IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA and THE STATES OF GEORGIA, COLORADO, INDIANA, & DISTRICT OF COLUMBIA *ex rel.* JONI DONNELL, **Plaintiffs,** **v.** **OXY-GEN LABORATORY, LLC; JEAN-FRANCOISE TOURE; and FAFA MIDJOLA,** **Defendants.**	**CIVIL ACTION FILE** **No. 1:20-CV-01583-SCJ**

ORDER

This matter appears before the Court on Relator Joni Donnell's Motion for Default Judgment. Doc. No. [76].[1]

I. BACKGROUND

On April 13, 2020, Relator Joni Donnell ("Relator") filed a qui tam action against Oxy-Gen Laboratory, LLC ("Oxy-Gen") and its owner, Jean-Francoise

[1] All citations are to the electronic docket unless otherwise noted, and all page numbers referenced are those imprinted by the Court's docketing software.

Toure ("Toure"), (collectively "Defendants") under the Federal False Claims Act ("FCA") and the Georgia False Medicaid Claims Act ("GFMCA") on behalf of the United States of America and the State of Georgia.[2] Doc. No. [1]. Defendants were served on October 25, 2024 and returned executed Waivers of Service. Doc. Nos. [39]; [41]. The parties moved for an extension of time to answer through February 5, 2025, which the Court granted. Doc. No. [43].

Defendant Oxy-Gen failed to respond and the Clerk entered Default. Doc. No. [60]. While Defendant Toure initially answered the Complaint (Doc. No. [44]), said Answer was struck on May 6, 2025, after its failure to comply with Federal Rule of Civil Procedure 8(b). Doc. No. [60]. Defendant Toure failed to file a repleaded Answer and on July 11, 2025, the Clerk entered Default as to Defendant Toure. On January 13, 2026, Relator moved for default judgment against Defendants. Doc. No. [76].

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[2] All claims asserted by the States of Colorado, Indiana, and the District of Columbia were dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2). Doc. No. [78]. The United States of America and the State of Georgia also voluntarily dismissed their claims against Defendant Fafa Midjola. Id. Therefore, the only remaining claims are those asserted by the United States and the State of Georgia against Defendant Oxy-Gen and Defendant Toure.

II. LEGAL STANDARD

"The entry of a default judgment is committed to the discretion of the district court . . . ." Hamm v. DeKalb Cnty, 774 F.2d 1567, 1576 (11th Cir. 1985). Entering default against a defendant "severely limits the defendant's ability to defend the action. While 'a default is not treated as an absolute confession by the defendant of his liability and of the plaintiff's right to recover,' a defaulted defendant is deemed to 'admit[ ] the plaintiff's well-pleaded allegations of fact.'" Tyco Fire & Sec., LLC v. Alcocer, 218 F. App'x 860, 863 (11th Cir. 2007) (citing Nishimatsu Constr. Co. v. Houston Nat'l Bank, 515 F.2d 1200, 1206 (5th Cir. 1975)).[3] The defendant is not, however, deemed to admit facts that are not well-pleaded or legal conclusions. Id. "Thus, before entering a default judgment for damages, the district court must ensure that the well-pleaded allegations in the complaint . . . actually state a substantive cause of action and that there is a

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[3] In Bonner v. City of Prichard, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all decisions rendered prior to the close of business on September 30, 1981 by the United States Court of Appeals for the Fifth Circuit.

substantive, sufficient basis in the pleadings for the particular relief sought." Id. (emphasis in original).

