

**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.

LASHANA DANIELLE JAMISON
SHUBERT
173 Gin Mill Road
Hamlet, NC 28345,

and

RAYMOND SHUBERT
6208 McKay Drive
Brandywine, MD 20613,

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 LaShana Danielle Jamison Shubert (Jamison Shubert) and Raymond Shubert (Shubert) (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 Defendants pursuant to D.C. Code § 13-423(a)(1) and (3) because Defendants committed acts in the District that are proscribed by the District's 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 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), 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 LaShana Danielle Jamison Shubert (Jamison Shubert), is an individual currently residing at 173 Gin Mill Road, Hamlet, North Carolina 28345. At all times relevant to the acts described in this Complaint, Defendant Jamison Shubert was employed as a teacher at Leckie Educational Campus (Leckie EC), a District of Columbia Public Schools (DCPS) school.

5. Defendant Raymond Shubert (Shubert) is an individual currently residing at 6208 McKay Drive, Brandywine, Maryland 20613. At all times relevant to the acts described in this Complaint, Defendant Shubert was employed by either the United States Department of the Army or the United States Department of Defense.

Defendants' Children

6. Defendants have two children, a daughter, R.D.S., and a son, R.S., who both attended Leckie EC tuition-free, as if they were District residents.

7. At all times relevant to the acts described in this Complaint, Defendants were residents of the State of Maryland.

District of Columbia False Claims Act

8. The District of Columbia Procurement Reform Amendment Act (the District's False Claims Act) provides for the award of treble damages and civil penalties for, *inter alia*, knowingly making or causing to be made or used false statements to conceal, avoid, or decrease an obligation to pay money to the District. D.C. Code § 2-381.02(a) (2011 Supp.).

9. The District's False Claim Act was amended in 2013 by the Medicaid Enforcement and Recovery Amendment Act of 2012 (2013 Amendments). 59 D.C. Reg. 13,632-41 (2012). The 2013 Amendments became effective on March 19, 2013. 60 D.C. Reg. 9261 (2013).

10. The pre-2013 version of the District's False Claims Act provided:

(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 \$5,000, and not more than \$10,000, for each false claim for which the person:

* * *

(7) Knowingly makes or uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the District

D.C. Code § 2-381.02 (2011 Supp.).

11. The pre-2013 version of 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 falsity 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(3)(A) (2011 Supp.). Proof of specific intent to defraud is not required for an act to be knowing.

D.C. Code § 2-381.01(3)(B) (2011 Supp.).

12. Effective March 19, 2013, the District’s False Claims Act was amended to reflect the following pertinent provisions:

(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 (2013).

13. The District’s False Claims Act, as amended, 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).

14. 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) (2013).

15. 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

16. 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. *See also* D.C. Code §§ 38-1800.02(25), (25)(A); 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 to “cover all expenses” incurred by District schools in educating the student. D.C. Code § 38-302(b).

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.

Defendants’ Children’s Attendance at a DCPS School

19. In 2007, R.D.S. began attending Leckie EC, a DCPS school.

20. R.D.S. attended Leckie EC tuition-free, as if she were a District resident, for the entirety of the 2007-2008, 2008-2009, 2009-2010, 2010-2011, and 2012-2013 school years. During this time, R.D.S. was living with Defendants in District Heights, Maryland.

21. In 2009, R.S. began attending Leckie EC.

22. R.S. attended Leckie EC, tuition-free, as if he were a District resident, for the entirety of the 2009-2010, 2010-2011, and 2012-2013 school years. During this time, R.S. was living with Defendants in District Heights, Maryland.

Defendants’ Failure to Pay Nonresident Tuition Owed to DCPS Schools

23. Nonresident tuition for R.D.S. to attend Leckie EC for the 2007-2008, 2008-2009, 2009-2010, 2010-2011, and 2012-2013 school years was \$9,282.00, \$11,401.00, \$11,401.00, \$8,945.00, and \$9,124.00, respectively.

24. Nonresident tuition for R.S. to attend Leckie EC for the 2009-2010, 2010-2011, and 2012-2013 school years was \$11,751.00, \$11,629.00, and \$9,124.00, respectively.

