IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, *ex rel*. [Under Seal] Plaintiffs, vs. [Under Seal], Defendants.	**FILED UNDER SEAL** **CASE NO._____** Pursuant to 31 U.S.C. § 3730 (False Claims Act) (Exempt from ECF)

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, THE DISTRICT OF COLUMBIA, AND THE COMMONWEALTH OF VIRGINIA *ex rel.* JOYCE NEELEY 3301 Dodge Park Road, Apt. 101 Landover, MD 20785 and BRIAN SMITH 1922 Lakewood Street Suitland, MD 27046 and Plaintiffs vs. MV TRANSPORTATION 5910 North Central Expressway Suite 1145 Dallas, Texas 75206 Serve Registered Agent: C T CORPORATION SYSTEM 1015 15th St NW, Suite 1000 Washington, DC 20005 Defendant	**CASE NO._____** **FILED UNDER SEAL** Pursuant to 31 U.S.C. § 3730, DC ST § 2-308.15, and VA ST § 8.01-216.1

COMPLAINT AND JURY DEMAND

1. Relators Joyce Neeley and Brian Smith, by and through their attorneys, Brian J. Markovitz and the law firm of Joseph, Greenwald and Laake, PA., bring this False Claims Act

("FCA") Complaint, on behalf of the United States of America, the District of Columbia, and the Commonwealth of Virginia against Defendant MV Transportation, Inc., a Texas corporation. MV Transportation, Inc.'s main corporate office is in Dallas, Texas, and it provides services, conducts business, and has regional offices located in more than twenty (20) states, including the Commonwealth of Virginia,the state of Maryland, and the District of Columbia (collectively, "the Governments").

NATURE OF THE CASE

2. This is a claim to recover damages and civil penalties on behalf of the United States of America, the District of Columbia, and the Commonwealth of Virginia arising from false statements and false claims made by MV Transportation, Inc. (hereinafter "the Company" or "Defendant")) by systematically overcharging the Washington Metropolitan Area Transit Authority's ("WMATA") MetroAccess program. The Company acted to defraud the United States of America, the District of Columbia, and the Commonwealth of Virginia in violation of the False Claims Act, 31 U.S.C. §§ 3729-32 ("FCA"), the District of Columbia False Claims Act, D.C. CODE §§2-308.13 - 2-308.21, and the Virginia Fraud Against Taxpayers Act, V.A. CODE § 8.01-216.1, *et seq.*

3. The False Claims Act, originally enacted in 1863 during the Civil War, was substantially amended in 1986 and 2009. The new amendments were enacted by Congress to enhance the federal government's ability to recover losses sustained as a result of fraud. Congress intended to encourage individuals who are aware of such fraud to expose the same to appropriate authorities by extending monetary rewards to them, and providing for protection from reprisal, government investigation, and prosecution.

4. The False Claims Act, as amended, provides that any person who knowingly submits a false or fraudulent claim to the United States Government for payment or approval is

liable for a civil penalty of not less than $5,500 and not more than $11,000 for each false claim, plus three times the amount of damages sustained by the government for each claim. *See* 31 U.S.C. § 3729(a); 28 C.F.R. § 85.3. The Act further allows any "person," including corporations and non-profit organizations, having knowledge of a false or fraudulent claim against the government to bring an action in federal district court for himself or itself and for the United States of America, and to share in any recovery. The complaint is to be filed under seal for 60 days (without service on the defendant during the 60 day period) while the government conducts an investigation without the defendant's knowledge and determines whether to join the suit. Upon filing the complaint, the relator-plaintiff must soon thereafter file a statement disclosing all material evidence and information supporting the complaint with the Attorney General of the United States.

