



Tuomey Fights Back Against False Claims Verdict

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A False Claims Bulletin

With the threat of a penalty of up to \$237 million hanging over its head, Tuomey Healthcare System (Tuomey) is asking a federal judge to throw out a jury verdict from May, detailed in this [May 10, 2013 Bricker & Eckler bulletin](#), that found the hospital system had violated the False Claims Act and the Stark Law.

The verdict was the second time Tuomey had been found to have violated the Stark Law in connection with its employment arrangement with referring physicians. Following the first trial, the verdict was overturned on appeal. We covered that case where a physician served as the whistleblower in this [2010 bulletin](#).

Today, Tuomey faces stiffer penalties than they did in the first trial. It is filing a host of motions in an attempt to minimize the damages and working to get the federal judge to overturn the verdict, which the hospital's attorneys say was based on faulty evidence and an unconstitutional enforcement scheme.

Until that is resolved, the government is still working to collect a portion of the fine imposed on Tuomey. Because the health system would be financially debilitated by the full amount, the government is asking Tuomey to "accept responsibility for its past misconduct" as part of any ability to pay settlement involving a reduced amount for damages. Tuomey seems unwilling to admit any wrongdoing, stating in a court filing that "Because the government failed to present sufficient evidence from which a reasonable jury could find that Tuomey knowingly submitted false claims to the government in violation of the FCA, Tuomey is entitled to judgment as a matter of law. Alternately, this court should order a new trial."

The judge is scheduled to rule sometime after July 15. However, most agree that even if the \$237 million false claims verdict were to be thrown out, the health system still faces penalties of up to \$45 million based on the finding that Tuomey violated the Stark Law. Tuomey could also be excluded from Medicare and other federal healthcare programs.

We will continue to cover this case as it unfolds.

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