

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA

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

Plaintiff,

v.

ASAKI SHITTU

7726 Bender Road
Hyattsville, Maryland 20785

RASAKI SHITTU

14 Todd Place, N.E.
Washington, D.C. 20002

Defendants.

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 this action against Asaki Shittu and Rasaki Shittu (Defendants) pursuant to the District's False Claims Act, D.C. Code § 2-381.02(a), and common law, seeking treble damages and civil penalties. The District alleges as follows:

Jurisdiction

1. This Court has subject matter jurisdiction over this case under D.C. Code § 11-921, as this action is brought by the District, and D.C. Code § 2-381.02(a), as the District asserts claims arising under the District's False Claims Act.

2. This Court has personal jurisdiction over the Defendants pursuant to D.C. Code § 13-423(a)(1) and (3) because Defendants committed acts in the District that are proscribed by the False Claims Act.

Parties

3. The District of Columbia (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 brings this action 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), 2-381.03. 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 Asaki Shittu is an individual currently residing at 7726 Bender Road, Hyattsville, Maryland 20785.

5. Defendant Rasaki Shittu is an individual currently residing at 14 Todd Place, N.E., Washington, D.C. 20002.

6. Defendant Asaki Shittu has a daughter, A.S.

7. Defendant Rasaki Shittu, is Defendant Asaki Shittu's father, and A.S.'s grandfather.

Defendant Asaki Shittu's Employment at a DCPS school

8. On August 24, 2009, Defendant Asaki Shittu was hired to work as an Education Aide at Noyes Educational Center (Noyes EC), a District of Columbia Public School (DCPS) school. From August 14, 2011 to August 10, 2013, Defendant Asaki Shittu was employed as a Data Entry Clerk, and from August 11, 2013 to November 25, 2014, she was employed as an Administrative Aide.

9. As a Data Entry Clerk and Administrative Aide, Asaki Shittu assisted with student registration and enrollment, including, in January 2013, attending the DCPS Registrar's Academy as the representative for Noyes EC.

10. At all times relevant to this Complaint, Defendant Asaki Shittu was employed by Noyes EC.

Defendant Asaki Shittu's Child

11. Defendant Asaki Shittu's daughter, A.S., attended Noyes EC for the entirety of the 2010-2011, 2011-2012, and 2012-2013 school years, and part of the 2013-2014 school year.

12. At all times relevant to the acts described in this Complaint, Defendant Asaki Shittu and her daughter, A.S., were residents of the State of Maryland.

District of Columbia False Claims Act

13. 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 may 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 claim 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 . . .

D.C. Code § 2-381.02(a) (2013).

14. The District’s False Claims Act defines “[k]nowing” or “knowingly” to mean “[t]hat 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.” D.C. Code § 2-381.01(7)(A) (2013). Proof of specific intent to defraud is not required for an act to be knowing. D.C. Code § 2-381.01(7)(B) (2013).

15. The District’s False Claims Act defines “[m]aterial” to mean “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).

16. The District’s False Claims Act defines “obligation” to mean “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).

District of Columbia Nonresident Tuition Statute

17. D.C. Code § 38-302(a)(2) requires that nonresident tuition be paid for each child who attends a District public school and does not have a parent, guardian, custodian, or other primary caregiver who resides in the District. Nonresident tuition

rates are set by the District's Office of the State Superintendent of Education to "cover all expenses" incurred by DCPS in educating the student. D.C. Code § 38-302(b).

18. "Parent" is defined as "a natural parent, stepparent, or parent by adoption who has custody or control of a student, including joint custody." D.C. Code § 38-301(11). "Primary care giver" is defined as "a person other than a parent or court appointed custodian or guardian who is the primary provider of care and support to a child who resides with him or her, and whose parent, custodian or guardian is unable to supply such care or support" D.C. Code § 38-301(10). An individual claiming primary care giver status must submit documentation to the District establishing that the student is in the individual's care and that the individual resides in the District. D.C. Code § 38-310; 5A- D.C.M.R. § 5004.1-.2 (2002), *amended by* 64 DCR 3147 (March 31, 2017).

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

**A.S.'s Attendance at a DCPS School
(2010-2011, 2011-2012, and 2012-2013 School Years)**

20. In 2010, A.S. began attending Noyes EC, a DCPS school. These school years coincided with her mother's, Defendant Asaki Shittu, employment at Noyes EC.

21. During these three school years, Defendant Asaki Shittu regularly submitted Enrollment Forms, D.C. Residency Verification Forms, and a DCPS Enrollment Checklist stating that she was A.S.'s parent and legal guardian, and

falsely stating that Defendants, or Defendant Asaki Shittu individually, and A.S. lived at 14 Todd Place, N.E., Washington, D.C 20002.

22. On the D.C. Residency Verification Form she submitted to enroll A.S. at Noyes EC for the 2011-2012 school year, Defendant Asaki Shittu also signed and certified the form as the School Official on behalf of Noyes EC, thus certifying her own residency for that year.