5. The FCA as amended provides that any person who knowingly causes a false claim to be submitted to the Government is liable for a civil penalty of between $5,500 and $11,000 per claim plus three times the amount of damages the Government sustained. 31 U.S.C. § 3729(a); 28 C.F.R. § 85.3. For purposes of the FCA, "the terms 'knowing' and 'knowingly' mean that a person, . . . (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." *Id.* at §(b). "[N]o proof of specific intent to defraud is required" for a successful claim under the FCA. *Id.*

6. The corresponding District of Columbia and Virginia Acts essentially mirror the FCA.

7. As is more fully set forth below, Defendant knowingly submitted, caused to be submitted or facilitated the submission of false and fraudulent documents and made false and fraudulent representations to the federal government and/or the governments of the District of

Columbia and the Commonwealth of Virginia over a period of several years. Specifically, Defendant engaged in a scheme to defraud the United States, as well as the District of Columbia and the Commonwealth of Virginia, by systematically overcharging WMATA's MetroAccess program. Defendant would, among other fraudulent activities, make a practice of charging the Governments' monies used to fund WMATA's MetroAccess program for services not rendered, as well as collecting government funds for transporting passengers that could not possibly have used Defendant's services – because these passengers were deceased.

8. All facts alleged herein are the based upon the personal knowledge of Relators.

JURISDICTION AND VENUE

9. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 & 1345, and 31 U.S.C. § 3732 and supplemental jurisdiction over the District of Columbia and Commonwealth of Virginia claims under 28 U.S.C. §§ 1367.

10. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) & (c), and 31 U.S.C. § 3732, because Defendant regularly conducted business in the District of Columbia. In addition, many of the Defendant's acts proscribed by 31 U.S.C. § 3729, D.C. CODE §§ 2-308.13 - 2-308.21, and V.A. CODE § 8.01-216.1 occurred in the District of Columbia.

PARTIES

11. Relator Neeley is a citizen and resident of the United States and the state of Maryland and resides in Landover, Maryland. Relator Neeley has been employed by Defendant as a driver since May of 2006.

12. Relator Smith is a citizen and resident of the United States and the state of Maryland and resides in Capitol Heights, Maryland. Relator Smith was formerly employed by Defendant as a driver from approximately August of 2008 through November of 2011.

13. Plaintiff, the United States of America, funds and partially operates WMATA, which is the Washington Metro Area's primary provider of public transportation, including the MetroAccess program, in the state of Maryland, the Commonwealth of Virginia, and the District of Columbia.

14. Plaintiff, the District of Columbia likewise funds and partially operates the WMATA, and therefore MetroAccess.

15. Plaintiff, the Commonwealth of Virginia likewise funds and partially operates the WMATA, and therefore MetroAccess.

16. Defendant Company and all of its subsidiaries, joint ventures, partnerships and affiliates, provide transportation services to cities, counties, municipalities, and other jurisdictional entities, as well as for private corporations, non-profit agencies, and community organizations. Specifically, in the Washington Metro Area, Defendant contracts with the WMATA to provide "MetroAccess" services to persons who patronize the D.C. area's mass-transit or "Metro" system.

17. Defendant Company is headquarted in Dallas, Texas and operates at least three satellite office locations in the Washington, DC Metro Area and performs business in the District of Columbia. One, where Plaintiff-Relators are/were based while working for Defendant is in Hyattsville, Maryland. Another, is in Capitol Heights, Maryland, and the third is in Fairfax, Virginia.

BACKGROUND

The False Claims Act

18. The False Claims Act ("FCA") provides that any person who presents or causes a false claim to be submitted to the Government is liable for a civil penalty of between $5,500 and

$11,000 per claim plus three times the amount of damages the Government sustained. 31 U.S.C. § 3729(a); 28 C.F.R. § 85.3.

19. For purposes of the FCA, "the terms 'knowing' and 'knowingly' mean that a person, . . . (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." *Id.* at § (b). "[N]o proof of specific intent to defraud is required" for a successful claim under the FCA. *Id.*

The District of Columbia False Claims Act

20. The District of Columbia False Claims Act states any person who "[k]nowingly presents, or causes to be presented, to an officer or employee of the District a false claim for payment or approval" or "[k]nowingly makes, uses, or causes to be made or used, a false record or statement to get a false claim paid or approved by the District . . . shall be liable to the District for 3 times the amount of damages which the District sustains because of the act of that person" and "shall also be liable to the District for the costs of a civil action brought to recover penalties or damages, and may be liable to the District for a civil penalty of not less than $5,000, and not more than $10,000" for each false claim. D.C. CODE § 2-308.14(a).

