbursed, in whole or in part, by a government health care program.

ResMed was aware of the substantial portion of its customers' patients whose supplies were reimbursed by government health care programs because, as part of its price negotiations with customers, ResMed frequently collected information about the customers' payors. ResMed's customers billed those government health care programs for the supplies. Those government health care programs, including Medicare, state Medicaid programs, and other government health care programs, paid ResMed's customers' claims for payment.

74. ResMed's misconduct was knowing. ResMed is well aware of the AKS. ResMed's employees were required to participate in online training courses concerning the AKS, and ResMed ultimately admitted that it was required to charge customers for its resupply services.

75. Claims for payment tainted by violations of the AKS—including the claims for payment submitted by ResMed's customers who received free resupply services—are "false claims" under the FCA. 42 U.S.C. § 1320a-7b(g). ResMed caused those false claims by providing unlawful kickbacks to their customers to induce those customers to purchase Defendants' products.

## **VII. CAUSES OF ACTION**

### **Count I**

#### **False Claims Act**

#### **31 U.S.C. §§ 3729(a)(1)(A)-(B)**

76. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

77. This is a claim for treble damages and penalties under the False Claims Act, 31 U.S.C. §§ 3729 *et seq.*, as amended.

78. Defendants knowingly have caused the presentation of false or fraudulent claims for payment to the United States, in violation of 31 U.S.C. § 3729(a)(1)(A).

79. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the United States presented the false claims. Relator has no control over such entities and no access to records they possess.

80. The United States Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

81. Defendants have damaged, and continue to damage, the United States in a substantial amount to be determined at trial.

82. Additionally, the United States is entitled to the maximum penalty for each and every violation alleged herein.

## **Count II**

### **False Claims Act Retaliation**

#### **31 U.S.C. § 3730(h)**

83. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

84. Under 31 U.S.C. § 3730(h)(1), it is unlawful to discharge, demote, threaten, harass, or otherwise discriminate against an employee in the terms and conditions of employment because of lawful acts done in furtherance of a *qui tam* suit or other efforts to stop one or more violations of the FCA.

85. For purposes of 31 U.S.C. § 3730(h)(1), Relator was an employee of Defendant ResMed Corp.

86. Relator had a reasonable belief that Defendants, through their free resupply programs and promotions, were violating the AKS and the FCA.

87. Relator engaged in protected activity under 31 U.S.C. § 3730(h)(1) when, by lawful acts, he repeatedly opposed, protested, and attempted to stop these illegal practices. His protected activity included, *inter alia*, objecting to the free resupply



program in November 2014, shortly after ResMed instituted it; refusing to enroll customers in the program because of his belief that it was illegal; and specifically informing Melby that he believed the program to be illegal.

88. ResMed knew that Relator had engaged in these instances of protected activity because he complained directly to his supervisor, Melby, who reported to the Vice President of Sales for the Eastern United States, Shoop.

89. ResMed retaliated against Relator for engaging in these instances of protected activity by placing him on a PIP, removing him from his largest account, making unfounded allegations about his conduct and performance, and ultimately terminating his employment.

90. The close temporal proximity between Relator's allegations of illegal conduct and the commencement of ResMed management's retaliatory campaign against him gives rise to a strong inference of causation.

91. ResMed's actions have caused and will continue to cause Relator substantial economic loss, including lost salary, benefits, and bonus payments; damage to his career prospects and earnings potential; damage to his professional reputation; humiliation; emotional distress; and pain and suffering.

92. By these actions, ResMed has violated 31 U.S.C. § 3730(h)(1).

93. Pursuant to 31 U.S.C. § 3730(h)(2), Relator is entitled to all relief necessary to make him whole for ResMed's retaliation, including reinstatement (or front pay in lieu of reinstatement), two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the retaliation, including emotional and reputational harm, litigation costs, and reasonable attorneys' fees.

### **Count III**

#### **California False Claims Act Retaliation**

#### **Cal. Gov't Code Ann. § 12653**

94. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

95. Under Cal. Gov't Code Ann. § 12653(a), it is unlawful to discharge, demote, threaten, harass, or otherwise discriminate against an employee in the terms and conditions of employment because of lawful acts done in furtherance of an action under the CFCA or other efforts to stop one or more violations of the CFCA.

96. For purposes of Cal. Gov't Code Ann. § 12653(a), Relator was an employee of Defendant ResMed Corp.

97. Relator had a reasonable belief that Defendants, through their free resupply programs and promotions, were violating the CFCA.

