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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA ex rel.
13 PATRICK CAMPBELL, M.D.

14 And

15 STATE OF CALIFORNIA ex rel. PATRICK
16 CAMPBELL, M.D.,

17 Plaintiffs,

18 v.

19 REDDING MEDICAL CENTER, INC., a
20 California corporation, TENET
21 HEALTHCARE CORPORATION, a Nevada
22 corporation, CHAE HYUN MOON, M.D.,
23 THOMAS RUSS, M.D., FIDEL
24 REALYVASQUÉZ, M.D., et al.

25 Defendants.

Case No. CIV S-02-2457 DFL PAN

**DR. CAMPBELL'S DECLARATION
IN RESPONSE TO THE FALSE
ACCUSATIONS SET FORTH IN
THE GOVERNMENT'S
OPPOSITION TO DR.
CAMPBELL'S PETITION FOR
EVIDENTIARY HEARING ON THE
PROPOSED SETTLEMENT**

DATE: October 15, 2003
TIME: 9:00 a.m.
COURTROOM: No. 7
Chief Judge David F. Levi

26 I, Patrick Campbell, M.D., declare:

27 1. I am the qui tam plaintiff in this action and submit this declaration in opposition
28 to the false accusations set forth in the government's objection to my petition for an evidentiary
hearing on the proposed settlement.

2. I obtained my M.D. degree from the University of California, Irvine in 1988 and
completed my internal medicine residency program at the University of California Davis
Medical Center in 1991.

1 3. In 1993, I was recruited by Redding Medical Center (““RMC””) to move from
2 Sacramento to Redding with my wife and two small children to establish an internal medicine
3 practice in Redding and be on the medical staff at RMC.

4 4. During my entire time in Redding, I have been on the medical staff at both RMC
5 and Mercy Medical Center, the other major hospital in Redding.

6 5. During the period from 1993 until after the FBI raid at RMC on October 30th,
7 2002, Dr. Moon, the chief RMC cardiologist, and Dr. Realyvasquez, the chief RMC cardiac
8 surgeon, acted as if, and were treated as if, they were the most important and influential
9 physicians at RMC. It was widely understood that cardiac services were primarily responsible
10 for the above-average profits earned by RMC.

11 6. Between 1993 and 1998, although Dr. Moon and Dr. Realyvasquez were highly
12 revered by most of my colleagues, I gradually began to suspect that they were, at the very least,
13 overly aggressive in utilizing surgical intervention in lieu of less dangerous and debilitating
14 medical treatment regimens for coronary artery disease.

15 7. For example, one of my patients died as a result of a failed surgical intervention
16 at RMC that Dr. Realyvasquez's associate, Dr. Walter Schell, had recommended against
17 performing in the first place.

18 8. Although I had treated a few patients between the years 1993 and 1998 whom I
19 believed had been subjected to at least overly aggressive and possibly medically unnecessary
20 surgical interventions, I had only a few anecdotal examples, which did not even approach the
21 size of the database that would be necessary to establish a pattern and practice of performing
22 medically unnecessary surgical interventions on cardiac patients.

23 9. However, a few months before the CEO of RMC, Stephen Corbeil, left in
24 September of 1996, in a meeting with him I expressed my concerns about the cardiac program
25 at RMC. However, the CEO told me to “mind your own business”.

26 10. In the Spring of 1997, my colleagues and I met with the new CEO, Kenneth
27 Rivers, to express our concerns that cardiac catheterization results had not always been reported
28 accurately.

1 11. My colleagues and I requested that RMC do a ““blinded”” study by outside,
2 independent cardiologists of a random sample of angiograms performed by each cardiologist
3 with privileges at RMC in order to determine whether there was a pattern and practice of
4 unnecessary surgical intervention. Although the CEO professed concern, he raised the issue that
5 protecting patient confidentiality might hamper such a study. He stated he would discuss the
6 proposed study and its legal implications with Tenet Healthcare Corporation attorneys and
7 report back to the group.

8 12. Approximately five months later, I met with CEO again and another RMC
9 administrator to discuss the problem, but the CEO simply responded that he had not yet been
10 able to get a legal opinion on the matter from Tenet Healthcare attorneys and that he would
11 follow-up with my group, but the best of my knowledge, he never did so.

12 13. By 1999, after the dates of the first three medical records submitted by the
13 government's opposition as Exhibit E, the only patients I was referring to Dr. Moon were prior
14 patients of his, most of whom had pre-existing coronary artery disease, and indicated that
15 wished to be seen by him. By that time, I ceased referring new patients to Dr. Moon for
16 evaluation unless the patients absolutely insisted.