The Virginia Taxpayers Against Fraud Act

21. The Virginia Fraud Against Taxpayers Act provides that any person who "[k]nowingly presents, or causes to be presented, to an officer or employee of the Commonwealth a false or fraudulent claim for payment or approval" or "[k]nowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Commonwealth . . . shall be liable to the Commonwealth for a civil penalty of not less than $5,500 and not more than $11,000, plus three times the amount of damages sustained by the Commonwealth." VA. CODE § 8.01-216.3(a).

Overview of the Washington Metro Area Transit Authority

22. WMATA is an interstate compact agency created in 1967 as an instrumentality of of the District of Columbia, State of Maryland, and Commonwealth of Virginia that operates the Metrobus and Metrorail public transportation system. WMATA is a federal transit grantee pursuant to 49 U.S.C. Chapter 53, and receives federal funds pursuant to the Consolidated Appropriations Act of 2004, Pub. L. No. 108-199, 118 Stat. 3, at 113, 305. In addition to federal funds, WMATA receives funding from the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

23. As a grantee, as that term is defined in 49 U.S.C. Chapter 53, that receives federal and state funding from the states in and around the Washington Metro Area and the District of Columbia, WMATA's funding is protected by the FCA and the Act's state-corralaries. Thus, an entity or entities that submit false claims or otherwise attempt to defraud WMATA, including its MetroAccess program at issue here, are subject to liability under those acts, including, the FCA, the District of Columbia False Claims Act, and the Virginia False Claims Act.

FACTUAL ALLEGATIONS

Overview of the MetroAccess Contract

24. Contract #C05108 (hereinafter the "Contract") for the MetroAccess Program providing "Paratransit Services for Maryland, Virginia, and Washington, D.C." was entered into between WMATA and Defendant in or about November 2005.

25. Under the terms of the Contract, Defendant provides various transportation services for the DC-Metro Area's public transportation system using WMATA funds. Primarily, Defendant is the largest entity to contract with WMATA to operate WMATA's MetroAccess program, which provides transportation services for persons who are physically unable to traverse to and from the metro bus and rail stations.

26. The MetroAccess service provides daily trips throughout the Washington Metropolitan region, including the District of Columbia, Maryland and Virginia. Rides are offered in the same service areas and during the same hours of operation as Metrorail and Metrobus.

27. Defendant is a contractor that provides services for MetroAccess. These services include employing drivers who pick up patrons of MetroAccess at their homes and transport the patrons to various stops in the state of Maryland, the District of Columbia, and the Commonwealth of Virginia.

28. Patrons of MetroAccess's services often schedule their pick up times in blocks for weeks or months in advance.

29. Driver manifests are generated from these advanced booking schedules and drivers are provided the manifests for a day's pick ups at the beginning of each day.

30. WMATA is charged by Defendant on a "per-ride basis" for each rider who uses MetroAccess services. Disabled riders are charged at different rates depending on the services needed for them to use the MetroAccess system. For instance, WMATA is charged for riders that are wheelchair users at a rate of $65.00 each way because they require some additional services such as a lift gate. While individuals that have physical disabilities but are mobile and do not use a wheelchair are charged at a lower rate per ride of $35.00 because they do not require the same amount of services as a wheelchair user.

31. Additionally, when a MetroAccess rider requests a ride from a MetroAccess vehicle but fails to notify Defendant that it will not be using MetroAccess's services and then fails to show for the ride, Defendant charges WMATA a fee, known as a "cancellation fee", for having arrived at the pickup location.

32. The per ride rates that Defendant collects from WMATA are set by the Contract.

33. Patrons of MetroAccess also pay Defendant and/or WMATA a fee at the time that Defendant picks them up for each trip. Currently, MetroAccess patrons are charged $7.00 for each trip.

34. For recordkeeping purposes, Defendant is required by WMATA to use a coding system to justify billing certain rides at certain rates.

35. The codes are outlined and used in each drivers' manifest and direct the drivers as to which vehicle is necessary for the job. Defendant's billing department also uses the codes to track the amount ultimately charged to WMATA.

Defendant Intentionally and Fraudulently Charges the Governments for Deceased Persons as Cancellations

36. Defendant provides each driver with a manifest form at the beginning of each day. The manifest contains each patron's personal information—name, address, and customer identification number—and also delineates, by code, what services are to be provided by Defendant for each patron. Moreover, the manifest contains blank spaces for the drivers to fill in information as to the progress of each stop or if a driver arrives at a pick up location, but the patron either decides not to use or fails to use the service.

