

**IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA**  
**Civil Division**

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DISTRICT OF COLUMBIA,  
a municipal corporation,  
441 Fourth Street, N.W.  
Washington, D.C. 20001,

Plaintiff,

v.

SHAWN L. CLARK  
449 Tayside Way  
Hyattsville, Maryland 20785,

and

ERICA P. FOWLER  
449 Tayside Way  
Hyattsville, Maryland 20785

Defendants.

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Civil Action No.: \_\_\_\_\_

**JURY TRIAL DEMANDED**

**FALSE CLAIMS ACT COMPLAINT AND JURY DEMAND**

The District of Columbia (District), by its Office of the Attorney General, brings his action against Defendants Shawn Lamonte Clark and Erica Pamela Fowler pursuant to the common law and the District's False Claims Act, D.C. Code § 2-381.02(a), seeking treble damages and civil penalties. The District alleges as follows:

**Jurisdiction**

1. This Court has subject matter jurisdiction over this case pursuant to D.C. Code § 11-921 and § 2-381.02(a).

2. This Court has personal jurisdiction over Defendants pursuant to D.C. Code §§ 13-423(a)(1), (3).

### **The Parties**

3. The District, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the permanent seat of the government of the United States. The District is represented by and through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code § 1-301.81(a)(1). The Attorney General is specifically authorized to enforce the District's False Claims Act, pursuant to D.C. Code § 2-381.03(a).

4. Defendant Shawn Lamonte Clark, an employee with the District of Columbia Department of Corrections, is an individual residing at 449 Tayside Way, Hyattsville, Maryland 20785.

5. Defendant Erica Pamela Fowler is an individual residing at 449 Tayside Way, Hyattsville, Maryland 20785.

### **Defendants' Daughter**

6. Defendants Clark and Flower have a daughter together, S.C.

7. S.C. was enrolled in PK3 (the earliest grade offered) for the 2017-18 school year at Capitol Hill Montessori at Logan (Capitol Hill

Montessori), a school in the District of Columbia Public School (DCPS) system located at 215 G Street, N.E, Washington, D.C. 20002.

8. S.C. currently is enrolled at Capitol Hill Montessori for grade PK4 for the 2018-19 school year.

9. At all times relevant to the actions described in this Complaint, Defendants Clark and Fowler and S.C. were residents of the State of Maryland.

**District of Columbia False Claims Act**

10. The District of Columbia Procurement Reform Amendment Act (District's False Claims Act) awards treble damages and civil penalties for, *inter alia*, knowingly making or causing to be made false statements to conceal, avoid, or decrease an obligation to pay money to the District. D.C. Code § 2-381.02(a)(6) (2013).

11. The District's False Claims Act provides that:

(a) Any person who commits any of the following acts shall be liable to the District for 3 times the amount of damages which the District sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the District for the costs of a civil action brought to recover penalties or damages, and shall be liable to the District for a civil penalty of not less than \$5,500, and not more than \$11,000, for each false or fraudulent claims for which the person:

\* \* \*

(6) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the District, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the District;

(7) Conspires to commit a violation of paragraph . . .  
(6) of this subsection.

D.C. Code § 2-381.02.

12. Section 2-381.01(7)(A) of the District’s False Claims Act defines “[k]nowing or knowingly” to mean that “a person, with respect to information, does any of the following: (i) Has actual knowledge of the information; (ii) Acts in deliberate ignorance of the truth or falsity of the information; or (iii) Acts in reckless disregard of the truth or falsity of the information.” The terms “knowing” and “knowingly” do not require proof of specific intent to defraud. D.C. Code § 2-381.01(7)(B).

13. The District’s False Claims Act defines “material” as “having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.” D.C. Code § 2-381.01(8).

14. “Obligation” is defined as “an established duty, whether or not fixed, arising from . . . statute or regulation, or from the retention of any overpayment.” D.C. Code § 2-381.01(9).

### **Nonresident Tuition**

15. D.C. Code § 38-302(a)(2) requires payment of nonresident tuition for each child who attends a public school in D.C. and does not have a parent, guardian, custodian, or other primary caregiver who resides in D.C. *See also* D.C. Code § 38-1800.02(25); 5-A D.C.M.R. §§ 5001.5, 5099.1. Nonresident tuition rates are set by the District’s Office of the State

Superintendent of Education (OSSE) to “cover all expenses” incurred by the District in educating the student. D.C. Code § 38-302(b).

