

## 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”); Relator Dale Meehan (“Relator”); Medstar Ambulance, Inc., Medstar EMS, Inc., MetroWest Emergency Medical Services, Inc., Fitchburg Emergency Medical Services, Inc., Pioneer Valley EMS, Inc. (collectively, “Medstar”) and Nicolas Melehov and Gregory Melehov (collectively with Medstar referred to herein as the “Medstar Defendants”). The foregoing hereafter are referred to collectively as “the Parties.”

### RECITALS

- A. Medstar is a privately held Massachusetts corporation with principal offices in Leominster, Massachusetts. Medstar is contracted to provide ambulance services to private and municipal entities, primarily in Central and Western Massachusetts.
- B. Gregory Melehov is the President and Treasurer of each Medstar entity. He is a resident of Massachusetts.
- C. Nicholas Melehov is the Vice President and Secretary of each Medstar entity. He is a resident of Massachusetts.
- D. Relator is a resident of Massachusetts who was employed by Medstar Ambulance, Inc., from March 26, 2012 through June 2, 2013.
- E. On October 4, 2013, Relator filed a *qui tam* action in the United States District Court for the District of Massachusetts captioned *United States ex rel. Meehan v. Medstar, et al*, Civil Action No. 13-12495-IT, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”). In the Civil Action, Relator alleges that Medstar knowingly and fraudulently billed Medicare for ambulance services, by *inter alia*: altering

destination codes to make ambulance transports appear reimbursable when, in fact, they were not; billing Medicare Part B for services which were supposed to be covered under Medicare Part A as facility-responsible transports for patients who were patients in hospitals or skilled nursing facilities; billing for ambulance transports which were not medically necessary; and billing for higher levels of ambulance transportation services than patients required or Medstar provided (up-coding). Relator also alleges that the Medstar Defendants wrongfully terminated or retaliated against her, in violation of 31 U.S.C. § 3730(h).

F. The United States contends that the Medstar Defendants submitted or caused to be submitted claims for payment to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395kkk-1 (“Medicare”).

G. Specifically, the United States contends that, during the period from January 1, 2011, through October 31, 2014, the Medstar Defendants submitted false claims to Medicare for ambulance transportation services where: (1) the services did not qualify for reimbursement because the transports were not medically reasonable and necessary; (2) the transport was not to or from a covered destination; (3) claims were submitted without the necessary beneficiary and/or provider signatures and/or complete documentation; and/or (4) bills were submitted for higher levels of ambulance transportation services than were required by patients’ conditions (up-coding). That conduct is referred to below as the “Covered Conduct.”

H. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement.

In consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

## TERMS AND CONDITIONS

1. The Medstar Defendants shall pay to the United States Twelve Million Seven Hundred Thousand Dollars (\$12,700,000) plus interest accruing at an annual rate of 2% from November 22, 2016, and continuing until and including the day of payment (collectively, the "Settlement Amount"), no later than seven business 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 District of Massachusetts.

2. Conditioned upon the United States receiving the Settlement Amount from the Medstar Defendants and as soon as feasible after receipt, the United States shall pay to Relator by electronic funds transfer \$3,556,000, plus 28 percent of any interest paid by Medstar as part of the Settlement Amount.

3. Relator's claim against the Medstar Defendants for wrongful termination or retaliation pursuant to 31 U.S.C. § 3730(h) is expressly reserved and are not released by this Agreement.

4. Subject to the exceptions in Paragraph 7 (concerning excluded claims) below, and conditioned upon the Medstar Defendants' full payment of the Settlement Amount, the United States releases the Medstar Defendants from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-33; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-12; or the common law theories of payment by mistake, unjust enrichment, and fraud.

5. Conditioned upon the Medstar Defendants' full payment of the Settlement Amount, Relator, for herself and for her heirs, successors, attorneys, agents, and assigns, releases the Medstar Defendants 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. §§ 3729-33. Nothing herein shall limit Relator's entitlement to pursue her retaliation claim pursuant to 31 U.S.C. § 3730(h), as reserved by Paragraph 3, above.