37. In the event of a cancellation where the driver has already arrived at the pick up location, drivers note on the manifest that the stop was a "Cancellation at the Door." When such a cancellation occurs, Defendant still charges WMATA for the driver's time, gas, and mileage for the driver to go to the pick up location. Typically, Defendant charges WMATA the full contracted-form price for each "Cancellation at the Door."

38. Many patrons have a set schedule on which MetroAccess arrives. For example, many patrons receive four to five kidney dialysis treatments per week and MetroAccess services them so that they can get to and from their appointments. However, as is often the case with

elderly or severely disabled clientele, patrons pass away, and once deceased, they are no longer in need of MetroAccess services.

39. Drivers will often arrive at a pick up location, only to be told by a family member or co-resident that the patron scheduled to be picked up has passed away. Drivers report back to their supervisors orally and in writing when a patron passes away and can no longer use theMetroAccess services.

40. However, Defendant intentionally fails to cancel subsequent pick ups for deceased patrons for weeks or more and charges WMATA for the deceased patrons' pick ups as "Cancellations at the Door." This unwritten and unofficial policy allows Defendant to fraudulently collect at least $35.00 and, at most, $65.00 per trip for deceased people as if they actually requested the service and cancelled it.

41. Moreover, because many patrons of MetroAccess use the service each day to get to and from the doctor, the hospital and/or the supermarket, even if Defendant makes the necessary change after only a two week delay, drivers have been sent to the now-deceased patron's house each day in between, resulting in significant overcharging.

42. As ridership in 2010 alone was approximately 2.4 million riders totaling approximately $103.7 million in charges to WMATA, this overcharging has resulted in significant loss to WMATA in violation of the statutes.

43. Drivers like Relators regularly complained to one another and to Defendant's management about this practice, either orally to their dispatch coordinators or in writing in their personal manifests. But Defendant failed to correct this overbilling, and this practice is ongoing.

Defendant Fraudulently Overbills the Governments for Wheel Chair Services When Passengers Do Not Require the Use of a Wheelchair

44. Some patrons require the use of a wheelchair and/or a vehicle that can accommodate one. Others patrons do not use a wheel chair so they do not need accommodations such as a liftgate.

45. On the driver manifest, Defendant codes those patrons who require "Ambulatory" services, or simple transportation to and from WMATA locations that do not require the use of a modified and/or wheelchair accessible vehicle, with an "AM."

46. Defendant charges WMATA or submits to WMATA records for reimbursement.

47. Because "Ambulatory" services do not require the use of a specialized vehicle, WMATA is charged less for those patrons who do not require a wheelchair accessible vehicle than those who need wheelchair accessible assistance. Typically, Defendant charges $35.00 each way for "Ambulatory" services. Most, if not all, patrons of Defendant's service require a ride to and from the metro each time they use MetroAccess. Thus, "Ambulatory" service costs WMATA approximately $70.00 each time a patron uses the service roundtrip.

48. On the driver manifest, Defendant codes those patrons who require "Wheelchair" services, or those patrons who require the use of a vehicle that can load and unload the patron while he or she remains in their wheelchair, with a "WC."

49. Because "Wheelchair" services require the use of a specialized vehicle, WMATA is charged at a higher rate than those rides that do not require a wheelchair accessible vehicle. Typically, Defendant charges WMATA $65.00 each way for "Wheelchair" services. Because of their limited ability to travel without assistance, most, if not all, patrons of Defendant's service require a ride to and from the Metro each time they use MetroAccess. Thus, "Wheelchair" service costs WMATA approximately $130.00 each time a patron uses the service roundtrip.

50. Defendant, through its agents, routinely indicates on its manifests that "Wheelchair" services are needed for patrons, even though those patrons do not require the use of a wheelchair accessible vehicle to be transported.

51. Moreover, individual patrons and even Defendant's drivers, like Relators, routinely inform Defendant that certain patrons are not properly classified, but Defendant fails to correct these patrons' statuses and continues to bill WMATA for the increased amount above the service actually provided.