25. The total amount of nonresident tuition for R.D.S.'s attendance at Leckie EC for the 2007-2008, 2008-2009, 2009-2010, 2010-2011, and 2012-2013 school years was \$50,153.00.

26. The total amount of nonresident tuition for R.S.'s attendance at Leckie EC for the 2009-2010, 2010-2011, and 2012-2013 school years was \$32,504.00.

27. To date, Defendants have not paid any of the nonresident tuition owed for their children's attendance at Leckie EC during the above school years, nor have any tuition payments been made on their behalf.

**Defendant Jamison Shubert's False Statements to a DCPS School
(2011-2012 School Year)**

28. On May 27, 2011, Defendant Jamison Shubert submitted two Enrollment Forms to DCPS to re-enroll R.D.S. and R.S. as students at Leckie EC for the 2011-2012 school year. On the Enrollment Forms, Defendant Jamison Shubert stated that she, Defendant Shubert, and their children lived at 3043 M Street, S.E., Washington, D.C. 20019. Under the "Parent/Guardian Information and Other Primary Caregiver Information" section, Defendant Jamison Shubert identified herself as a Parent or Guardian and as R.D.S. and R.S.'s mother; she also identified Defendant Shubert as R.D.S. and R.S.'s father and living at "same as above." Under the "Residency Status" section of the Enrollment Form, Defendant Jamison Shubert checked the box on the form next to "D.C. Resident (Student and parent or legal guardian live in D.C.),"

indicating that she, R.D.S., and R.S. were District residents. Under the “Housing Status” section, Defendant Jamison Shubert checked the box next to “Permanent.” Defendant Jamison Shubert signed the Enrollment Forms, certifying that she completed the form, that the information on the forms was accurate, and that she understood that “providing false information for purposes of defrauding the government is punishable by law.”

29. Relying on the Enrollment Forms Defendant Jamison Shubert submitted to Leckie EC, DCPS enrolled R.D.S. and R.S. at Leckie EC as students for the 2011-2012 school year. R.D.S. and R.S. were enrolled as District residents.

30. Defendant Jamison Shubert knew that the information she provided on the Enrollment Forms was false because when she signed and submitted the forms, she knew that she, Defendant Shubert, and their children were living in Maryland, and not at the District address stated on the forms.

**Defendant Jamison Shubert’s False Statements to a DCPS School
(2013-2014 School Year)**

31. On August 16, 2013, Defendant Jamison Shubert submitted two Enrollment Forms to DCPS to re-enroll R.D.S. and R.S. as students at Leckie EC for the 2013-2014 school year. On the Enrollment Forms, Defendant Jamison Shubert stated that she and her children lived at 3043 M Street, S.E., Washington, D.C 20019. Under the “Parent/Guardian Information and Other Primary Caregiver Information” section, Defendant Jamison Shubert identified herself as a Parent or Guardian and as R.D.S. and R.S.’s mother; she also identified Defendant Shubert as R.D.S. and R.S.’s father but provided no address information for him. Under the “Residency Status”

section of the Enrollment Form, Defendant Jamison Shubert checked the box on the form next to “D.C. Resident (Student and parent or legal guardian live in D.C.),” indicating that she, R.D.S., and R.S. were District residents. Under the “Housing Status” section, Defendant Jamison Shubert checked the box next to “Permanent.” Defendant Jamison Shubert signed the Enrollment Forms, certifying that she completed the forms, that the information on the forms was accurate, and that she understood that “providing false information for purposes of defrauding the government is punishable by law.”

32. On August 16, 2013, Defendant Jamison Shubert signed and submitted two sworn statements of D.C. residency to DCPS, affirming that she lived in the District at 3043 M Street, S.E, Washington, D.C. 20019. Defendant Jamison Shubert also indicated that she was R.D.S. and R.S.’s “parent/guardian/caregiver.” Defendant Jamison Shubert signed the form, stating that she understood that enrollment of R.D.S. and R.S. was based on her representation of District residency, and that if the information in the verification form was false, she would be liable for payment of tuition for R.D.S. and R.S.

33. Relying on the Enrollment Forms Defendant Jamison Shubert submitted to Leckie EC, DCPS enrolled R.D.S. and R.S. at Leckie EC as students for the 2013-2014 school year. R.D.S. and R.S. were enrolled as District residents.

