

SEALED

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

NOV - 7 2012

CLERK, U.S. DISTRICT COURT
By ada Deputy

ORIGINAL

**UNITED STATES OF AMERICA
ex rel. Paul J. Solomon,
Plaintiffs,**

**LOCKHEED MARTIN CORP., AND
NORTHROP GRUMMAN SYSTEMS
CORP.**

Defendants

**) FILED UNDER SEAL
) PURSUANT TO
) 31 U.S.C. § 3730(b)(2)**

) CIVIL ACTION NO. _____

) 8-12CV-4495D

) FALSE CLAIMS ACT COMPLAINT

) JURY TRIAL REQUESTED

FALSE CLAIMS ACT COMPLAINT

**FILED UNDER SEAL
PURSUANT TO 31 U.S.C. §§ 3729 et seq.**

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SEALED

False Claims Act Complaint

Plaintiff Paul J. Solomon ("Solomon" or "Relator"), by and through the undersigned attorneys, on behalf of the United States of America, complains of the above named defendants and each of them as follows:

NATURE OF THE CASE

1. This is a case of defense contractor fraud that has cost the United States over \$50 million dollars. It concerns false claims submitted in connection with the F-35 Joint Strike Fighter Air System Program – the government's most expensive weapons program.
2. The Relator, Paul J. Solomon, seeks to recover on behalf of the United States treble damages and civil penalties arising from false claims, and the creation of false records and statements made or caused to be made and submitted directly or indirectly by the defendants, to the United States Government, all in violation of the False Claims Act, 31 U.S.C. §§ 3729 – 32.
3. Defendant Lockheed Martin Corporation ("Lockheed"), the world's largest defense contractor, through its Lockheed Martin Aeronautics Co. division, was and is the prime contractor on the design, development and production of the Joint Strike Fighter F-35 Lightning II (the "JSF Program"), a family of single-seat, single-engine, fifth generation multirole fighters intended to perform ground attack, reconnaissance, and air defense missions with stealth capability. The F-35 is being developed for use by the U.S. Air Force, Marine Corps. and Navy, as well as U.S. allies, including the United Kingdom, Italy, Netherlands, Australia, Canada, Norway, Denmark, Turkey, Israel and Japan.

4. Defendant Northrop Grumman Systems Corporation ("Northrop") was and is a subcontractor on the JSF Program which provided and still provides, among other things, electro-optical Distributed Aperture System (DAS), Communications, Navigation, Identification (CNI), center fuselages, weapons bays, and arrestor gears.

5. This complaint relates to the development phase of the JSF Program, pursuant to which Lockheed and the government entered into the "Joint Strike Fighter Systems Design and Development" contract (the "SDD contract") on October 21, 2001.

6. The SDD Contract is a Cost Plus Award Fee contract. Under the terms of the contract, Lockheed is entitled to bill the government on a monthly basis for the costs incurred on the program. The contract also established twenty-one award fee periods, each lasting six months. At the conclusion of each award fee period, Lockheed is entitled to seek an award fee based upon its performance on the contract during the period. Lockheed would, in turn, share any award fee it received with the two primary subcontractors on the project, Northrop and BAE Systems (BAE). An award fee essentially constitutes the contractor's and subcontractor's profit on the project.

7. As will be discussed in more detail below, Lockheed as the prime contractor, and Northrop as a subcontractor were each required to use an "Earned Value Management System" ("EVM System" or "EVMS") to monitor and report to the government cost and schedule performance on the project

pursuant to Department of Defense requirements, the terms of the SDD contract, and their own respective corporate policies.

8. An EVM System is a set of guidelines that guide a company's management control system which are designed to serve as an early warning tool, intended to allow program/project management to identify and control cost and schedule problems before they become insurmountable.

9. One of the primary EVMS metrics Lockheed was required to provide to the government was an "Estimate At Completion" ("EAC"), which is the estimated cost of the project at the completion of the project. This metric is supposed to constitute the "most likely" estimate. In the conduct of their respective SDD contracts, the defendants conducted periodic Estimate at Completion evaluations.

10. Consistent with EVMS guidelines, as well as the SDD Contract, Lockheed maintained a "Management Reserve" budget as part of the JSF Project's total budget.

11. Management Reserve budget is an unallocated portion of a contractor's overall budget, designed to provide budget for unanticipated work on a contract. Management Reserve budget is not to be used to cover cost overruns on a project. For example, if a contractor has budgeted \$100 to produce a Widget, but due to unanticipated design changes which arise after completion of the initial design, it costs \$120 to produce the Widget, the contractor can allocate \$20 from the Management Reserve budget to cover the unanticipated increase in budget to build the Widget. If the contractor then produces the

Widget at \$120, there is no cost variance from budget. If however, there are no unanticipated design changes, but there are cost overruns so that the Widget costs \$120 to produce, there should be no allocation of Management Reserve budget. Instead, the contractor should report the cost overruns in the form of a negative cost variance of \$20.

12. In a Memorandum of Agreement ("MOA") dated May 9, 2005, the defendants entered into an agreement pursuant to which Lockheed agreed to provide additional Management Reserve budget to Northrop if Northrop was unable to perform within the existing budget, i.e., Management Reserve budget would be used to alter cost variance data and thereby conceal or reduce cost overruns.

13. At issue in this complaint are the following three award fee periods, though, on information and belief, defendants' fraudulent practices might have been occurring both before and after these periods:

- Award Fee Period 10 - May 1, 2006 through October 31, 2006;
- Award Fee Period 11 - November 1, 2006 through April 30, 2007;
- Award Fee Period 12 - May 1, 2007 through October 31, 2007.

