

**FILED**  
7/17/2023  
THOMAS G. BRUTON  
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA and THE )	
STATE OF ILLINOIS, <i>ex rel.</i> EDWARD )	
SCHMIDL, )	
	)
Plaintiffs, )	No. 21 C 526
	)
v. )	Chief Judge Pallmeyer
	)
JOHN A. GREAGER, II and CANCER )	<del><b>FILED UNDER SEAL</b></del>
THERAPY ASSOCIATES, S.C., )	
	)
Defendants. )	

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General (“OIG-HHS”) of the Department of Health and Human Services (“HHS”), and the Office of Personnel Management (“OPM”), which administers the Federal Employees Health Benefits Program (“FEHBP”) (collectively, the “United States”), John A. Greager, II (“Greager”), Cancer Therapy Associates, S.C. (“CTA”), and Edward Schmidl (hereafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. CTA is a surgical center located in Lombard, Illinois. CTA is owned and operated by Greager. Greager and CTA submitted claims for payment to the United States for surgical procedures.

B. On January 25, 2021, Edward Schmidl filed a qui tam action in the United States District Court for the District of Illinois captioned *United States of America and the State of Illinois ex rel. Edward Schmidl v. John A. Greager, II and Cancer Therapy Associates, S.C.*, No. 21 C 526

(N.D. Ill.), pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the Civil Action).

C. The United States contends that Greager and CTA submitted or caused to be submitted claims for payment to: the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll (“Medicare”); and the FEHBP, 5 U.S.C. §§ 8901-8914.

D. The United States contends that it has certain civil claims against Greager and CTA for causing the submission of false claims to Medicare and the FEHBP by engaging in the following conduct (referred to as the “Covered Conduct”) from January 1, 2015 through March 16, 2022:

1. Performing multiple mole removal procedures on patients on one date of service and then submitting or causing the submission of false claims to Medicare and the FEHBP to make it appear as though the procedures had been performed on multiple dates. These claims had false dates of service for mole removal procedures that made it appear as though the procedures had been performed on multiple dates, when they had been performed only on one single date. Patients in fact had not received any medical services on the dates that were provided as justification for Greager’s and CTA’s false claims. Through this practice, known as “unbundling,” Greager and CTA caused Medicare and the FEHBP to pay more than they would if the procedures had been billed as occurring during the same patient visit.

F. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement and to Relator’s reasonable expenses, attorneys’ fees and costs.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Greager and CTA shall pay to the United States \$757,879.90 (Settlement Amount), of which \$378,939.95 is restitution, no later than 15 days after the Effective Date of this Agreement by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office for the Northern District of Illinois. The \$378,939.95 restitution amount, referenced above, comprises the \$334,896.60 loss to Medicare plus the \$44,043.35 loss to the FEHBP as a result of Greager's and CTA's false claims. Any amounts paid to the United States as criminal restitution for the loss to Medicare in the criminal case captioned *United States v. John A. Greager, II*, No. 22 CR 345 (N.D. Ill.) shall be credited against the Settlement Amount.

2. Conditioned upon the United States receiving the Settlement Amount and as soon as feasible after receipt, the United States shall pay \$113,681.98 to Relator by electronic funds transfer (Relator's Share). Pursuant to 18 U.S.C. § 3613, 31 U.S.C. §§ 3716 and 3720, the United States will offset the Relator's Share until Relator satisfies the judgment debt owed to the United States in *United States of America v. Edward Schmidl*, No. 20 CR 382 (N.D. Ill.).

3. Subject to the exceptions in Paragraph 5 (concerning reserved claims) below, and upon the United States' receipt of the Settlement Amount under Paragraph 1, the United States releases Greager and CTA from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake, unjust enrichment, and fraud.

4. Subject to the exceptions in Paragraph 5 below, and upon the United States' receipt of the Settlement Amount, Relator, for himself and for his heirs, successors, attorneys, agents, and

assigns, releases Greager and CTA from any civil monetary claim the Relator has on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733.

5. Notwithstanding the releases given in Paragraph 3 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, including mandatory or permissive exclusion from federal health care programs or the FEHBP;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
- f. Any liability of individuals, except as expressly stated in this Agreement;
- g. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

6. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Relator and his heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United

States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

7. Relator, for himself, and for his heirs, successors, attorneys, agents, and assigns, releases CTA, and its officers, agents, and employees, from any liability to Relator arising from the filing of the Civil Action, or under 31 U.S.C. § 3730(d) for expenses or attorneys' fees and costs.

8. Greager and CTA waive and shall not assert any defenses Greager or CTA may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

9. Greager and CTA fully and finally release the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Greager and CTA have asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct or the United States' investigation or prosecution thereof.

10. Greager and CTA fully and finally release the Relator from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Greager and CTA have asserted, could have asserted, or may assert in the future against the Relator, related to the Civil Action and the Relator's investigation and prosecution thereof.

11. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare contractor (e.g., Medicare Administrative Contractor, fiscal intermediary, carrier), FEHBP, or any state payer, related to the Covered Conduct; and Greager and CTA agree not to resubmit to any Medicare contractor or FEHBP or any state payer any previously denied claims related to the Covered Conduct, agree not to appeal any such denials of claims, and agree to withdraw any such pending appeals.