34. Defendant Jamison Shubert knew that the information she provided on the two Enrollment Forms and two sworn statements of D.C. residency was false because when she signed and submitted the forms, she knew that she, Defendant

Shubert, and their children were living in Maryland, and not at the District address stated on the forms.

**Defendant Jamison Shubert's False Statements to a DCPS School
(2014-2015 School Year)**

35. On August 21, 2014, Defendant Jamison Shubert submitted to DCPS two Enrollment Forms to re-enroll R.D.S. and R.S. as students at Leckie EC for the 2014-2015 school year. On the Enrollment Forms, Defendant Jamison Shubert stated that she and her children lived at 3043 M Street, S.E., Washington, D.C 20019. Under the "Parent/Guardian Information and Other Primary Caregiver Information" section, Defendant Jamison Shubert identified herself as a Parent or Guardian and as R.D.S. and R.S.'s mother; she also identified Defendant Shubert as R.D.S. and R.S.'s father and residing at the same District address. Under the "Residency Status" section of the Enrollment Form, Defendant Jamison Shubert checked the box on the form next to "D.C. Resident (Student and parent or legal guardian live in D.C.)," indicating that she, R.D.S., and R.S. were District residents. Under the "Housing Status" section, Defendant Jamison Shubert checked the box next to "Permanent." Defendant Jamison Shubert signed the Enrollment Forms, certifying that she completed the forms, that the information on the forms was accurate, and that she understood that "providing false information for purposes of defrauding the government is punishable by law."

36. On August 21, 2014, Defendant Jamison Shubert signed and submitted two sworn statements of D.C. residency to DCPS, affirming that she lived in the District at 3043 M Street, S.E, Washington, D.C. 20019. Defendant Jamison Shubert

also indicated that she was R.D.S. and R.S.'s "parent/guardian/caregiver." Defendant Jamison Shubert signed the forms, stating that she understood that enrollment of R.D.S. and R.S. was based on her representation of District residency, and that if the information in the verification forms was false, she would be liable for payment of tuition for R.D.S. and R.S.

37. Relying on the Enrollment Forms Defendant Jamison Shubert submitted to Leckie EC, DCPS enrolled R.D.S. and R.S. at Leckie EC as students for the 2014-2015 school year. R.D.S. and R.S. were enrolled as District residents.

38. Defendant Jamison Shubert knew that the information she provided on the two Enrollment Forms and two sworn statements of D.C. residency was false because when she signed and submitted the forms, she knew that she, Defendant Shubert, and their children were living in Maryland, and not at the District address stated on the forms.

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

39. Defendant Shubert, a resident of Maryland, knew he had an obligation to pay nonresident tuition for his children, R.D.S. and R.S., to attend District public schools because he knew that he, his children, and Defendant Jamison Shubert resided in Maryland, and not in the District.

40. Defendant Shubert also knew that, by failing to notify the District that he, Defendant Jamison Shubert, and their children were Maryland residents, he improperly avoided, concealed, or decreased an obligation to pay nonresident tuition to the District for the 2013-2014 and 2014-2015 school years.

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

41. Nonresident tuition for R.D.S. to attend Leckie EC for the 2011-2012, 2013-2014, and 2014-2015 school years was \$8,945.00, \$9,306.00, and \$9,492.00, respectively.

42. Nonresident tuition for R.S. to attend Leckie EC for the 2011-2012, 2013-2014, and 2014-2015 school years was \$11,629.00, \$9,306.00, and \$9,492.00, respectively.

43. The total amount of nonresident tuition for R.D.S.'s attendance at Leckie EC school for the 2011-2012, 2013-2014, and 2014-2015 school years was \$27,743.00.

44. The total amount of nonresident tuition for R.S.'s attendance at a DCPS school for the 2011-2012, 2013-2014, and 2014-2015 school years was \$30,427.00.

45. To date, Defendants have not paid any of the nonresident tuition they owe to the District for R.D.S. and R.S. to attend Leckie EC, a DCPS school, nor have any tuition payments been made on their behalf.

COUNT I
False Claims Act
Knowingly Making a False Record or Statement
to Conceal, Avoid, or Decrease an Obligation to Pay the District
(D.C. Code § 2-381.02(a)(7) (2011 Supp.))