98. Relator engaged in protected activity under Cal. Gov't Code Ann. § 12653(a) when, by lawful acts, he repeatedly opposed, protested, and attempted to stop these illegal practices. His protected activity included, *inter alia*, objecting to the free resupply program in November 2014, shortly after ResMed instituted it; refusing to enroll customers in the program because of his belief that it was illegal; and specifically informing Melby that he believed the program to be illegal.

99. ResMed knew that Relator had engaged in these instances of protected activity because he complained directly to his supervisor, Melby, who reported to the Vice President of Sales for the Eastern United States, Shoop.

100. ResMed retaliated against Relator for engaging in these instances of protected activity by placing him on a PIP, removing him from his largest account, making unfounded allegations about his conduct and performance, and ultimately terminating his employment.

101. The close temporal proximity between Relator's allegations of illegal conduct and the commencement of ResMed management's retaliatory campaign against him gives rise to a strong inference of causation.

102. ResMed's actions have caused and will continue to cause Relator substantial economic loss, including lost salary, benefits, and bonus payments; damage to his career prospects and earnings potential; damage to his professional reputation; humiliation; emotional distress; and pain and suffering.

103. By these actions, ResMed has violated Cal. Gov't Code Ann. § 12653(a).

104. Pursuant to Cal. Gov't Code Ann. § 12653(b), Relator is entitled to all relief necessary to make him whole for ResMed's retaliation, including reinstatement (or front pay in lieu of reinstatement), two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the retaliation, including emotional and reputational harm, litigation costs, and reasonable attorneys' fees.

#### **Count IV**

##### **Wrongful Discharge in Violation of California Public Policy**

105. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

106. California law provides a common-law cause of action for wrongful discharge, known as a *Tameny* claim, where an employee's protected activity was a motivating factor in his employer's decision to terminate his employment. Protected activity includes refusing to violate a statute, performing a statutory obligation, exercising a constitutional or statutory right or privilege, or internally reporting a statutory violation for the public's benefit.

107. An employee engages in protected activity for purposes of a *Tameny* claim if the employee reasonably believes that conduct he reports internally to supervisors constitutes a violation of law.

108. An employee discharged in violation of California public policy may bring a *Tameny* claim despite the existence of an independent federal or state statutory

retaliation remedy, such as the federal False Claims Act and the California False Claims Act.

109. Although Relator, as a sales territory manager in Michigan, performed much of his work in that state, California law is applicable here, as California has the most significant relationship to the events at issue. ResMed's only domestic physical office is located in California, and most of its employees are located there. Critically, all officers, executives, and managers have offices in ResMed's San Diego headquarters, and these individuals devised and executed the illegal schemes to which Relator objected. Moreover, while sales staff, like Relator, were spread across the country, ResMed held all sales meetings and trainings in California. Relator's immediate supervisor, Regional Manager Thomas Melby, had an office in San Diego, as did his second-line supervisor William Shoop (Vice President of Sales for the Eastern U.S.). Relator was informed of his termination by Beth Mann, a Human Resources director based in California.

110. Relator engaged in protected activity when, as detailed above, he internally reported and attempted to stop conduct that violated the False Claims Act, 31 U.S.C. §§ 3729 *et seq.* and the California False Claims Act, Cal. Gov't Code §§ 12651(a)(1)–(2), as detailed herein. The conduct Relator opposed, namely the submission of false claims for payment to the government, also constituted violations of other relevant statutes, including Cal. Penal Code § 484(a) (making it unlawful to knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money); Cal. Penal Code § 550(a)(5) (making it unlawful to knowingly prepare, make, or subscribe any writing, with the intent to present or use it in support of any false or fraudulent claim, or to aid, abet, solicit, or conspire with any person to do the same); 18 U.S.C. § 1341 (mail fraud); and 18 U.S.C. § 1343 (wire fraud).

111. ResMed terminated Relator's employment because of his protected activity.

112. ResMed's actions directly and proximately caused Relator to lose income and other economic benefits, impaired his future earning capacity, damaged his professional reputation, and caused him emotional distress.

113. ResMed terminated Relator's employment intentionally, maliciously, with unlawful purpose to cause damage or loss, and without right or justifiable cause, thereby warranting an award of punitive damages.

**Count V**

**California False Claims Act**

**Cal. Gov't Code §§ 12651(a)(1)–(2)**

114. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

115. This is a claim for treble damages and penalties under the California False Claims Act.

116. Defendant knowingly caused the presentation of false or fraudulent claims to the California State Government for payment or approval.

117. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

118. The California State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

119. Defendants have damaged, and continue to damage, the State of California in a substantial amount to be determined at trial.

120. Additionally, the California State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count VI**

**Colorado Medicaid False Claims Act**

**Colo. Rev. Stat. §§ 25.5-4-305(1)(a)–(b)**

121. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

122. This is a claim for treble damages and penalties under the Colorado Medicaid False Claims Act.

123. Defendant knowingly caused the presentation of false or fraudulent claims to the Colorado State Government for payment or approval.

124. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

125. The Colorado State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

126. Defendants have damaged, and continue to damage, the State of Colorado in a substantial amount to be determined at trial.

127. Additionally, the Colorado State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count VII**

**Connecticut False Claims Act**

**Conn. Gen. Stat. §§ 17b-301b(a)(1)–(2)**

128. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

129. This is a claim for treble damages and penalties under the Connecticut False Claims Act.

130. Defendant knowingly caused the presentation of false or fraudulent claims to the Connecticut State Government for payment or approval.

131. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

132. The Connecticut State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

133. Defendants have damaged, and continue to damage, the State of Connecticut in a substantial amount to be determined at trial.

134. Additionally, the Connecticut State Government is entitled to the maximum penalty for each and every violation alleged herein.

### **Count VIII**

#### **Delaware False Claims and Reporting Act**

##### **6 Del C. §§ 1201(a)(1)–(2)**

135. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

136. This is a claim for treble damages and penalties under the Delaware False Claims and Reporting Act.

137. Defendant knowingly caused the presentation of false or fraudulent claims to the Delaware State Government for payment or approval.

138. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

139. The Delaware State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

140. Defendants have damaged, and continue to damage, the State of Delaware in a substantial amount to be determined at trial.

141. Additionally, the Delaware State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count IX**

**Florida False Claims Act**

**Fla. Stat. Ann. §§ 68.082(2)(a)–(b)**

142. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

143. This is a claim for treble damages and penalties under the Florida False Claims Act.

144. Defendant knowingly caused the presentation of false or fraudulent claims to the Florida State Government for payment or approval.

145. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

146. The Florida State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

147. Defendants have damaged, and continue to damage, the State of Florida in a substantial amount to be determined at trial.

148. Additionally, the Florida State Government is entitled to the maximum penalty for each and every violation alleged herein.



**Count X**

**Georgia State False Medicaid Claims Act**

**Ga. Code Ann. §§ 49-4-168.1(a)(1)–(2)**

149. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

150. This is a claim for treble damages and penalties under the Georgia State False Medicaid Claims Act.

151. Defendant knowingly caused the presentation of false or fraudulent claims to the Georgia State Government for payment or approval.

152. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

153. The Georgia State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

154. Defendants have damaged, and continue to damage, the State of Georgia in a substantial amount to be determined at trial.

155. Additionally, the Georgia State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XI**

**Hawaii False Claims Act**

**Haw. Rev. Stat. §§ 661-21(a)(1)–(2)**

156. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

157. This is a claim for treble damages and penalties under the Hawaii False Claims Act.

158. Defendant knowingly caused the presentation of false or fraudulent claims to the Hawaii State Government for payment or approval.

159. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

160. The Hawaii State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

161. Defendants have damaged, and continue to damage, the State of Hawaii in a substantial amount to be determined at trial.

162. Additionally, the Hawaii State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XII**

**Illinois Whistleblower Reward and Protection Act**

**740 Ill. Comp. Stat. §§ 175/3(a)(1)(A)–(B)**

163. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

164. This is a claim for treble damages and penalties under the Illinois Whistleblower Reward and Protection Act.

165. Defendant knowingly caused the presentation of false or fraudulent claims to the Illinois State Government for payment or approval.

166. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

167. The Illinois State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

168. Defendants have damaged, and continue to damage, the State of Illinois in a substantial amount to be determined at trial.

169. Additionally, the Illinois State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XIII**

**Indiana False Claims and Whistleblower Protection Act**

**Ind. Code Ann. §§ 5-11-5.5-2(b)(1)–(2)**

170. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

171. This is a claim for treble damages and penalties under the Indiana False Claims and Whistleblower Protection Act.

172. Defendant knowingly caused the presentation of false or fraudulent claims to the Indiana State Government for payment or approval.

173. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

174. The Indiana State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

175. Defendants have damaged, and continue to damage, the State of Indiana in a substantial amount to be determined at trial.