Stated another way, because "a default judgment cannot stand on a complaint that fails to state a claim," Chudasama v. Mazda Motor Corp., 123 F.3d 1353, 1371 n.41 (11th Cir. 1997), "a motion for default judgment is like a reverse motion to dismiss for failure to state a claim." Surtain v. Hamlin Terrace Found., 789 F.3d 1239, 1245 (11th Cir. 2015). Thus, to succeed on a motion for default judgment, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)); See Surtain, 789 F.3d at 1245. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Iqbal, 556 U.S. at 678 (citing Twombly, 550 U.S. at 556).[4]

[4] An "evidentiary hearing is not a per se requirement" for a default judgment and is not needed when "all essential evidence is already of record." SEC v. Smyth, 420 F.3d 1225, 1232 n.13 (11th Cir. 2005); see also Pope v. United States, 323 U.S. 1, 12 (1944) ("It is a familiar practice and an exercise of judicial power for a court upon default, by taking evidence when necessary or by computation from facts of record, to fix the amount which the plaintiff is lawfully entitled to recover and to give judgment accordingly."). The Court finds that there is essential and sufficient documentary

III. ANALYSIS

A. Liability Under the FCA and the GFMCA

To state a claim for liability under the FCA or GFMCA, the Relator must allege that Defendants "(A) knowingly present[ed], or cause[ed] to be presented, a false or fraudulent claim for payment or approval [or] (B) knowingly ma[de], us[ed], or caus[ed] to be made or used, a false record or statement" to get a false or fraudulent claim paid or approved by the government. 31 U.S.C. § 3729(a)(1).[5] FCA claims are subject to the heightened pleading standards of Federal Rule of Civil Procedure 9(b). See United States ex rel. Clausen v. Lab'y Corp. of Am., Inc., 290 F.3d 1301, 1309–10 (11th Cir. 2002). Accordingly, the Complaint must set out "'facts as to time, place, and substance of the defendant's alleged fraud,' specifically 'the details of the defendants' allegedly fraudulent acts, when they occurred, and who engaged in them.'" Id. (quoting Cooper v. Blue Cross & Blue Shield of Fla., Inc., 19 F.3d 562, 567–68 (11th Cir. 1994).

Relator's Complaint contains well-pleaded allegations that Defendants violated the FCA and GFMCA by knowingly submitting, or causing to be

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evidence already in the record to decide the present motion without the necessity of a formal hearing.

[5] The language of the Georgia FMCA mirrors the Federal FCA, but applies specifically to claims submitted to the Georgia Medicaid Program. O.C.G.A. § 49-4-168.1(a).

submitted, fraudulent claims for reimbursement to Medicare and Medicaid. Doc. No. [1]. Plaintiff specifically alleges that Defendants submitted claims for reimbursement for genetic testing procedures that were medically unnecessary, billed for services that were not ordered by treating physicians, improperly billed to obtain payment regardless of the actual tests performed, paid kickbacks to patients, and fraudulently induced the government to enter contracts. Id. at ¶¶ 137–210. The Complaint provides specific examples of Defendants' alleged fraudulent activity, including details of the acts, when they occurred, and who engaged in them. Id. at ¶¶ 145, 165, 194. Therefore, the Court finds that the allegations in the Complaint state a claim for relief that is plausible on its face and satisfy the heightened pleading standard of Rule 9(b).

B. Damages and Attorneys' Fees

i. *Damages*

Pursuant to Federal Rule of Civil Procedure 55(b)(2), the Court may conduct hearings to determine the amount of damages. Yet, "[a]n evidentiary hearing is not a *per se* requirement." S.E.C. v. Smyth, 420 F.3d 1225, 1232 n.13 (11th Cir. 2005). In fact, "[e]ntering default judgment on the amount of damages without an evidentiary hearing is appropriate where the amount claimed is capable of mathematical calculation and 'where all essential evidence is already of record.'" United States ex rel. Holsey v. Elite Healthcare Enters., Inc., No. 1:18-CV-2318, 2023 WL 1993781 at *3 (N.D. Ga. Feb. 13, 2023) (quoting Smyth, 420 F.3d at 1232 n.13).

Here, treble damages and civil penalties are statutorily dictated by the FCA and the GFMCA. 31 U.S.C. § 3729(a)(1); O.C.G.A. § 49-4-168.1(a). The civil penalty amounts range from a minimum of $14,308 to a maximum of $28,619 per violation. 28 C.F.R. § 85.5.