23. On the DCPS Enrollment Checklist that Defendant Asaki Shittu signed for the 2012-2013 school year, she initialed each entry on the Enrollment Checklist both for the “Parent/Guardian Initials” and “School Official Initials” columns. Defendant Asaki Shittu signed this Checklist letter under both the School Official and the Parent/Guardian designations.

24. A.S. attended Noyes EC, tuition-free, as if she were a District resident for the 2010-2011, 2011-2012, and 2012-2013 school years. During this time, A.S. was living with Defendant Asaki Shittu in Hyattsville, Maryland.

Defendant Asaki Shittu’s Failure to Pay Nonresident Tuition Owed to a DCPS school

25. Nonresident tuition for A.S. to attend Noyes EC for the 2010-2011, 2011-2012, and 2012-2013 school years was \$11,986.00, \$11,629.00, and \$11,861.00, respectively.

26. The total amount for A.S.’s attendance at a DCPS school for the 2010-2011, 2011-2012, and 2012-2013 school years was \$35,476.00.

27. To date, Defendant Asaki Shittu has not paid any of the nonresident tuition owed for A.S.'s attendance at a DCPS school, nor have any tuition payments been made on her behalf.

Defendant Rasaki Shittu's False Statements to a DCPS School
(2013-2014 School Year)

28. On May 15, 2013, Defendant Rasaki Shittu submitted to DCPS an Enrollment Form to re-enroll A.S. as a student at Noyes EC for the 2013-14 school year. On the Enrollment Form, Defendant Rasaki Shittu stated that he and A.S. lived at 14 Todd Place, N.E., Washington, D.C 20002. Under the Parent/Guardian Information and Other Primary Caregiver Information section, Defendant Rasaki Shittu identified himself as a Parent or Guardian and as A.S.'s grandfather; he also identified Defendant Asaki Shittu, as A.S.'s mother and living at 14 Todd Place, N.E., Washington, D.C. 20002. Under the "Residency Status" section of the Enrollment Form, Defendant Rasaki Shittu checked the box on the form next to "D.C. Resident (Student and parent or legal guardian live in D.C.)," indicating that he and A.S. were District residents. Under the "Housing Status" section, Defendant Rasaki Shittu checked the box next to "Permanent." Defendant Rasaki Shittu signed the Enrollment Form, certifying that he completed the form, that the information on the form was accurate, and that he understood that "providing false information for purposes of defrauding the government is punishable by law."

29. On May 15, 2013, Defendant Rasaki Shittu signed and submitted a Sworn Statement of D.C. residency to DCPS, affirming that he lived in the District at 14 Todd Place, N.E., Washington, D.C. 20002. Defendant Rasaki Shittu also indicated

that he was A.S.'s "parent/guardian/caregiver." Defendant Rasaki Shittu signed the form, stating that he understood that enrollment of A.S. was based on his representation of D.C. residency, and that if the information in the verification forms was false, he would be liable for payment of tuition for A.S.

30. On May 15, 2013, Defendant Rasaki Shittu also signed and submitted a Sworn Statement of Other Primary Caregiver. In his sworn statement, Defendant Rasaki Shittu stated that he was seeking to enroll A.S. "under the status of other primary caregiver." He claimed that he was A.S.'s grandfather and was A.S.'s other primary care giver because A.S.'s "parent, custodian or guardian," Defendant Asaki Shittu, was unable to provide primary care and support because of "forgetful/surgical pain at times/anxiety-depression" and "forgetful/surgical pain problems." Defendant Rasaki Shittu also stated that A.S. lived with him at 14 Todd Place, N.E., Washington, D.C. 20002, and came under his care and support in 2008. Defendant Rasaki Shittu also listed Defendant Asaki Shittu, A.S.'s mother, as currently residing at "14 Todd Place, N.E. Bender Rd. MD." Defendant Rasaki Shittu signed the form, affirming that the contents of the statement were true to the best of his knowledge. The Form warns that there is a penalty for false information: "Any person . . . who knowingly supplies false information . . . in connection with student residency verification shall be subject to charges of tuition retroactively"

31. On May 16, 2013,¹ a day after Defendant Rasaki Shittu submitted the Sworn Statement of Other Primary Caregiver, Defendant Asaki Shittu signed the

¹ The signed letter is dated May 16, 2016; however, it was submitted in 2013 along with other enrollment documents dated May 16, 2013.

DCPS Enrollment Checklist for 2013-2014, as part of A.S.'s re-enrollment at Noyes EC. Defendant Asaki Shittu initialed each entry on the checklist for both the "Parent/Guardian Initials" and "School Official Initials" columns. Defendant Asaki Shittu also signed the Checklist Letter under both the Parent/Guardian and School Official designations. On May 16, 2013, Defendant Asaki Shittu also signed and submitted the DCPS Home Language Survey (HLS) Form, a mandatory form required to complete A.S.'s re-enrollment at Noyes EC for the 2013-2014 school year. Again, Defendant Asaki Shittu signed and dated the HLS Form under both the School Official and the Parent/Guardian designations.

32. Defendant Rasaki Shittu knew the information he provided on the Enrollment Forms, and Sworn Statement of D.C. residency were incorrect because, when he signed and submitted the forms, he knew that A.S. was living with her mother, Defendant Asaki Shittu, in Hyattsville, Maryland, and not at the District address with Defendant Rasaki Shittu as stated on the forms.

