

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

UNITED STATES OF AMERICA,
ex rel. ABC,

Plaintiff,

v.

Case No.

DEF.

,

Defendants.

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

COMPLAINT AND DEMAND FOR JURY TRIAL
Claims Pursuant to the False Claims Act, 31 U.S.C. § 3730

[FILED IN CAMERA AND UNDER SEAL]

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

UNITED STATES OF AMERICA,
Ex rel. MARK V. MORSCH,

Plaintiff,

Case No.

v.

ROGER KHOURI and KEY BISCAYNE
SURGERY CENTER, LLC,

Defendants.

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

COMPLAINT AND DEMAND FOR JURY TRIAL
Claims Pursuant to the False Claims Act, 31 U.S.C. sec. 3730, et seq.

The United States of America, by and through qui tam originating relator Mark V. Morsch (“Relator”), hereby brings this action pursuant to the False Claims Act (“FCA”), as amended, 31 U.S.C. § 3729 et seq., by and through his attorney, Andres I. Beregovich, and hereby declares the following to recover all damages, penalties, and other remedies available as established by the FCA which were caused by Defendants’ repeated and deliberate submissions of false, fraudulent and intentionally deceptive records, claims, statements and representations, issued and caused to be made, used and relied upon by the United States Government and its Medicare program.

As will be set forth with greater specificity below, Roger Khouri (“Khouri”) rendered surgical services to patients at Key Biscayne Surgery Center, LLC (“KBSC”) in violation of the license issued by the State of Florida Agency for Health Care Administration to Key Biscayne Surgery Center, LLC, as an ambulatory surgical center (“ASC”), and submitted falsified and fraudulent billings and charges to Medicare in an effort to be reimbursed by Medicare for the rendering of surgical services in violation of the ASC license issued to KBSC by the State of

Florida Agency for Health Care Administration. Khouri is the sole owner of KBSC. KBSC and Khouri will be referred to collectively as Khouri, as he is the sole owner of KBSC. The Medicare program has used government to remit payment to Khouri based upon his false and fraudulent claim submissions for unlicensed surgery that would have not been paid but for Khouri's false and fraudulent claims. Stated another way, the United States Government would not have paid claims to Khouri had it known that the claims submitted to Medicare by Khouri were for surgeries performed in violation of the State of Florida Agency for Health Care Administration license issued to Khouri to perform said surgeries.

1. Plaintiff is the United States of America.
2. Relator is an individual.
3. Khouri is a licensed medical doctor board-certified in plastic surgery. Khouri's National Identifier (NPI) is 1740232784. Khouri's Florida license number is ME69615.
4. Upon information and belief, Khouri is the owner of the ambulatory surgical center known as Key Biscayne Surgery Center, LLC ("KBSC"), licensed through the State of Florida Agency for Health Care Administration under license number 1331 and located at 580 Crandon Boulevard, Suite 301, Key Biscayne, Florida 33149.
5. KBSC was first licensed as an ambulatory surgical center by the State of Florida Agency for Health Care Administration on or about January 21, 2010. KBSC was licensed by the State of Florida to operate one operating room , zero procedure rooms, and two recovery beds.
6. KBSC is believed to be wholly owned by Khouri and its NPI is 1477876696. Its registered agent is Khouri and he may be served at 580 Crandon Boulevard, Suite 201, Key Biscayne, Florida 33149.

7. Khouri has benefited from the pattern and practices stated below.

JURISDICTION AND VENUE

8. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and 31 U.S.C. §3732, the latter of which specifically confers jurisdiction on this Court for actions brought pursuant to 31 U.S.C. §§ 3729 and 3730. Relator establishes subject matter jurisdiction under 31 U.S.C. § 3739(b).
9. This Court has personal jurisdiction over Khouri and is a proper venue pursuant to 28 U.S.C. § 1391(b) and 31 U.S.C. § 3732(a). Moreover, Khouri's principal place of business is in this District.

FEDERAL FALSE CLAIMS ACT

10. The False Claims Act, 31 U.S.C. §§ 3729-3733, provides, *inter alia*, that any person who (1) "knowingly presents, or causes to be presented, a false and fraudulent claim for payment or approval," or (2) "knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim," is liable to the United States of America for a civil monetary penalty plus treble damages. 31 U.S.C. § 3729(a)(1)(A)-(B).
11. The terms "knowing" and "knowingly" are defined to mean "that a person, with respect to information (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information." 31 U.S.C. § 3729(b)(1)(A)(i)-(iii). Proof of specific intent to defraud is not required. 31 U.S.C. § 3729(b)(1)(B).
12. The term "claim" means "any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the

money or property, that (1) is presented to an officer, employee, or agent of the United States; or (2) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest, and if the United States Government (a) provides or has provided any portion of the money or property requested or demanded; or (b) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded." 31 U.S.C. § 3729 (b)(2)(A)(i)-(iii).

13. "[T]he term 'material' means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property." 31 U.S.C. § 3729(b)(4).
14. Private citizens are allowed to bring actions on the government's behalf. "(1) A person may bring a civil action for a violation of section 3729 for the person and for the United States Government. The action shall be brought in the name of 'the Government.'" 31 U.S.C.A. § 3730(b)(1).
15. Under 31 U.S.C. § 3730(e), there has been no statutory relevant public disclosure of the allegations or transactions in this Complaint with respect to which "Relator" is not an "original source," and all material information relevant to this Complaint was provided to the United States Government prior to filing this Complaint pursuant to 31 U.S.C.A. § 3730(e)(4)(B).
16. An "original source" means an individual who "either (i) prior to a public disclosure under subsection (e)(4)(a), has voluntarily disclosed to the Government the information on which the allegations or transactions in a Claim are based, or (2) who has knowledge that is independent of and materially adds to the publicly disclosed allegations or

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