16. “Nonresident student” means “[a]n individuals under the age of 18 who is enrolled in a District of Columbia public school or public charter school, and does not have a parent, guardian, custodian, or primary care giver . . . residing in the District of Columbia.” D.C. Code § 38-1800.02(25)(A).

17. D.C. Code § 38-301(11) defines “parent” as “a natural parent, stepparent, or parent by adoption who has custody or control of a student, including joint custody.”

18. Nonresidents are required to pay tuition to enroll nonresident children in District public schools because public funds are appropriated to the schools for the sole purpose of educating the children and youth of District residents. D.C. Code § 38-2902.

#### **Defendant Fowler’s False Statements to Enroll S.C. in a DCPS School**

19. On April 4, 2017, Defendant Fowler signed and submitted an Annual Student Enrollment Form to enroll her daughter at Capitol Hill Montessori. On the Annual Student Enrollment Form, Defendant Fowler stated that she and S.C. lived at 14 Quincy Pl., N.E., Washington, D.C. 20002. Defendant Fowler signed and submitted the enrollment form, certifying that information on the form was accurate, and that she understood that “providing false information for purposes of defrauding the government is punishable by law.”

20. Defendant Fowler also signed and submitted a DC Residency Verification form to OSSE to enroll her daughter at Capitol Hill Montessori on April 4, 2017. On that form, Defendant Fowler affirmed that she resided at 14 Quincy Pl., N.E., and signed a sworn statement of D.C. Residency, and certified that she understood the penalties for submitting false statements. The Residency Verification Form stated “If this sworn statement is false, I understand that I am liable for payment of retroactive tuition for the student, and that the student may be withdrawn from school.”

21. Capitol Hill Montessori relied on the information Defendant Fowler submitted, and enrolled S.C. as a student for the 2017-2018 school year. S.C. was enrolled as a District resident.

22. On May 22, 2018, Defendant Fowler signed and submitted an Annual Student Enrollment Form and a Residency Verification Form to re-enroll S.C. at Capitol Hill Montessori for the 2018-19 school year. On the forms, Defendant Fowler certified that she resided at 14 Quincy Pl., N.E., and signed a sworn statement of D.C. Residency, and certified that she understood the penalties for submitting false statements. The 2018-2019 Residency Verification Form stated “If this sworn statement is false, I understand that I am liable for payment of retroactive tuition for the student, and that the student may be withdrawn from school.” Defendant Fowler also checked a box that read, “I hereby affirm that I continue to live in the District as I did in the previous school year.”

23. Capitol Hill Montessori relied on the information Defendant Fowler submitted and enrolled S.C. as a student for the 2018-2019 school year. S.C. was enrolled as a District resident.

24. During the entire period of S.C.'s enrollment at Capitol Hill Montessori for the 2017-18 school year and throughout her current enrollment during the 2018-19 school year, Defendant Fowler knew the information she provided on the 2017-2018 and 2018-2019 Annual Student Enrollment Forms and the DC Residency Verification Forms was false because when she signed and submitted the forms, she knew that S.C. was living with her in Hyattsville, Maryland and not at the District address she stated on the forms. Defendants Clark and Fowler continue to be residents of Maryland.

**Defendant Clark's Knowing Avoidance of an  
Obligation to Pay District Nonresident Tuition**

25. Defendant Clark, a resident of Maryland and current employee of the District of Columbia Government, knew that he was obligated to pay nonresident tuition for his daughter to attend a DCPS school because he knew that he, S.C., and Defendant Fowler resided in Maryland, and not in the District. At all times relevant to the acts alleged in this Complaint, Defendant Clark, Defendant Fowler, and their daughter resided in Hyattsville, Maryland.

26. Defendant Clark also knew that by failing to notify Capitol Hill Montessori, DCPS or OSSE that he, Defendant Fowler, and their daughter

were Maryland residents, he improperly avoided an obligation to pay tuition to the District.

**Defendants' Failure to Pay Nonresident Tuition Owed**

27. Nonresident tuition for S.C. to attend Capitol Hill Montessori for the 2017-18 school year amounts to \$13,363.00. The pro-rated amount for S.C. to attend Capitol Hill Montessori up until the filing of this Complaint amounts to approximately \$5,403.00. The two tuition amounts total to at least \$18,766.00.