6. In consideration of the obligations of the Medstar Defendants in this Agreement and the Corporate Integrity Agreement (CIA), entered into between OIG-HHS and the Medstar Defendants, conditioned upon the Medstar Defendants' full payment of the Settlement Amount, the OIG-HHS agrees to release and refrain from instituting, directing, or maintaining any administrative action seeking exclusion from Medicare, Medicaid, and other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) against the Medstar Defendants under 42 U.S.C. § 1320a-7a (Civil Monetary Penalties Law) or 42 U.S.C. § 1320a-7(b)(7) (permissive exclusion for fraud, kickbacks, and other prohibited activities) for the Covered Conduct, except as reserved in Paragraph 7 (concerning excluded claims), below, and as reserved in this Paragraph. The OIG-HHS expressly reserves all rights to comply with any statutory obligations to exclude the Medstar Defendants from Medicare, Medicaid, and other Federal health care programs under 42 U.S.C. § 1320a-7(a) (mandatory exclusion) based upon the Covered Conduct. Nothing in this Paragraph precludes the OIG-HHS from taking action against entities or persons, or for conduct and practices, for which claims have been reserved in Paragraph 7, below.

7. Notwithstanding the releases given in paragraphs 4, 5 and 6 of this Agreement, or any other term of this Agreement, the following claims 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, including mandatory exclusion from Federal health care programs;

- 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 other than Nicholas Melehov and Gregory Melehov;
- 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;
- h. Any liability for failure to deliver goods or services due; and,
- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

8. Relator and her 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). Conditioned upon Relator's receipt of the payment described in Paragraph 2, Relator and her 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.

9. Relator, for herself, and for her heirs, successors, attorneys, agents, and assigns, releases the Medstar Defendants, and their officers, agents, and employees, from any liability to Relator arising from the filing of the Civil Action. However, nothing herein shall limit Relator's entitlement to pursue her retaliation claim pursuant to 31 U.S.C. § 3730(h), which are reserved by Paragraph 3, above.

10. In consideration of the obligations of Relator set forth in this Agreement, the Medstar Defendants for themselves and for their heirs, successors, transferees, attorneys, agents and assigns fully and finally release Relator and her heirs, successors, attorneys, agents and assigns from any claims of every kind and however denominated (including attorneys' fees, costs, and expenses of every kind and however denominated) that the Medstar Defendants have asserted or could have asserted against Relator and her heirs, successors, attorneys, agents, and assigns, arising from or related in any way to the Civil Action; provided, however, that the Medstar Defendants reserve and do not waive any defenses or claims as to Relator's retaliation claim pursuant to 31 U.S.C. § 3730(h), which are reserved by Paragraph 3, above.

11. The Medstar Defendants waive and shall not assert any defenses the Medstar Defendants 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. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

12. The Medstar Defendants fully and finally release the United States, its agencies, officers, agents, employees, and servants, from any claims (including for attorney's fees, costs, and expenses of every kind and however denominated) that the Medstar Defendants 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 and the United States' investigation and prosecution thereof.

13. 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 or any state payer), related to the Covered Conduct; and the Medstar Defendants agree not to resubmit to any Medicare contractor 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.

14. The Medstar Defendants agree to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47, in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395kkk-1 and 1396-1396w-5, and in the regulations and official program directives promulgated thereunder) incurred by or on behalf of the Medstar Defendants, their present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit and investigation of the matters covered by this Agreement;
- (3) the Medstar Defendants' investigation, defense, and corrective actions undertaken in response to the United States' audit and investigation in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment the Medstar Defendants make to the United States pursuant to this Agreement and any payments that the Medstar Defendants may make to Relator, including costs and attorney's fees; and

- (6) the negotiation of, and obligations undertaken pursuant to the CIA to: (i) retain an independent review organization to perform annual reviews as described in Section III of the CIA; and (ii) prepare and submit reports to the OIG-HHS,

are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP) (hereinafter referred to as Unallowable Costs). However, nothing in paragraph 14.a.(6) that may apply to the obligations undertaken pursuant to the CIA affects the status of costs that are not allowable based on any other authority applicable to the Medstar Defendants.

