

Court Enters Judgment Totaling More Than \$32 Million on Mississippi Jury's \$10.8 Million Verdict, Demonstrating Risks for Defendants Found Guilty of False Claims Act Violations at Trial

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Shortly before COVID-19 halted jury proceedings across the United States, a Mississippi jury sided with the Government to return a \$10.8 million verdict against Stone County Hospital and several affiliates for what the jury found were false Medicare claims submitted in violation of the False Claims Act ("FCA"). *United States ex rel. Aldridge v. Corporate Management, Inc., et al.*, Case No. 1:16cv369-HTW-LRA (S.D. Miss.).

In May 2007, James Aldridge, the former Chief Operating Officer of Stone County Hospital, filed a *qui tam* action against the hospital and several defendants involved in its management and operation, including Ted Cain, Julie Cain, Tommy Kuluz, and Corporate Management, Inc. (the "Defendants"). The complaint alleged the Defendants submitted false records to secure payment under Medicare for services not actually performed and otherwise conspired to submit false claims in violation of the FCA. The Government investigated for nearly eight years before intervening in the lawsuit in 2015.

The intervening complaint contained detailed allegations that the Defendants and others abused the special Medicare rules for Critical Access Hospitals from 2004 through 2015 by improperly claiming expenses for work not performed. Such false claims allegedly included the excessive and unwarranted compensation of Mr. Cain—who owned both Stone County Hospital and Corporate Management—as well as claims submitted for Mr. Cain's personal luxury automobiles. The Government further alleged that Stone County Hospital's Medicare cost reports misallocated expenses of Corporate Management to the hospital and contained inflated, unnecessary, and duplicative costs purportedly incurred by Corporate Management and related businesses owned by Mr. Cain. The Government alleged the Defendants submitted false records and statements to Medicare seeking reimbursement for these false and fraudulent expenses.

After a nine-week trial, a Mississippi jury returned a \$10.8 million guilty verdict against

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Ted Cain, Julie Cain, Stone County Hospital, Corporate Management, and Tommy Kuluz on March 12, 2020. The jury found the sixth defendant—Starann Lamier, the Chief Operating Officer of Corporate Management—not guilty.

The 33-page verdict allocated the majority of the damages—\$9.6 million—to Mr. Cain's salary billed to Medicare through Stone County Hospital and Corporate Management. Under special reimbursement policies for critical access hospitals that service rural, underserved areas, Corporate Management passed on the vast majority of Mr. Cain's multi-million dollar compensation to Stone County Hospital, which Medicare had reimbursed at 101% from 2004 to 2013 and 90% from 2013 to 2015. In addition, the jury awarded the Government over \$850,000 in damages for fraudulent compensation paid to Julie Cain, who allegedly received compensation both for her work at Stone County Hospital and Corporate Management, although the jury found she rarely worked at the hospital and could not provide evidence of any consulting work performed for the hospital. The jury also awarded the Government over \$380,000 for home office costs improperly submitted to Medicare.

The Court scheduled oral argument on the imposition of penalties for March 26, 2020, but postponed the argument to May 6, 2020 due to the COVID-19 pandemic. In light of this delay—and the Government's desire to quickly attach a judgment to the Defendants' assets to secure future payment—the Government moved for immediate entry of judgment consistent with the jury's verdict, seeking to apply the mandatory treble damages under the FCA to each Defendant, and recommended that the Court impose the minimum penalty permitted by law for the 12 claims at issue.

On May 10, 2020, the Court entered judgment and calculated damages and penalties consistent with the jury verdict, the FCA, and the Government's requested relief, applying the mandatory treble damages under FCA and the minimum penalty for each false claim found by the jury. Once trebled, the judgment held each Defendant jointly and severally liable for the amounts up to their respective liability, ranging from \$27 to \$32 million, as well as statutory penalties ranging from \$66,000 to \$71,000. The Court's judgment also continued its prior order forbidding the Defendants from transferring, dissipating, selling or disposing of any of their assets.

This case is noteworthy for several reasons. First, FCA cases rarely proceed to trial—or, at least, last the length of a trial to verdict. This case, however, resulted in a verdict after nine weeks. This case also exemplifies the criminal prosecution of individuals under the FCA. Although the Yates memorandum has placed an emphasis on individuals in FCA investigations and prosecutions since 2015, the majority of FCA prosecutions remain directed at corporate defendants. Next, this case demonstrates the significant duration of many FCA investigations. Although the relator originally filed his sealed complaint in 2007, the Government did not intervene until 2015. In the interim, Defendants were found to have continued submitting false claims for which they were ultimately held liable. Finally, this case is an important reminder about joint and several liability under the FCA and the significant and mandatory statutory penalties and damages in FCA cases. As exemplified by the verdict form in this case, juries are asked only to find the

number and monetary amount of each false claim. Only after receiving the jury verdict does the court treble the amount of false claims to represent total damages and add statutory penalties based on the number of false claims. This two-step process emphasizes the risk of significant monetary liability under the FCA for both individual and corporate defendants, which, of course, is likely one reason most FCA cases resolve prior to jury verdict.