28. To date, Defendants Fowler and Clark have not paid any of the nonresident tuition they owe to the District for their daughter to attend Capitol Hill Montessori, nor have any tuition payments been made on their behalf.

**COUNT I**  
**False Claims Act**  
**Knowingly Making a False Record or Statement**  
**Material to Avoid an Obligation to Pay the District**  
**(D.C. Code § 2-381.02(a)(6) (2013))**

29. The District realleges the foregoing paragraphs of this Complaint as if fully set forth herein.

30. Defendant Fowler knowingly made, used, and caused to be made or used, false records or statements to conceal, avoid, or decrease a material obligation to pay the District. Defendant Fowler knowingly signed and submitted false enrollment documents for her daughter, causing OSSE and a DCPS school to decline to charge nonresident tuition for S.C.'s attendance for

the 2017-18 school year and the ongoing portion of the 2018-2019 school year in violation of D.C. Code § 2-381.02(a)(6).

**COUNT II**  
**False Claims Act**  
**Knowingly Concealing and Knowingly and Improperly**  
**Avoiding or Decreasing and an Obligation to Pay the District**  
**(D.C. Code § 2-381.02(a)(6))**

31. The District realleges the foregoing paragraphs of this Complaint as if fully set forth herein.

32. Defendant Clark knowingly concealed and knowingly and improperly avoided or decreased an obligation to pay the District. Defendant Clark knew that he had an obligation to pay nonresident tuition for his daughter S.C. because he, S.C.'s mother, and S.C. did not reside in the District. Defendant Clark failed to notify the District of his and his child's correct address, causing OSSE and a DCPS school to decline to charge nonresident tuition for S.C.'s attendance during the 2017-18 school year and the current 2018-19 school year, in violation of D.C. Code § 2-381.02(a)(6).

**COUNT III**  
**Unjust Enrichment**

33. The District realleges the foregoing paragraphs of this Complaint as if fully set forth herein.

34. By having their daughter S.C. attend a DCPS school for the 2017-18 school year and the current 2018-19 school year and by avoiding their obligation to pay nonresident tuition to the District for those years,

Defendants Clark and Fowler have been unjustly enriched to the detriment of the District.

**Prayer for Relief**

WHEREFORE, the District respectfully requests that judgment be entered in its favor and against Defendants on its claims, and award damages and penalties as follows:

(1) On Count I against Defendant Erica Fowler, awarding the District treble statutory damages in an amount to be determined at trial, but not less than \$56,298.00 (three times \$18,766.00); civil penalties of not less than \$5,500.00 and not more than \$11,000.00, payable to the District for each violation of the District's False Claims Act;

(2) On Count II against Defendant Shawn Clark, awarding the District treble statutory damages in an amount to be determined at trial, but not less than \$56,298.00; civil penalties of not less than \$5,500.00 and not more than \$11,000.00, payable to the District for each violation of the District's False Claims Act;

(3) On Count III against both Defendants, awarding the District actual damages in an amount to be determined at trial, but not less than \$18,766.00;

(4) Awarding the District interest, costs, and other recoverable expenses permitted by law; and

(5) Awarding the District such further and additional relief as the Court may deem just and proper.

**Jury Demand**

The District of Columbia hereby demands a trial by jury by the maximum number of jurors permitted by law.

Dated: December 11, 2018

Respectfully submitted,

KARL A. RACINE  
Attorney General for the District of  
Columbia

ROBYN R. BENDER  
Deputy Attorney General  
Public Advocacy Division

*/s/ Catherine A. Jackson*  
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CATHERINE A. JACKSON  
[D.C. Bar No. 1005415]  
Chief, Public Integrity Section

*/s/ Arthur Durst*  
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ARTHUR DURST<sup>1</sup>  
Assistant Attorney General  
Office of the Attorney General  
Suite 630-South  
441 Fourth Street, N.W.  
Washington, D.C. 20001  
(202) 442-9853  
Email: arthur.durst@dc.gov

Attorneys for the District of Columbia

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<sup>1</sup> Mr. Durst is licensed to practice law before the Supreme Court of Virginia and is practicing in the District of Columbia under the direct supervision of a member of the D.C Bar, pursuant to D.C. App. R. 49(c)(4).