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by the Medstar Defendants, and the Medstar Defendants 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 the Medstar Defendants or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: the Medstar Defendants 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 and FEHBP fiscal agents, 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 the Medstar Defendants or any of their 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. The Medstar Defendants agree that the United States, at a minimum, shall be entitled to recoup from the Medstar Defendants 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 the Medstar Defendants or any of their subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this Paragraph) on the Medstar Defendants or any of their 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 the Medstar Defendants' books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

15. The Medstar Defendants agree to cooperate fully and truthfully with the United States' investigation of individuals and entities not released in this Agreement. Upon reasonable notice, the Medstar Defendants shall encourage, and agree not to impair, the cooperation of their directors, officers, and employees, and shall use their best efforts to make available, and encourage the cooperation of, former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. The Medstar Defendants further agree to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in their possession,

custody, or control concerning any investigation of the Covered Conduct they have undertaken, or that has been performed by another on their behalf.

16. 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 17 (waiver for beneficiaries paragraph), below.

17. The Medstar Defendants 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.

18. Upon receipt of the payment described in Paragraph 1, above, the Medstar Defendants and Relator shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal of the Civil Action pursuant to Rule 41(a)(1) (the "Stipulation"). The Stipulation shall state that the allegations described above as Covered Conduct shall be dismissed with prejudice as to the United States. Any remaining claims in the action shall be dismissed without prejudice as to the United States. All claims shall be dismissed with prejudice as to Relator except Relator's claim for wrongful termination or retaliation claim pursuant to 31 U.S.C. § 3730(h). The Stipulation shall specify that the Court retains jurisdiction of the Civil Action for purposes of resolving this claim by Relator against the Medstar Defendants. Following the filing of such Stipulation, as soon as feasible, the United States will indicate its consent to dismissal of the Civil Action on these terms, pursuant to 31 U.S.C. § 3730(b)(1).

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

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

21. 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 Massachusetts. 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.

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

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

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

25. This Agreement is binding on the Medstar Defendants' successors, transferees, heirs, and assigns.

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

27. All parties consent to the United States' disclosure of this Agreement and information about this Agreement to the public.

28. 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

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

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

KELLEY HAUSER  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice

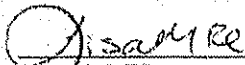
DATED: \_\_\_\_\_

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

JESSICA P. DRISCOLL  
Assistant United States Attorney  
United States Attorney's Office  
District of Massachusetts


DATED: 01/12/17

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

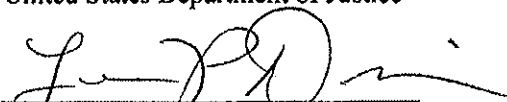
  
LISA M. RE  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

**THE UNITED STATES OF AMERICA**

DATED: 1/12/17

BY:   
KELLEY HAWSER  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice

DATED: 1/12/17

BY:   
JESSICA P. DRISCOLL  
Assistant United States Attorney  
United States Attorney's Office  
District of Massachusetts

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

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

THE MEDSTAR DEFENDANTS

DATED: 1/11/17 BY: *Greg Melehov*  
GREGORY MELEHOV

DATED: 1/11/17 BY: *Nicholas Melehov*  
NICHOLAS MELEHOV

DATED: 1/11/17 BY: *Greg Melehov*  
MEDSTAR AMBULANCE, INC.  
Gregory Melehov, President

DATED: 1/11/17 BY: *Greg Melehov*  
PIONEER VALLEY EMS, INC.  
Gregory Melehov, President

DATED: 1/11/17 BY: *Greg Melehov*  
MEDSTAR EMS, INC.  
Gregory Melehov, President

DATED: 1/11/17 BY: *Greg Melehov*  
METROWEST EMERGENCY SERVICES, INC.  
Gregory Melehov, President

DATED: 1/11/17 BY: *Greg Melehov*  
FITCHBURG EMERGENCY MEDICAL  
SERVICES, INC.  
Gregory Melehov, President

DATED: 1/12/17  
~~4/11/17~~ BY: *K. H. C. Pickering*  
KENNETH C. PICKERING  
Mirick, O'Connell, DeMallie & Lougee, LLP  
Attorney for the Medstar Defendants

RELATOR

DATED: 1/11/12

BY: Dale Meehan  
DALE MEEHAN

DATED: 1/11/17

BY: Jeffrey A. Newman  
JEFFREY A. NEWMAN  
Law Offices of Jeffrey A. Newman  
Attorney for the Relator