52. The delay in changing patrons' status from "WC" to "AM" varies. While some patrons' status are changed within a few weeks of Defendant being notified that a particular patron's rides are being overcharged to WMATA, most others are not changed for extended periods of time. Regardless, in both scenarios, Defendant continues to bill WMATA for the increased "WC" rate. Moreover, because many patrons of MetroAccess use the service each day to get to and from public transportation, even if Defendant makes the necessary change after only a multi-week delay, drivers have been sent to the patron's house each day in between with the incorrect and more expensive vehicle, resulting in siginificant overcharging per ride per patron.

53. Thus, for each incorrectly and fraudulently categorized patron who rides rountrip, Defendant is overcharging WMATA an additional $60.00 (the difference between $70.00 roundtrip for "AM" patrons and $130.00 for "WC" patrons) for services it is not performing. As ridership in 2010 alone was approximately 2.4 million riders totaling approximately $103.7 million in charges to WMATA, this overcharging has resulted in significant loss to WMATA in violations of the statutes.

54. Drivers like Relators regularly complained to one another and to Defendant's management about this practice, either orally to their dispatch coordinators or in writing in their personal manifests. But Defendant failed to correct this overbilling, and this practice is ongoing.

SPECIFIC INSTANCES OF FALSE CLAIMS ACT VIOLATIONS

55. As outlined above, Defendant systematically perpetrated frauds against the WMATA and therefore funds from the United States, the District of Columbia, and the Commonwealth of Virginia. Specifically, Defendant charged WMATA for the transportation of MetroAccess patrons that were deceased as "cancellations," and also by improperly classifying patrons as needing wheelchair services, resulting in significantly higher fees charged to WMATA. Many of these illegal billing practices by Defendant occurred after Defendant's management was notified of the illegal overcharges. These actions resulted in significant overcharging, to WMATA and correspondingly funds from the United States, the District of Columbia, and the Commonwealth of Virginia, thus violating those jurisdictions' applicable false claims acts.

Specific Examples of Improperly Overbilling Ambulatory Patrons As Wheelchair Users.

56. On August 14, 2012, Defendant sent Relator Neeleyto pick up patron C.A. (Customer #27725).[1] According to Relator Neeley's manifest created by Defendant, C.A. was a "Wheelchair" or "W.C." patron. Because of the patron's "W.C." classification, Relator Neeley arrived at C.A.'s pick-up location with a wheelchair-accessible van. However, when C.A. approached Relator's vehicle, C.A. informed Relator that she was not in need of a wheelchair accessible vehicle and had repeatedly informed Defendant for multiple weeks that she did not need one. On Relator Neeley's manifest, she noted that C.A. was "Not wheel chair." Relator Neeley also informed her supervisor of C.A.'s incorrect status orally and in writing when she handed in her manifest. To the best of Relator Neeley's knowledge, Defendant continued to incorrectly send wheelchair vehicles to pick up C.A. and bill WMATA for wheelchair services.

[1] To protect privacy, patrons will be referred to by customer number and initials.

57. On August 16, 2012, Defendant sent Relator Neeleyto pick up M.T. (Customer #43945), who, according to her manifest provided by Defendant, was classified as a "Wheelchair" or "W.C." patron. Because of the "W.C." classification, Relator Neeley arrived at M.T.'s pick-up location with a wheelchair-accessible van. However, when M.T. approached the vehicle being driven by Relator Neeley, M.T. informed Relator that not only was M.T. not in need of a wheelchair accessible vehicle, but that M.T. had repeatedly informed Defendant as much. Yet, Defendant continued to send the wrong vehicle to pick her up for multiple weeks. On her manifest, Relator noted that M.T. "ha[s] not used wheel chair in a year." Relator Neeley informed her supervisor of M.T.'s incorrect status orally and in writing when she handed in her manifest. To the best of Relator Neeley's knowledge, Defendant continued to send wheelchair vehicles to pick up M.T. and billed M.T. as a wheelchair patron.