17 14. As of 1999, I was simply in no position to tell a patient that I suspected Dr. Moon
18 or one of his other practice partners of performing medically unnecessary surgical procedures
19 and that they should go to some other cardiologist. I simply did not have a sufficient database
20 upon which to base such a recommendation and I could not get RMC to conduct the studies
21 necessary to establish a pattern and practice of medically unnecessary surgical interventions. I
22 also knew that such complaints about Dr. Moon would undoubtedly find their way back to him
23 and lead to retribution against me.

24 15. In March of 1999 following the three 1998 referrals reflected by the medical
25 records submitted by the government, I had a confrontational experience with one of Dr. Moon's
26 cardiologist partners who insisted on performing an invasive cardiac catheterization on a patient
27 where the patient had no objective test results warranting such intervention. I objected but Dr.
28 Moon's partner performed the procedure on my patient anyway.

1 16. At that point, I gathered four anecdotal cases I was personally aware of and
2 consulted with a local attorney to advise me as to what legal action to take to bring this pattern
3 of overly aggressive and medically unnecessary cardiac care to the attention of the appropriate
4 authorities.

5 17. After making several confidential inquiries, including local Medicare officials and
6 the local District Attorney, this attorney wrote me a letter approximately two weeks later and
7 advised me in unequivocal terms, ““**Do not blow any whistle! Period.**”” The attorney's letter
8 explained in relevant part as follows:

9 **What you do not know is, that the public authorities are basically either not**
10 **interested or judge the political correctness or profit first, then the merit (i.e.,**
What does it do for me?). Not a pretty picture. For instance:

11 **1. The Medicare people shuffled around and around and wanted full**
12 **disclosure first. They were not really interested unless someone handed them**
a case fully worked up, both medically and legally.

13 **2. The local authorities (DA's Office), at first, predictably reacted virtually**
14 **the same as Medicare, but when I mentioned a death, he wanted to think**
15 **about it and promised to get back to me next week. I told him that, at this**
16 **juncture, anonymity was absolutely necessary.**

17 **Curiously, a number of my contacts knew of the problems, wished any**
18 **whistle-blower well, but would undoubtedly disappear when the first shot**
19 **was fired.**

20 **Consequently, as your objective and very experienced legal adviser, I set the**
21 **information aside for a while, came back and once again reviewed this**
22 **situation. The conclusion is inescapable: Do not blow any whistle! Period.**
23 **Rationale for this is: (1) you would be very alone, (2) there is too much**
24 **money involved, (3) except for the victims and/or their families, no one cares,**
25 **and (4) you would instantly find yourselves with a bunch of new vigorous**
26 **enemies.**

27 **In this day, more than ever, with multiple decay, disease, rot, and just plain**
28 **corruption, we absolutely must judiciously, carefully, and selectively pick our**
battles to achieve the most impact and effect. Otherwise, you might win, but
the victory would be hollow, and the bad guys would get better educated and
more cunning. Best to pass on this one, swallow hard, and wait patiently for
an unexpected event which is sure to happen sooner or later.

29 This letter is attached to my First Amended Written Disclosure Statement as Exhibit 16.

30 18. At the time I contacted this attorney in March of 1999, I was unaware of the False
31 Claims Act and I was only vaguely aware any such whistleblower laws; therefore, filing a
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1 whistleblower lawsuit had never occurred to me and was never suggested to me by the attorney
2 with whom I consulted.

3 19. As of September of 1999, I was Medical Director of the Mercy Medical Center
4 Preventive Cardiology and Diabetes Center. At that time, I discussed with a cardiovascular
5 healthcare consultant working with Mercy Medical Center the problem of unnecessary cardiac
6 procedures at RMC and asked if there wasn't some way to expose the problem to public
7 scrutiny. His only response was a facetious comment to contact the CBS News program "60
8 Minutes."

9 20. In October of 1999, I read in the journal Medical Economics of a physician in
10 North Carolina who exposed medical wrongdoing by filing a ""qui tam"" whistleblower lawsuit,
11 a term I was completely unfamiliar with at the time. I learned from that article that a qui tam
12 lawsuit was a legal procedure by which wrongdoing that resulted in unjustified payments being
13 made by the federal government could be exposed.