33. Defendant Rasaki Shittu knew that the information he provided to Noyes EC on the Other Primary Caregiver Form was false because he was not a legal guardian, custodian, or primary caregiver for Defendant Asaki Shittu's daughter, A.S.

34. Relying on the Enrollment Form, Sworn Statement of D.C. residency, and Sworn Statement of Other Primary Caregiver that Defendant Rasaki Shittu submitted to Noyes EC, DCPS enrolled A.S. at Noyes EC for the 2013-2014 school year. A.S. was enrolled as a District resident.

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

35. Defendant Asaki Shittu knew she had an obligation to pay nonresident tuition for A.S., because Defendant Asaki Shittu and A.S. did not reside in the District. As a resident of Maryland, and then-current DCPS employee at Noyes EC, Defendant Asaki Shittu knew that she was obligated to pay nonresident tuition for her daughter to attend a DCPS school. Defendant Asaki Shittu also knew she was obligated to pay nonresident tuition for A.S. because Defendant Asaki Shittu was working as an Administrative Aide at Noyes EC and received training regarding student enrollment and D.C residency requirements.

36. Defendant Asaki Shittu knew the information provided by Defendant Rasaki Shittu was false, because at the time when the Enrollment Form, Residency Form, and Sworn Statement of Other Primary Caregiver were submitted to re-enroll her daughter, A.S., in the 2013-2014 school year, A.S. lived with her in Maryland and not with Defendant Rasaki Shittu. Defendant Asaki Shittu also knew that, by failing to notify the District that Defendant Asaki Shittu and A.S. were Maryland residents, she improperly avoided an obligation to pay tuition to the District, thereby concealing, avoiding or decreasing her obligation to pay the District by causing DCPS to decline to charge nonresident tuition for A.S.'s attendance at Noyes EC.

Defendants' Failure to Pay Nonresident Tuition Owed to a DCPS School

37. Nonresident tuition for A.S. to attend Noyes EC for a portion of the 2013-2014 school year through November 19, 2013 was \$2,964.00.

38. To date, Defendants Asaki Shittu and Rasaki Shittu have not paid any of the nonresident tuition owed for A.S. to attend Noyes EC for a portion of the 2013-2014 school year, 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))

39. Paragraphs 1 through 38 are realleged as if fully set forth herein.

40. Defendant Rasaki Shittu 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 Rasaki Shittu knowingly signed and submitted false enrollment forms, false sworn statements of D.C. residency, and false Sworn Statements of Other Primary Caregiver, stating that A.S. resided with him in the District, causing a DCPS school to decline to charge nonresident tuition for A.S.'s attendance for part of the 2013-2014 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 an Obligation to Pay the District
(D.C. Code § 2-381.02(a)(6))

41. Paragraphs 1 through 38 are realleged as if fully set forth herein.

42. Defendant Asaki Shittu knowingly concealed and knowingly and improperly avoided or decreased an obligation to pay the District. Defendant Asaki Shittu knew that she had an obligation to pay nonresident tuition for her daughter,

A.S., because she did not reside in the District. Defendant Asaki Shittu also knew that A.S. did not reside with Defendant Rasaki Shittu in the District. Defendant Asaki Shittu failed to notify the District of her and A.S.'s correct address and, as a then-current DCPS school Administrative Aide, Defendant Asaki Shittu accepted forms to enroll A.S. knowing they contained false statements regarding A.S.'s residency and primary caregiver, causing a DCPS school to decline to charge nonresident tuition for A.S.'s attendance for part of the 2013-2014 school year in violation of D.C. Code § 2-381.02(a)(6).

COUNT III
Unjust Enrichment

43. Paragraphs 1 through 38 are realleged as if fully set forth herein.

44. Defendant Asaki Shittu continues to owe the District the entire amount of nonresident tuition for A.S.'s attendance at Noyes EC.

45. By having her daughter, A.S., attend a DCPS school for the entirety of the 2010-2011, 2011-2012, 2012-2013 years and part of the 2013-2014 school year and by avoiding her obligation to pay nonresident tuition to the District despite her and A.S.'s residency in Maryland, Defendant Asaki Shittu has been unjustly enriched to the detriment of the District.

Prayer for Relief

WHEREFORE, the District respectfully requests that the Court enter judgment in its favor and against Defendants award damages as follows:

- (1) On Count I against Defendant Rasaki Shittu, award the District treble statutory damages in an amount to be determined at trial, but not less

than \$8,892.00 (three times \$2,964.00); 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; and the costs of this action;

- (2) On Count II against Defendant Asaki Shittu, award the District treble statutory damages in an amount to be determined at trial, but not less than \$8,892.00 (three times \$2,964.00); 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; and the costs of this action;
- (3) On Count III against Defendant Asaki Shittu, award the District actual damages in an amount to be determined at trial, but not less than \$38,440.00; and
- (4) Award the District interest, costs, and other recoverable expenses permitted by law; and
- (5) Award the District such further and additional relief as may be 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: March 13, 2019.

Respectfully submitted,

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