58. That same day, on August 16, 2012, Defendant sent Relator Neeley to pick up N.B. (Customer #8887), who, according to her manifest provided by Defendant, was classified as a "Wheelchair" or "W.C." patron. Because of the patron's "W.C." classification, Relator Neeley arrived at N.B.'s pick-up location with a wheelchair-accessible van. However, when N.B. approached the vehicle being driven by Relator Neeley, N.B. informed Relator that not only was N.B. not in need of a wheelchair accessible vehicle, but that N.B. had repeatedly informed Defendant as much. Yet, Defendant continued to send the wrong vehicle to pick her up for multiple weeks. On her manifest, Relator noted that N.B. was "not in wheel chair – never ha[s] been." Relator informed her supervisor of N.B.'s incorrect status orally and in writing when she handed in her manifest. To the best of Relator Neeley's knowledge, Defendant continued to send wheelchair vehicles to pick up N.B. and billed N.B. as a wheelchair patron.

59. On August 27, 2012, Defendant sent Relator Neeleyto pick up E.C. (Customer #100058), who, according to Relator's manifest provided by Defendant, was classified as a

"Wheelchair" or "W.C." patron. Because of the patron's "W.C." classification, Relator arrived at E.C.'s pick-up location with a wheelchair-accessible van. However, when E.C. approached Relator's vehicle, E.C. informed relator that not only was E.C. not in need of a wheelchair accessible vehicle, but that E.C. had repeatedly informed Defendant and Defendant continued to send the wrong vehicle to pick her up. On her manifest, Relator noted that E.C. was "not in wheel chair - never." Relator informed her supervisor of E.C.'s incorrect status orally and in writing when she handed in her manifest.

60. On August 28, 2012, Defendant sent Relator Neeley to pick up M.L. (Customer #73749), who, according to Relator's manifest provided by Defendant, was classified as a "Wheelchair" or "W.C." patron. Because of the patron's "W.C." classification, Relator arrived at M.L.'s pick-up location with a wheelchair-accessible van. However, when M.L. approached Relator's vehicle, M.L. informed relator that not only was M.L. not in need of a wheelchair accessible vehicle, but that M.L. had repeatedly informed Defendant as much for multiple weeks and Defendant continued to send the wrong vehicle to pick her up. On her manifest, Relator noted that M.L. was "Not wheel chair - never." Relator informed her supervisor of M.L.'s incorrect status orally and in writing when she handed in her manifest. To the best of Relator Neeley's knowledge, Defendant continued to send wheelchair vehicles to pick up M.L.and billed M.L. as a wheelchair patron.

61. On August 27, 2012, Defendant sent Relator Neeley to pick up J.A. (Customer #54997), who, according to Relator's manifest provided by Defendant, was classified as a "Wheelchair" or "W.C." patron. Because of the patron's "W.C." classification, Relator arrived at J.A.'s pick-up location with a wheelchair-accessible van. However, when J.A. approached the vehicle that Relator Neeley was driving, J.A. informed relator that J.A. was not in need of a wheelchair accessible vehicle. Moreover, J.A. stated that she, had repeatedly informed

Defendant as much for multiple weeks, but that Defendant repeatedly sent the wrong vehicle to pick her up. On her manifest, Relator Neeley noted that J.A. was "not in [a] wheel chair[,] never ha[s] been." Relator informed her supervisor of J.A.'s incorrect status orally and in writing when she handed in her manifest.

62. Nearly two weeks later, on September 9, 2012 Defendant again sent Relator Neeley to pick up J.A. (Customer #54997), who, according to Relator Neeley's new manifest provided by Defendant, was still misclassified as a "Wheelchair" or "W.C." patron. Because of the patron's "W.C." classification, Relator Neeley arrived at J.A.'s pick-up location with a wheelchair-accessible van. However, when J.A. approached Relator Neeley's vehicle, J.A. again informed Relator Neeley that she was not in need of a wheelchair accessible vehicle. Again, on her manifest, Relator noted that J.A. "Never Ha[s] Been" in need of a wheelchair accessible vehicle in order to patronize MetroAccess, Defendant, nor WMATA.

63. To the best of Relators' knowledge, Defendant has not returned overbilled funds.

COUNT I
False Claims Act 31 U.S.C. §3729(a)(1)(a)

64. Relators reallege and incorporate by reference the allegations contained in the foregoing paragraphs of this Complaint.

65. By virtue of the acts described above, Defendant knowingly presented or caused to be presented, false or fraudulent claims to the United States Government for payment or approval in violation of 31 U.S.C. § 3729(a)(1)(a).