Relator contends that the United States paid Oxy-Gen $3,549,841.61, while Georgia paid $11,154,652.89. Doc. No. [76], 17. These sums are supported by the declarations of Neeli Ben David, Assistant U.S. Attorney for the Northern District of Georgia, and Erica Lyons, Investigative Auditor in the Medicaid Fraud Division of the Office of the Georgia Attorney General. Doc. Nos. [76-1]; [76-2]. Pursuant to the mandatory treble damages provisions of the FCA and the GFMCA, the court can calculate $44,113,483.50 as the total amount of damages at issue in this case.

Then, considering civil penalties, Relator seeks to recover the minimum penalty amount on each of the 18,909 unique genetic testing claims. Doc. No. [76],

17. The Court can thus calculate the civil penalties using the minimum amount of $14,308 per violation, totaling $270,549,972.

ii. *Attorneys' Fees*

Additionally, Relator moves for $336,807.09 in attorneys' fees. Doc. No. [18]. The FCA provides that a relator's attorneys' fees and costs "shall be awarded against the defendant." 31 U.S.C. § 3730(d)(2).

In determining an award of attorney's fees, the first step is calculating the "lodestar" amount, which is the number of hours reasonably expended in litigation multiplied by a reasonable hourly rate. Hensley v. Eckerhart, 461 U.S. 424, 433 (1983); Norman v. Hous. Auth. of the City of Montgomery, 836 F.2d 1292, 1299 (11th Cir. 1988). A determination of the reasonable hourly rate is to be based on the evidence before the Court, but the Court can also consider its "own knowledge and experience concerning reasonable and proper fees." See Norman, 836 F.2d at 1303. In deciding on the number of hours reasonably expended, the Court can either do an hour-by-hour assessment or make "across-the-board percentage cuts either in the number of hours claimed or in the final lodestar figure." See Loranger v. Stierheim, 10 F.3d 776, 783 (11th Cir. 1994).

Here, the court finds that the requested amount of attorneys' fees is reasonable and customary, and finds no reason to deviate from the lodestar amount. The Court is aware of the Atlanta legal market for complex litigation services by lawyers of reasonably comparable skills, experience, and reputation. The Court concludes that $1,025.00 is a reasonable hourly rate for Mr. Moore and $875.00 is a reasonable hourly rate for Ms. Hall. The Court further finds that the 150 hours worked by Mr. Moore and Ms. Hall are reasonable in light of the complexity of the matter and the five years this litigation has taken. Additionally, the Court finds the following rates submitted by the Employment Law Group reasonable: Mr. Woodfield at $840.00; Mr. Oswald at $950.00; Ms. Quinn at $840.00; Ms. Pappas at $500.00; Ms. Whitfield at $305.00; Mr. von Pelser Berensberg at $305.00; Mr. Wilson at $305.00; and Mr. Becnel at $295.00. The Court also finds that the 450 hours worked by the Employment Law Group are reasonable given the five years this False Claims Act litigation has been pending. Thus, the Court hereby awards Relator $336,807.09 in attorneys' fees.

IV. CONCLUSION

For the foregoing reasons, the Court **GRANTS** Relator's Motion for Default Judgment. Doc. No. [76]. It is **ORDERED** that default judgment be entered against Defendant Oxy-Gen and Defendant Toure and that the United States and the State of Georgia recover damages from Defendants in the amount of **$44,113,483.50**. The Court **ORDERS** that civil penalties in the amount of **$270,549,972.00** be imposed on Defendants. The Court further **ORDERS** that Relator be awarded reasonable attorneys' fees in the amount of **$336,807.09**.

IT IS SO ORDERED this 30th day of July, 2026.

Steve C. Jones

HONORABLE STEVE C. JONES
UNITED STATES DISTRICT JUDGE