

# **University of Pittsburgh Medical Center (UPMC) Agrees to Pay \$38 Million to Resolve Whistleblower Claims Alleging Violations of the Physician Self-Referral Law**

May 9, 2024

**PITTSBURGH, PA, (May 9, 2024)** – On behalf of their clients, Stone Law Firm, LLC, Del Sole Cavanaugh Stroyd LLC, Simpson Law Firm, LLC, and Morgan Verkamp, LLC are pleased to announce that the University of Pittsburgh Medical Center (UPMC) will pay \$38 million to settle a long-running False Claims Act case relating to UPMC’s Department of Neurological Surgery.

The settlement resolves a whistleblower lawsuit filed in 2012 by neurosurgeon J. William Bookwalter, neurophysiologist Robert Sclabassi, and surgical technologist Anna Mitina. The False Claims Act allows private citizens to file suit on behalf of the government to recover money back to the United States Treasury for false claims submitted to federal healthcare programs. Under the Stark Law (also known as the Physician Self-Referral Law), hospitals are prohibited from submitting claims to Medicare and Medicaid for procedures, surgeries, and other services furnished pursuant to referrals from physicians who have a financial relationship with the hospital, unless the relationship falls within a statutory exception. Claims submitted in violation of the Stark Law are false claims under the False Claims Act, and any money paid on such claims must be returned to the government. Among other things, the allegations resolved by this settlement include that certain neurosurgeons were paid excessive compensation (well-above fair market value) by UPMC, and that those surgeons referred procedures and surgeries to UPMC in violation of the Stark Law.

“The Stark Law was enacted to ensure that the clinical judgment of physicians is not corrupted by improper financial incentives,” said Mark Simpson, of Simpson Law Firm. “Patients need and deserve to know that the hospital services they receive are the product of sound medical judgment, rather than motivated by the physician’s financial interests,” noted Steve Del Sole, of Del Sole Cavanaugh Stroyd.

Dr. Bookwalter, Dr. Sclabassi, and Ms. Mitina alleged that UPMC and its employed neurosurgeons engaged in fraudulent schemes that boosted both the neurosurgeons’ pay and UPMC’s revenues. They alleged that, under these arrangements, the neurosurgeons were financially incentivized to perform surgeries and other procedures at UPMC facilities because doing so led to higher compensation and resulted in more money for the hospital system.

“Whistleblowers play a critical and indispensable role in helping the government recover money that was improperly obtained, and this case is an excellent example of the impact of the whistleblower provisions of the federal False Claims Act, which empowers ordinary citizens to step forward, report fraud, and recover stolen funds on behalf of the United States,” said Jennifer Verkamp, of Morgan Verkamp LLC.

The case was filed in 2012 and had a partial settlement in 2016, relating to certain claims submitted for physician services. The whistleblowers then vigorously pursued the remaining Stark Law

claims for seven years until the resolution announced today. That pursuit included a successful appeal to the United States Court of Appeals for the Third Circuit, which reversed the District Court's dismissal of the case and held that a hospital's compensation plan that overpaid its doctors could violate the Stark Law if that compensation varied with or took into account the volume or value of referrals. *United States ex rel. Bookwalter v. UPMC*, 946 F.3d 162 (3d Cir. 2019). As a result, hospital systems across the county re-evaluated physician compensation arrangements to avoid running afoul of the Stark Law.

The \$38 million settlement is believed to be one of the largest Stark Law recoveries in a False Claims Act case where the United States declined to intervene. As a reward for their successful efforts, the United States will pay the whistleblowers a total of \$11,020,000, or 29% of the amount recovered.

Stone Law Firm, LLC, Del Sole Cavanaugh Stroyd LLC, Simpson Law Firm, LLC, and Morgan Verkamp, LLC wish to acknowledge their clients' fortitude and perseverance in bringing this case forward on behalf of the United States. "Drs. Bookwalter and Sclabassi and Ms. Mitina demonstrated courage and patriotism in stepping front and center with their lawsuit. Whistleblowers like them are often put in difficult situations when they decide to speak out about potential fraud, but they are grounded by a conviction and moral compass that points to the right destination," said Andrew Stone, of Stone Law Firm, "This kind of recovery would simply be impossible without the bravery and commitment of whistleblowers willing to incur enormous risk to do the right thing on behalf of the taxpayers."

Drs. Bookwalter and Sclabassi and Ms. Mitina were represented by Steve Del Sole and Pat Cavanaugh of Del Sole Cavanaugh Stroyd; Andrew Stone of Stone Law Firm, LLC; Mark Simpson of Simpson Law Firm, LLC; and Jennifer Verkamp, Rick Morgan, Chandra Napora, and Jonathan Lischak of Morgan Verkamp LLC. The case is captioned *United States ex rel. J. William Bookwalter, III, M.D., et al. v. UPMC, et al.*, Civ. No. 12-145 (WDPA).