14 21. The article in Medical Economics contained the toll free number of the physician
15 whistleblower in North Carolina to call for free advice and assistance for would-be
16 whistleblowers. I called the number. The physician I spoke to urged me to contact the attorneys
17 in New York City who had represented him.

18 22. In October of 1999, I contacted the attorneys that I had been referred to in New
19 York City and sent them a package of the materials I had been able to collect as of that date.
20 However, the attorneys were concerned with the anecdotal nature of the handful of cases I had
21 been able to assemble and asked me to make a concerted effort to collect data on additional
22 cases.

23 23. To do so, I contacted some of my cardiologist colleagues who had previously and
24 privately voiced similar concerns of unnecessary cardiac care at RMC to me. Of the four
25 cardiologists with whom I spoke, only two were willing to provide any assistance. Over the next
26 20 months they collected records on approximately 20 patients who had apparently been
27 subjected to unwarranted cardiac surgical interventions by Dr. Moon, Dr. Realyvasquez and
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1 their colleagues at RMC. In June of 2001, I contacted the attorneys in New York with this
2 information.

3 24. During this same time, in late 2000, a 53-year-old, relatively healthy male patient
4 was referred to me for management of his diabetes. In the course of my examination and
5 treatment of the patient between October and December of 2000, I managed to control his
6 diabetes very well. In the course of my treatment of him I found no evidence of any coronary
7 artery disease. Following his office visit in December of 2000, arrangements were made for
8 follow-up lab work and a follow-up office visit six months later.

9 25. My next contact with the patient was early May of 2001 when I encountered him
10 and his wife at a local supermarket. In talking with the patient and his wife, I was shocked to
11 discover that the patient had undergone multi-vessel coronary artery bypass graft surgery at
12 RMC on March 24, 2001. I was surprised, to say the least, at this development, because the
13 patient had not previously reported any symptoms suggesting coronary artery disease.
14 Particularly disturbing was the fact that I had not been informed by his cardiologist, Dr. Moon,
15 his cardiac surgeon, Dr. Realyvasquez, or anyone else at RMC of this event.

16 26. I asked the patient to come into my office for a follow-up visit and during this visit
17 with the patient, I discovered that the patient had been sent by Dr. Moon for cardiac
18 catheterization after a brief consultation with Dr. Moon in the hallway of Dr. Moon's office. The
19 patient had reported an episode of atypical chest pain to his wife, who was a surgical nurse that
20 worked with Dr. Realyvasquez, and this report led to the consultation with Dr. Moon. According
21 to the patient, Dr. Moon did no studies on the patient, and his only physical exam was of the
22 patient's wrist. The entire encounter lasted only a few minutes.

23 27. When I later obtained this patient's medical records, Dr. Moon had listed his prior
24 primary care physician as the ““referring physician,”” but according to the patient, his previous
25 primary care treating physician was not involved in any way in referring him to Dr. Moon or
26 consulting with Dr. Moon in the process of Dr. Moon performing a cardiac catheterization. This
27 was standard procedure for Dr. Moon at that time. The notation of the primary care physician
28 as the ““referring physician”” was primarily for billing purposes, and did NOT mean that Dr.

1 Moon obtained consultation with and agreement from 'referring' physicians before subjecting
2 patients to invasive procedures. In fact, as of about 1999 onwards my experience was quite the
3 opposite--I would generally receive notification from Dr. Moon of my patient's having been
4 subjected to invasive cardiac care after the fact. In some cases, as with the above patient, I
5 received no notification at all.

6 28. The patient gave me verbal authorization to obtain copies of his medical records
7 and angiogram from RMC and Dr. Moon. I then reviewed the actual angiogram with a
8 cardiologist colleague, who was given no other information than that the patient had
9 subsequently undergone coronary artery bypass surgery at RMC. He confirmed my impression
10 that the patient had no significant coronary artery disease.

11 29. After I learned of the above-described patient's open heart surgery in May of 2001,
12 but before I had reviewed his medical records and angiogram, the New York attorneys referred
13 me to an attorney in Los Angeles who specialized in qui tam lawsuits. This attorney called me
14 at home, and expressed concern in the difficulty of pursuing such a case, but nevertheless
15 promised to contact the U.S. Attorney's Office and get back to me. As late as May and June of
16 2002, I was still attempting to contact this attorney for follow-up, but received no further
17 communication from this attorney.

18 30. Meanwhile, from April 2000 through April 2002, my wife and I were in the
19 process of an international adoption. We made two trips to Russia for two weeks each time, one
20 in October 2001 and one in April 2002. The adoption process, while ultimately successful, was
21 expensive, time consuming and had the effect of diverting my attention from this problem.