COUNT II
False Claims Act 31 U.S.C. §3729(a)(1)(b)

66. Relators reallege and incorporate by reference the allegations contained in the foregoing paragraphs of this Complaint.

67. By virtue of the acts described above, Defendant knowingly made, used, or caused to be made or used false records and statements, to get false or fraudulent claims paid or approved by the United States Government in violation of 31 U.S.C. § 3729(a)(1)(b).

COUNT III
D.C. FALSE CLAIMS ACT VIOLATION
D.C. Code § 2-308.14(a)(1)

68. Relators reallege and incorporate by reference the allegations contained in the foregoing paragraphs of this Complaint.

69. By virtue of the acts described above, Defendant knowingly presented, and/or caused to be presented, to an officer and/or employee of the District a false claim for payment or approval by the District of Columbia in violation of D.C. Code § 2-308.14(a)(1).

COUNT III
D.C. FALSE CLAIMS ACT VIOLATION
D.C. Code § 2-308.14(a)(2)

70. Relators reallege and incorporate by reference the allegations contained in the foregoing paragraphs of this Complaint.

71. By virtue of the acts described above, Defendant knowingly made, used, or caused to be made or used, a false record or statement to get a false claim paid or approved by the District of Columbia in violation of D.C. Code § 2-308.14(a)(2).

COUNT IV
VA FRAUD AGAINST TAXPAYERS ACT VIOLATION
(Va. Code Ann. § 8.01-216.3(A)(1))

72. Relators reallege and incorporate by reference the allegations contained in the foregoing paragraphs of this Complaint.

73. By virtue of the acts described above, Defendant knowingly presented, and/or caused to be presented, a false or fraudulent claim for payment or approval by the

Commonwealth of Virginia in violatation of the Virginia Fraud Against Taxpayers Act, Va. Code Ann. § 8.01-216(A)(1).

COUNT VI
VA FRAUD AGAINST TAXPAYERS ACT VIOLATION
(Va. Code Ann. § 8.01-216.3(A)(2))

74. Relators reallege and incorporate by reference the allegations contained in the foregoing paragraphs of this Complaint.

75. By virtue of the acts described above, above Defendant knowingly made, used, or caused to be made or used, a false record or statement to get a false claim paid or approved by the Commonwealth of Virginia in violation of the Virginia Fraud Against Taxpayers Act, Va. Code Ann. § 8.01-216(A)(2).

PRAYER FOR RELIEF

WHEREFORE, the Relators, on behalf of themselves and the United States of America, the District of Columbia, and the Commonwealth of Virginia, pray:

A. That this Court enter judgment under Counts I and II against Defendant in an amount equal to three times the amount of damages the United States has sustained because of Defendant's actions in violating the Federal False Claims Act, plus all applicable federal statutory penalties;

B. That this Court enter judgment under Counts III and IV against Defendant in an amount equal to three times the amount of damages the District of Columbia has sustained because of Defendant' actions in violating the District of Columbia False Claims Act, plus all applicable District of Columbia statutory penalties;

C. That this Court enter judgment under Counts V and VI against Defendant in an amount equal to three times the amount of damages the Commonwealth of Virginia has sustained

because of Defendant' actions in violating the Virginia Fraud Against Taxpayers Act, plus all applicable Virginia statutory penalties;

D. That the Relators be awarded all costs incurred, reasonable attorneys' fees and expenses;

E. That in the event the United States, the District of Columbia, and/or the Commonwealth of Virginia intervenes at the time this action is unsealed and proceeds with this action, that Relators be awarded an amount of at least 15% but not more than 25% of the proceeds of this action or settlement of the claims in Counts I-VI.

F. That in the event the United States and/or the District of Columbia does not intervene as set forth above, the Plaintiff/relator be awarded an amount of at least 25% but not more than 30% of the proceeds of this action or settlement of the claims in Counts I-VI;

G. That the United States, the District of Columbia, and the Commonwealth of Virginia and Relators receive all relief, both at law and equity, to which they are entitled.

DEMAND FOR JURY TRIAL

Relators demand a trial by jury on all issues of triable fact in the foregoing complaint.

Submitted: 02/14/2013

Respectfully submitted,

By: _____

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