

U.S. Supreme Court Closes Last Chapter in 8-Year-Old FCA Case

HEALTH CARE | LITIGATION AND TRIALS | WHITE COLLAR CRIME & GOVERNMENT INVESTIGATIONS
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This month, the U.S. Supreme Court declined to hear a \$320 million *qui tam* case filed against Carlton Fields client Chapters Health System in 2010 by whistleblower Nancy Chase. In denying Chase's petition, the Supreme Court agreed with Chapters' argument that no circuit split existed concerning how precisely FCA suits must allege fraudulent billing, and put the matter to rest for Chapters.

Chase, a former social worker with Chapters subsidiary LifePath Hospice, alleged that Chapters and its subsidiaries fraudulently billed Medicare and Medicaid by admitting and recertifying patients who were ineligible for hospice care in violation of the False Claims Act. Chase alleged that employees of Chapters, a hospice chain, engaged in various activities that resulted in false claims being made to the federal government. Chase, who was terminated in 2012, also alleged that other companies received kickbacks from Chapters for their patient referrals, and that LifePath retaliated against her for pointing out the alleged fraud. Both the federal government and the state of Florida declined to intervene in the case, which was brought in the U.S. District Court for the Middle District of Florida.

To defend Chapters and its subsidiaries, Carlton Fields argued that Chase lacked firsthand, inside information on billing practices that would give rise to the "indicia of reliability" necessary to counter the fact that she failed to include specific examples that any specific fraudulent claims were submitted. In September 2016, U.S. District Court Judge James Moody agreed and dismissed the case with prejudice, concluding, "any further amendments would be futile." The district court noted that Chase also failed to state a cause of action for her conspiracy and retaliation claims.

Chase appealed to the U.S. Court of Appeals for the Eleventh Circuit in October 2016. In January 2018, a three-judge panel unanimously affirmed the lower court's ruling. "Although Ms. Chase details a scheme, her complaint does not include specific examples of the conduct she describes or allege the submission of any specific fraudulent claim," the appeals court wrote. "Neither does she allege the basis of her knowledge of the defendants' fraudulent billing practices – a process she was far removed from as a social worker."

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