22 31. Throughout the entire process of talking to my colleagues, complaining to RMC,
23 consulting with an attorney at my own expense, and throughout all of my conversations with
24 the whistleblower physician in North Carolina and the qui tam attorneys in New York and
25 California, no one ever suggested that I contact the FBI or any other law enforcement
26 authorities. It apparently never occurred to any other doctor or other health care professional
27 who knew or suspected the scheme at RMC to do so either.

28

1 32. Finally, on July 29, 2002, I received a phone call from the local Blue Cross/Blue
2 Shield insurance agent with whom I had previously discussed my concerns that Dr. Moon, Dr.
3 Realyvasquez and their colleagues at RMC were excessive numbers of invasive cardiac
4 procedures. She told me that she had just been interviewed by a local FBI agent who was
5 investigating a report of alleged unnecessary cardiac procedures at RMC. She mentioned my
6 name to the agent as a physician who could provide additional information. She gave me the
7 phone number of the local FBI agent that had contacted her. His name was Michael Skeen. This
8 was my first indication that the FBI was interested in the matter, or that they even had an office
9 in Redding.

10 33. I immediately telephoned Michael Skeen, and scheduled a meeting for nine
11 o'clock the next day, July 30, 2002.

12 34. When I met with Agent Skeen on July 30th, 2002, I explained in detail the history
13 of my experience in the matter, provided him with written material summarizing information
14 I had previously collected, and provided the names of other medical professionals with
15 additional information to corroborate my account of the situation at RMC.

16 35. I have examined the October 30, 2002 FBI Affidavit in support of the request for
17 a search warrant to raid RMC and the defendant doctors' offices. On pages 15 through 46 of that
18 Affidavit, Agent Skeen described his interviews with six witnesses whose testimony and
19 documents supported the FBI's application for and the resulting search warrant. I was the first
20 one listed (D1) and I referred Agent Skeen to three of the other five witnesses, the only other
21 medical professional witnesses whose testimony supported the affidavit. The only other two
22 witnesses (P1 and P2) were simply two patient victims who had been subjected to medically
23 unnecessary cardiac catheterizations, but neither had the recommended open heart surgeries or
24 were covered by Medicare, MediCal or other any other governmental health insurance program.
25 Both were covered by private insurance, and therefore had no knowledge or evidence of any
26 false claims being submitted to federal or state health care programs.

27 36. Therefore, I provided the FBI with virtually all of the medical evidence submitted
28 to the court in the search warrant affidavit in support of the search warrant that resulted in the

1 seizure of all the records. I either gave the information directly to the FBI or referred the FBI
2 to my colleagues with whom I had been working over the years to assemble as much evidence
3 as we could.

4 37. Without the information that I enabled the FBI to obtain from me and my
5 colleagues, I do not believe the FBI would ever have been able to assemble a sufficient ““critical
6 mass”” of medical information sufficient to persuade a federal judge to issue a no-notice search
7 warrant to seize thousands of medical records from RMC and the defendant doctors. Without
8 such information, the government never would have been able to prove a pattern and practice
9 of fraudulently performing medically unnecessary surgical cardiac interventions on relatively
10 healthy patients for whom such surgical interventions could not be justified by any applicable
11 medical standard.

12 38. As of my first meeting with Agent Skeen on July 30, 2002, it was my
13 understanding and belief, based on everything I had been told by everyone I had talked to, that
14 the best means of reporting Medicare fraud to the government was through the False Claims Act

15 39. The main reason I tried to pursue a claim under the False Claims Act was because
16 I thought that this law had been enacted by Congress to deal with precisely these types of
17 situations. I knew that I was accusing powerful, well-known physicians in the community, a
18 major employer in the community, and the large corporation which owned the hospital, of
19 fraudulent activities. I knew that the False Claims Act had provisions for significant financial
20 penalties to penalize wrongdoers. I feared that if the government confirmed my suspicions and
21 took action to put an end to this diabolical scheme, my whistle-blowing role would become
22 known and it would have a significant negative impact on both my professional life and personal
23 life in Redding. Understandably, I sought to protect my family and myself from the adverse
24 impact of coming forward with the knowledge I possessed. It is my understanding that the
25 whistleblower award provisions in the False Claims Act were designed to compensate insiders
26 such as myself who take the personal and professional risk of exposing fraud against the
27 government.

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