12. Greager and CTA agree to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395lll and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Greager or CTA, its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement and the plea agreement in *United States of America v. John A. Greager, II*, No. 22 CR 345 (N.D. Ill.);
- (2) the United States' audit(s) and civil and criminal investigation(s) of the matters covered by this Agreement;
- (3) Greager's and CTA's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and criminal investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement and the plea agreement in *United States of America v. John A. Greager, II*, No. 22 CR 345 (N.D. Ill.); and

- (5) the payment Greager and CTA make to the United States pursuant to this Agreement and any payments that Greager and CTA may make to Relator, including costs and attorney's fees

are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and the FEHBP (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by Greager and CTA, and Greager and CTA shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement, or payment request submitted by Greager or CTA or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Greager and CTA further agree that within 90 days of the Effective Date of this Agreement they shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid fiscal agents and FEHBP carriers and/or contractors, any Unallowable Costs (as defined in this paragraph) included in payments previously sought from the United States, or any State Medicaid program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by Greager or CTA or any of its subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. Greager and CTA agree that the United States, at a minimum, shall be entitled to recoup from Greager and CTA any overpayment plus

applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by Greager or CTA or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Greager or CTA or any of its subsidiaries or affiliates' cost reports, cost statements, or information reports.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine, or re-examine Greager's or CTA's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

13. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity, except to the extent provided for in Paragraph 14 (waiver for beneficiaries paragraph), below.

14. Greager and CTA agree that they waive and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third party payors based upon the claims defined as Covered Conduct.

15. Upon receipt of the payment described in Paragraph 1, above, the Parties shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal of the Civil Action pursuant to Rule 41(a)(1).

16. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.



17. Each party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.

18. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the District of Illinois. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

19. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

20. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

21. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

22. This Agreement is binding on Greager's and CTA's successors, transferees, heirs, and assigns.

23. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

24. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

25. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles and electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

**THE UNITED STATES OF AMERICA**

MORRIS PASQUAL  
Acting United States Attorney

DATED: \_\_\_\_\_

VIRGINIA  
BY: HANCOCK

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HANCOCK  
Date: 2023.07.06 11:27:00 -05'00'

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DATED: \_\_\_\_\_

LISA M. RE  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

DATED: \_\_\_\_\_

EDWARD M. DEHARDE  
Deputy Associate Director of Federal Employee  
Insurance Operations,  
Healthcare and Insurance  
United States Office of Personnel Management

DATED: \_\_\_\_\_

PAUL ST. HILLAIRE  
Assistant Inspector General  
for Legal & Legislative Affairs  
Office of the Inspector General  
United States Office of Personnel Management

**THE UNITED STATES OF AMERICA**


MORRIS PASQUAL  
Acting United States Attorney

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

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DATED: 07/10/23

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LISA M. RE  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

DATED: \_\_\_\_\_

\_\_\_\_\_  
EDWARD M. DEHARDE  
Deputy Associate Director of Federal Employee  
Insurance Operations,  
Healthcare and Insurance  
United States Office of Personnel Management

DATED: \_\_\_\_\_

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PAUL ST. HILLAIRE  
Assistant Inspector General  
for Legal & Legislative Affairs  
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**THE UNITED STATES OF AMERICA**

MORRIS PASQUAL  
Acting United States Attorney

DATED: \_\_\_\_\_

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LISA M. RE  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

DATED: \_\_\_\_\_

EDWARD DEHARDE  
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EDWARD M. DEHARDE  
Deputy Associate Director of Federal Employee  
Insurance Operations,  
Healthcare and Insurance  
United States Office of Personnel Management

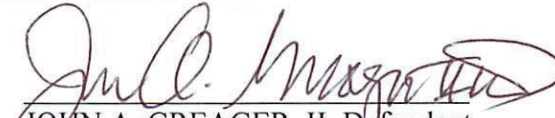
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PAUL ST. HILLAIRE  
Assistant Inspector General  
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Office of the Inspector General  
United States Office of Personnel Management

**JOHN A. GREAGER, II and CANCER THERAPY ASSOCIATES, S.C. - DEFENDANTS**

DATED: 7/3/23

  
\_\_\_\_\_  
JOHN A. GREAGER, II, Defendant

DATED: 7-3-23

  
\_\_\_\_\_  
TERRY A. EKL

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Counsel for John A. Greager, II and Cancer Therapy  
Associates, S.C.

**EDWARD SCHMIDL - RELATOR**

DATED: \_\_\_\_\_

\_\_\_\_\_  
EDWARD SCHMIDL, Relator

DATED: \_\_\_\_\_

\_\_\_\_\_  
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**JOHN A. GREAGER, II and CANCER THERAPY ASSOCIATES, S.C. - DEFENDANTS**

DATED: \_\_\_\_\_

\_\_\_\_\_  
JOHN A. GREAGER, II, Defendant

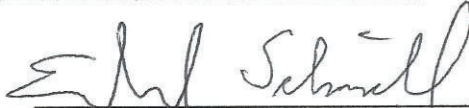
DATED: \_\_\_\_\_

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Associates, S.C.

**EDWARD SCHMIDL - RELATOR**

DATED: 7.06.23

  
\_\_\_\_\_  
EDWARD SCHMIDL, Relator

DATED: July 6, 2023

  
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