176. Additionally, the Indiana State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XIV**

**Iowa False Claims Act**

**Iowa Code §§ 685.2(1)(a)–(b)**

177. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

178. This is a claim for treble damages and penalties under the Iowa False Claims Act.

179. Defendant knowingly caused the presentation of false or fraudulent claims to the Iowa State Government for payment or approval.

180. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

181. The Iowa State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

182. Defendants have damaged, and continue to damage, the State of Iowa in a substantial amount to be determined at trial.

183. Additionally, the Iowa State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XV**

**Louisiana Medical Assistance Programs Integrity Law**

**La. Rev. Stat. §§ 46:438.3(A)–(B)**

184. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

185. This is a claim for treble damages and penalties under the Louisiana Medical Assistance Programs Integrity Law.

186. Defendant knowingly caused the presentation of false or fraudulent claims to the Louisiana State Government for payment or approval.

187. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

188. The Louisiana State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

189. Defendants have damaged, and continue to damage, the State of Louisiana in a substantial amount to be determined at trial.

190. Additionally, the Louisiana State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XVI**

**Maryland False Health Claims Act**

**Md. Code Ann., Health-Gen. §§ 2-602(a)(1)–(2)**

191. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

192. This is a claim for treble damages and penalties under the Maryland False Health Claims Act.

193. Defendant knowingly caused the presentation of false or fraudulent claims to the Maryland State Government for payment or approval.

194. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

195. The Maryland State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

196. Defendants have damaged, and continue to damage, the State of Maryland in a substantial amount to be determined at trial.

197. Additionally, the Maryland State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XVII**

**Massachusetts False Claims Law**

**Mass. Gen. Laws ch. 12, §§ 5B(a)(1)–(2)**

198. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

199. This is a claim for treble damages and penalties under the Massachusetts False Claims Law.

200. Defendant knowingly caused the presentation of false or fraudulent claims to the Massachusetts State Government for payment or approval.

201. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

202. The Massachusetts State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

203. Defendants have damaged, and continue to damage, the State of Massachusetts in a substantial amount to be determined at trial.

204. Additionally, the Massachusetts State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XVIII**

**Michigan Medicaid False Claims Act**

**Mich. Comp. Laws §§ 400.601 *et seq.***

205. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

206. This is a claim for treble damages and penalties under the Michigan Medicaid False Claims Act.

207. Defendant knowingly caused the presentation of false or fraudulent claims to the Michigan State Government for payment or approval.

208. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

209. The Michigan State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

210. Defendants have damaged, and continue to damage, the State of Michigan in a substantial amount to be determined at trial.

211. Additionally, the Michigan State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XIX**

**Minnesota False Claims Act**

**Minn. Stat. §§ 15C.02(a)(1)–(2)**

212. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

213. This is a claim for treble damages and penalties under the Minnesota False Claims Act.

214. Defendant knowingly caused the presentation of false or fraudulent claims to the Minnesota State Government for payment or approval.

215. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

216. The Minnesota State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

217. Defendants have damaged, and continue to damage, the State of Minnesota in a substantial amount to be determined at trial.

218. Additionally, the Minnesota State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XX**

**Montana False Claims Act**

**Mont. Code Ann. §§ 17-8-403(1)(a)–(b)**

219. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

220. This is a claim for treble damages and penalties under the Montana False Claims Act.

221. Defendant knowingly caused the presentation of false or fraudulent claims to the Montana State Government for payment or approval.

222. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.



223. The Montana State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

224. Defendants have damaged, and continue to damage, the State of Montana in a substantial amount to be determined at trial.

225. Additionally, the Montana State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XXI**

**Nevada False Claims Act**

**Nev. Rev. Stat. Ann. §§ 357.040(1)(a)–(b)**

226. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

227. This is a claim for treble damages and penalties under the Nevada False Claims Act.

228. Defendant knowingly caused the presentation of false or fraudulent claims to the Nevada State Government for payment or approval.

229. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

230. The Nevada State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

231. Defendants have damaged, and continue to damage, the State of Nevada in a substantial amount to be determined at trial.

232. Additionally, the Nevada State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XXII**

**New Jersey False Claims Act**

**N.J. Stat. §§ 2A:32C-3(a)–(b)**

233. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

234. This is a claim for treble damages and penalties under the New Jersey False Claims Act.

235. Defendant knowingly caused the presentation of false or fraudulent claims to the New Jersey State Government for payment or approval.

236. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

237. The New Jersey State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

238. Defendants have damaged, and continue to damage, the State of New Jersey in a substantial amount to be determined at trial.

239. Additionally, the New Jersey State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XXIII**

**New Mexico Medicaid False Claims Act**

**N.M. Stat. Ann. §§ 27-14-4(A) & (C)**

240. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

241. This is a claim for treble damages and penalties under the New Mexico Medicaid False Claims Act.

242. Defendant knowingly caused the presentation of false or fraudulent claims to the New Mexico State Government for payment or approval.

243. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

244. The New Mexico State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

245. Defendants have damaged, and continue to damage, the State of New Mexico in a substantial amount to be determined at trial.

246. Additionally, the New Mexico State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XXIV**

**New York False Claims Act**

**N.Y. State Fin. §§ 189(1)(a)–(b)**

247. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

248. This is a claim for treble damages and penalties under the New York False Claims Act.

249. Defendant knowingly caused the presentation of false or fraudulent claims to the New York State Government for payment or approval.

250. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

251. The New York State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

252. Defendants have damaged, and continue to damage, the State of New York in a substantial amount to be determined at trial.

253. Additionally, the New York State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XXV**

**North Carolina False Claims Act**

**N.C. Gen. Stat. §§ 1-607(a)(1)–(2)**

254. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

255. This is a claim for treble damages and penalties under the North Carolina False Claims Act.

256. Defendant knowingly caused the presentation of false or fraudulent claims to the North Carolina State Government for payment or approval.

257. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

258. The North Carolina State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

259. Defendants have damaged, and continue to damage, the State of North Carolina in a substantial amount to be determined at trial.

260. Additionally, the North Carolina State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XXVI**

**Oklahoma Medicaid False Claims Act**

**Okla. Stat. tit. 63 §§ 5053.1(B)(1)–(2)**

261. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

262. This is a claim for treble damages and penalties under the Oklahoma Medicaid False Claims Act.

263. Defendant knowingly caused the presentation of false or fraudulent claims to the Oklahoma State Government for payment or approval.

264. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

265. The Oklahoma State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

266. Defendants have damaged, and continue to damage, the State of Oklahoma in a substantial amount to be determined at trial.

267. Additionally, the Oklahoma State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XXVII**

**Rhode Island False Claims Act**

**R.I. Gen. Laws §§ 9-1.1-3(a)(1)–(2)**

268. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

269. This is a claim for treble damages and penalties under the Rhode Island False Claims Act.

270. Defendant knowingly caused the presentation of false or fraudulent claims to the Rhode Island State Government for payment or approval.

271. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

272. The Rhode Island State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

273. Defendants have damaged, and continue to damage, the State of Rhode Island in a substantial amount to be determined at trial.

274. Additionally, the Rhode Island State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XXVIII**

**Tennessee False Claims Act and Tennessee Medicaid False Claims Act**

**Tenn. Code Ann. §§ 4-18-103(a)(1)–(2) and §§ 71-5-182(a)(1)(A)–(B)**

275. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

276. This is a claim for treble damages and penalties under Tennessee False Claims Act and Tennessee Medicaid False Claims Act.

277. Defendant knowingly caused the presentation of false or fraudulent claims to the Tennessee State Government for payment or approval.

278. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

279. The Tennessee State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

280. Defendants have damaged, and continue to damage, the State of Tennessee in a substantial amount to be determined at trial.

281. Additionally, the Tennessee State Government is entitled to the maximum penalties pursuant to the Tennessee False Claims Act and the Tennessee Medicaid False Claims Act for each and every violation alleged herein.

**Count XXIX**

**Texas Medicaid Fraud Prevention Law**

**Tex. Hum. Res. Code Ann. § 36.002**

282. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

283. This is a claim for treble damages and penalties under the Texas Medicaid Fraud Prevention Law.

284. Defendant knowingly caused the presentation of false or fraudulent claims to the Texas State Government for payment or approval.

285. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

286. The Texas State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

287. Defendants have damaged, and continue to damage, the State of Texas in a substantial amount to be determined at trial.

288. Additionally, the Texas State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XXX**

**Vermont False Claims Act**

**31 Vermont Stats. Ann., Ch. 7, Subch. 8, §§ 630 *et seq.***

289. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

290. This is a claim for treble damages and penalties under the Vermont False Claims Act.

291. Defendant knowingly caused the presentation of false or fraudulent claims to the Vermont State Government for payment or approval.

292. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

293. The Vermont State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

294. Defendants have damaged, and continue to damage, the State of Vermont in a substantial amount to be determined at trial.

295. Additionally, the Vermont State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XXXI**

**Virginia Fraud Against Taxpayers Act**

**Va. Code Ann. §§ 8.01-216.3(A)(1)–(2)**

296. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.



297. This is a claim for treble damages and penalties under the Virginia Fraud Against Taxpayers Act.

298. Defendant knowingly caused the presentation of false or fraudulent claims to the Virginia State Government for payment or approval.

299. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the false claims. Relator has no control over such entities and no access to records they possess.

300. The Virginia State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

301. Defendants have damaged, and continue to damage, the State of Virginia in a substantial amount to be determined at trial.

302. Additionally, the Virginia State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XXXII**

**Washington State Medicaid Fraud False Claims Act**

**Wash. Rev. Code §§ 74.66.020(1)(a)–(b)**

303. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

304. This is a claim for treble damages and penalties under the Washington State Medicaid Fraud False Claims Act.

305. Defendant knowingly caused the presentation of false or fraudulent claims to the Washington State Government for payment or approval.

306. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the state presented the

false claims. Relator has no control over such entities and no access to records they possess.

307. The Washington State Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

308. Defendants have damaged, and continue to damage, the State of Washington in a substantial amount to be determined at trial.

309. Additionally, the Washington State Government is entitled to the maximum penalty for each and every violation alleged herein.

**Count XXXIII**

**District of Columbia False Claims Act**

**D.C. Code §§ 2-381.02(a)(1)–(2)**

310. Relator realleges and incorporates by reference the allegations contained in paragraphs 1 through 75 above as though fully set forth herein.

311. This is a claim for treble damages and penalties under the District of Columbia False Claims Act.

312. Defendant knowingly caused the presentation of false or fraudulent claims to the District of Columbia Government for payment or approval.

313. Relator cannot now identify all of the false claims for payment that Defendants' conduct caused, as numerous separate entities across the District of Columbia presented the false claims. Relator has no control over such entities and no access to records they possess.

314. The District of Columbia Government, unaware of the falsity of the claims that Defendants caused to be made, paid and continues to pay the claims that would not be paid but for Defendants' illegal conduct.

315. Defendants have damaged, and continue to damage, the District of Columbia in a substantial amount to be determined at trial.

316. Additionally, the District of Columbia Government is entitled to the maximum penalty for each and every violation alleged herein.

#### **VIII. PRAYER**

WHEREFORE, Relator prays for judgment against Defendants as follows:

1. That Defendants cease and desist from violating 31 U.S.C. §§ 3729 *et seq.*, and the analogous State statutes set forth above;
2. That this Court enter judgment against Defendants in an amount equal to three times the amount of damages the United States and the States have sustained because of Defendants' actions, plus the maximum civil penalty permitted for each violation of the Federal False Claims Act or of the analogous State statutes;
3. That Relator be awarded the maximum amount allowed pursuant to § 3730(d) of the False Claims Act and the equivalent provisions of the State statutes set forth above;
4. That Relator be awarded all fees, costs, and expenses incurred in connection with this action, including attorneys' fees, costs, and expenses; and
5. That Relator recover such other relief as the Court deems just and proper.

#### **IX. DEMAND FOR JURY TRIAL**

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

Respectfully submitted,

s/ William A. Coates  
William A. Coates, Fed. ID No. 183  
ROE CASSIDY COATES & PRICE P.A.  
1052 North Church Street  
Greenville, SC 29601  
wac@roecassidy.com  
Tel: (864) 349-2600  
Fax: (864) 349-0303

**OF COUNSEL:**

Stephen S. Hasegawa\*  
PHILLIPS & COHEN LLP  
100 The Embarcadero, Suite 300  
San Francisco, CA 94105  
shasegawa@pcsf.com  
Tel: (415) 836-9000  
Fax: (415) 836-9001  
*\* Motion for admission Pro Hac Vice  
to be filed*

Michael A. Filoromo, III  
KATZ, MARSHALL & BANKS, LLP  
1845 Walnut Street, 25th Floor  
Philadelphia, PA 19103  
[filoromo@kmblegal.com](mailto:filoromo@kmblegal.com)  
Tel: (215) 735-2171  
Fax: (267) 687-7184  
*\* Motion for admission Pro Hac Vice  
to be filed*

*Attorneys for Qui Tam Plaintiff Thomas Baker*

Greenville, South Carolina

December 1, 2017