

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
<i>Ex Rel.</i> Linda Nicholson)	
)	Case No. 10 C 3361
Plaintiffs,)	
)	The Honorable Gary Feinerman
vs.)	
)	
)	Magistrate Judge Sidney I. Schenkier
Lilian Spigelman M.D., Hephzibah)	
Children's Association, and Sears)	
Pharmacy,)	
)	
Defendants.)	

**RESPONSE BY RELATOR NICHOLSON TO THE COURT'S MINUTE ORDER OF
APRIL 14, 2011 (DOC. 55)**

Relator has always alleged, from the filing of her original complaint under seal onward, that the defendants have caused or presented a large number, meaning hundreds or perhaps thousands, of false claims to Medicaid, for reimbursement of outpatient prescriptions of psychotropic drugs to children not for medically accepted indications. Relator specified five actual prescriptions within the six-year statute of limitations. These five prescriptions by no means *circumscribe* Relator's case.

The full scope of the case, assuming discovery can be conducted, will almost certainly involve prescriptions of dozens of psychotropic drugs to hundreds of children for scores of diagnostic indications over the statutory period of six years. The attached

table of “Medically Accepted Indications for Pediatric Use of Certain Psychotropic Medications,” compiled by the Law Project for Psychiatric Rights (copy attached as Exhibit 1), is at least illustrative but not exhaustive. It lists 175 common combinations of indication (diagnosis) and drug, the *majority* of which are *not* “medically accepted” under Medicaid law. Each such proven prescription entitles the United States to a statutory penalty of not less than \$5,500 nor more than \$11,000, plus triple damages.

Presently, Relator believes that the United States’ Motion to Dismiss demonstrates that, although they have successfully prosecuted pharmaceutical companies for this specific Medicaid fraud, they are now trying to protect prescribers and pharmacists from liability for participating in the exact same scheme. Attorney James Gottstein recently asked Mr. Pruitt several questions for purposes of a press release about this case. (Copy of email attached as Exhibit 2.) While the Assistant U.S. Attorney certainly has no obligation to provide Gottstein any answers, Relator believes these or similar questions might be appropriately asked by this Court with regard to the government’s actual purpose for seeking dismissal of this case.

Relator respectfully submits the attached exhibits, in response to the Court's Order (Doc. 55).

/s/ S. Randolph Kretchmar
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