

Renal Care Group Must Pay \$82.6 Million Judgment under False Claims Act

Kenney & McCafferty Represents Whistleblowers Julie Williams and Dr. John Martinez

NASHVILLE, May 27, 2011- Following the 6th Circuit's dismissal of an appeal by Defendants Renal Care Group and Fresenius Medical Care for lack of jurisdiction, on May 26, 2011, U.S. District Judge William J. Haynes entered an order awarding \$82.6 million to the United States in a Medicare fraud case against the two companies. While replacing an earlier \$19.3 million judgment issued last year against the same defendants, the Court upholds its prior determinations against RCG.

In his written opinion, Judge Haynes stated that RCG and its parent company, Fresenius Medical Care Holdings, Inc. "exhibited reckless disregard of legal mandates" in their billing practices and remarked that management officials failed to heed the advice of company lawyers. Applying the full force and effect of the False Claims Act's provisions, in rendering the judgment, Judge Haynes trebled the calculated damages for a total of \$38,873,592 and imposed maximum civil penalties in the amount of \$43,769,000 for a total of \$82,642,592. Pending any appeal by the defendants, this judgment represents a tremendous success for the Government in the fight against fraud and reinforces the harsh penalties for violative practices by corporations.

Filed in 2005 under the False Claims Act on behalf of former RCG employee, Julie Williams, and nephrologist, Dr. John Martinez, by Philadelphia-based firms Kenney & McCafferty, P.C. and Egan Young, the case alleges that Renal Care Group ("RCG") submitted false claims for equipment provided to End-Stage Renal Disease ("ESRD") home dialysis patients from January 1999 through December 2005. Additionally, the lawsuit claims that RCG set up a sham billing company, RCG Supply Co., thereby interfering with patients' right of choice for supply options.

Transferred to the Middle District of Tennessee in 2009, the federal case was led by the U.S. Attorney's Office for the Eastern District of Missouri under the direction of Assistant U.S. Attorney Andrew Lay with the assistance of the U.S. Attorney's Office for the Middle District of Tennessee, under the direction of Assistant U.S. Attorney Lisa Rivera, and Laurie Oberembt and John Henebery from the Department of Justice.