46. Paragraphs 1 through 45 are realleged as if fully set forth herein.

47. Defendant Jamison Shubert knowingly made false statements to conceal, avoid, or decrease an obligation to pay the District when she signed and submitted false enrollment documents for her children, R.D.S. and R.S., causing a DCPS school to decline to charge nonresident tuition for their attendance during the 2011-2012

school year in violation of D.C. Code § 2-381.02(a)(7) (2011 Supp.). Defendant Jamison Shubert knew that she did not reside in the District when she made these false statements.

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

48. Paragraphs 1 through 45 are realleged as if fully set forth herein.

49. Defendant Jamison Shubert knowingly made, used, and caused to be made or used, false records or statements material to an obligation to pay the District. Defendant Jamison Shubert knowingly signed and submitted false enrollment forms and false sworn statements of D.C. residency for her children, R.D.S. and R.S., causing a DCPS school to decline to charge nonresident tuition for their attendance during the 2013-2014 and 2014-2015 school years in violation of D.C. Code § 2-381.02(a)(6) (2013).

COUNT III
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) (2013))

50. Paragraphs 1 through 45 are realleged as if fully set forth herein.

51. Defendant Shubert knowingly concealed and knowingly and improperly avoided or decreased an obligation to pay the District. Defendant Shubert knew that he had an obligation to pay nonresident tuition for his children, R.D.S. and R.S., because Defendants and their children did not reside in the District. Defendant Shubert failed to notify the District of his, Defendant Jamison Shubert's, and their

children's correct address, causing a DCPS school to decline to charge nonresident tuition for R.D.S. and R.S.'s attendance during the 2013-2014 and 2014-2015 school years in violation of D.C. Code § 2-381.02(a)(6) (2013).

COUNT IV
Unjust Enrichment

52. Paragraphs 1 through 45 are realleged as if fully set forth herein.

53. To date, Defendants continue to owe the District the entire amount of nonresident tuition for R.D.S. and R.S.'s attendance at Leckie EC.

54. By having their child R.D.S. attend a DCPS school for the entirety of the 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 school years and their child R.S. attend a DCPS school for the entirety of the 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 school years, and by avoiding their obligation to pay nonresident tuition to the District despite Defendants' residency in Maryland, Defendants have been unjustly enriched to the detriment of the District.

Prayer for Relief

WHEREFORE, the District respectfully requests that this Court enter judgment in its favor and against Defendants on its claims and that this Court impose damages and penalties as follows:

- (1) On Count I against Defendant Jamison Shubert, award the District treble statutory damages in an amount to be determined at trial, but not less than \$61,722.00 (three times \$20,574.00); civil penalties of not less than \$5,000.00 and not more than \$10,000.00, payable to the District, for

each violation of the District's False Claims Act, D.C. Code § 2-381.02(a)(7) (2011 Supp.); and

- (2) On Count II against Defendant Jamison Shubert, award the District treble statutory damages in an amount to be determined at trial, but not less than \$112,788.00 (three times \$37,596.00); 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, D.C. Code § 2-381.02(a)(6) (2013); and
- (3) On Count III against Defendant Shubert, award the District treble statutory damages in an amount to be determined at trial, but not less than \$112,788.00 (three times \$37,596.00); 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 D.C. Code § 2-381.02(a)(6) (2013); and
- (4) On Count IV against Defendants, award the District actual damages in an amount to be determined at trial, but not less than \$140,827.00; and
- (5) Award the District interest, costs, and other recoverable expenses permitted by law; and
- (6) 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: August 23, 2019

Respectfully submitted,

KARL A. RACINE
Attorney General for the District of Columbia

JIMMY R. ROCK
Acting Deputy Attorney General,
Public Advocacy Division

/s/ Catherine A. Jackson
CATHERINE A. JACKSON
Chief, Public Integrity Section
D.C. Bar #1005415

/s/ Jessica M. Micciolo
JESSICA M. MICCIOLO
Assistant Attorney General
D.C. Bar #1049090
Suite 630 South
441 4th Street, N.W.
Washington, D.C. 20001
(202) 741-0762
(202) 730-1896 (fax)
jessica.micciolo@dc.gov

Attorneys for the District of Columbia