14. As set forth in detail below, during Award Fee Periods 10, 11 and 12, Relator Solomon was an employee of Northrop, and his responsibilities included performing "surveillance audits" of Northrop's EVM System. Mr. Solomon has many years of experience performing surveillance audits at Northrop, and has significant experience reviewing and assessing its EVM System. He is an original source of the information that forms the basis of this

lawsuit, in view of the fact that his job responsibility was to review such data in order to maintain oversight and compliance.

15. In the course of his surveillance audits, Solomon observed instances during Award Fee Periods 10, 11, and 12 where Lockheed authorized the issuance of Management Reserve budget to Northrop for purposes of increasing earned value and thereby altering and improving cost variance data, thereby concealing from the government the true cost overruns on the JSF Project.

16. During Award Fee Periods 10, 11 and 12, Lockheed knowingly presented to the government false cost variance data, including data which incorporated Northrop's false cost variance data. This false data was used by the government, directly or indirectly, in determining how much of an award fee to grant Lockheed.

17. As a result of the false cost variance data presented to the government, defendants received award fees during Periods 10, 11 and 12 totaling more than \$50 million that they would not otherwise have received but for their submission of the false statements.

18. Solomon prepared memoranda regarding his EVMS surveillance audit findings that Northrop was violating EVMS guidelines through the improper use of Management Reserve, which he shared with the Department of Defense, Defense Contract Management Agency resident auditor.

DCMA's Post Period 12 EVMS Compliance Report

19. The DCMA conducted an EVMS compliance review at the Lockheed facility in Fort Worth, Texas between August 20 through 31, 2007. The review encompassed not only the F-35 Joint Strike Fighter, but also the F-22 Raptor and the F-16 programs.

20. On November 19, 2007, after the close of Award Fee Period 12, the DCMA issued its "Post Acceptance Review For Cause Compliance Report" (the "Compliance Report"), Report No. CTR-2007-002.

21. The Compliance Report concluded that Lockheed:

[I]s not following, nor consistently applying, the American National Standard Electronic Industries Alliance Earned Value Management Systems (ANSI/EIA-748-A) guidelines during the execution of Department Programs. The findings of the review indicate that, under Lockheed stewardship, the utility of the EVMS has declined to a level where it does not serve its intended purpose and the government is not obtaining useful program performance data to anticipate and mitigate program risks. (Emphasis added)

22. According to the Compliance Report, the DCMA found that Lockheed was "non-compliant in 19 of 32 industry guidelines." One of DCMA's "[s]ignificant findings" was that Lockheed was "[u]sing management reserve to alter internal and subcontractor performance levels and overruns."

23. The DCMA further found:

- "The government review team found that each month Lockheed business analysts adjust the CPR (Contract Performance Report) of some 17 suppliers whose combined contract values exceed \$4.36B;
- [A]djustments made by Lockheed to Northrop Grumman's (NG) July 2007 CPR for CNI work (WBS 1434) decreased the to date overrun

reported by NG to Lockheed from -\$56M to -\$3.7M and reduced NG's reported unfavorable variance at completion from \$56.5M to zero.

These adjusted values were then reported in Lockheed CPR to the F-35 program office;

- Similar revisions are made to the data of the other 16 subcontractors with CPR requirements. In total, Lockheed reduced to-date overruns reported by their suppliers from \$140.3M to \$50.5M and decreased projected completion cost overruns from \$130.8M to \$6.1M;
- The justification given by Lockheed for these alterations was that suppliers are working to budgets that are purposefully constrained by Lockheed as challenges to contain costs;
- Lockheed concludes that supplier performance metrics would be more realistic if adequate budgets were in place and that adjustments are required to compensate for the under-budgeted work condition. This thinking – taken together with the way in which Lockheed 'augments' subcontractor reported performance measurement data through the use of [Management Reserve] funded [Level Of Effort] work packages that are never charged – ignores the necessity to maintain the integrity of the [Performance Measurement Baseline] and misrepresents the actual condition of cost and schedule status.
- The government review team found that Lockheed has performed similar adjustments to open, internal [Lockheed] work packages in violation of multiple [EVMS] ANSI/EIA-748 guideline prohibitions.

- Subsequent to the EAC4 exercise (August 31, 2006) Lockheed authorized \$97M of [Management Reserve] to increase the budgets of open work packages for Lockheed, Northrop, and BAE Systems. Although Lockheed refers to this practice as risk mitigation strategy, the government review team concluded that the actual purpose was to improve the [Cost Performance Indices] of various WBS elements.”

24. One of the recommendations that DCMA made as a result of the Compliance Review was that:

Under Secretary of Defense for Acquisition, Technology, and Logistics should establish incentives for implementing and maintaining EVM Systems. For all new contracts include a contract clause for withholding up to 5-10 percent from supplier payments for failure to adequately implement and maintain a validated EVM System. For existing contracts, add a provision within the program award fee plan to establish similar incentives. (Emphasis added)

As will be discussed below, this DCMA recommendation was followed in February 2012 when Defense Federal Acquisition Rules were revised to allow the government to withhold payments from a contractor with a non-compliant EVM System.

25. The Compliance Review further provided:

- “Lockheed and the Program Management Office should jointly develop and provide to the DCMA, no later than February 8, 2008, a plan of corrective action plan and milestones to address all compliance and program application issues in order to retain EVMS certification;” and
- “The action plan should conclude with a follow-on compliance review in 4Q CY2008.”

March 2008 GAO Reports Depletion of Management Reserve

26. In March 2008, the GAO issued a report further detailing Lockheed's misuse of Management Reserve. In the report, the GAO concluded:

- Management reserves are budgeted funds set aside for unanticipated development challenges and increase a program's capacity to deal with unknowns. At development start, JSF budgeted reserves at 10 percent of contract value and expected to draw on them at about the same rate as contract execution. However, the program has had to use these funds much faster than expected to pay for persistent development cost increases and schedule delays.
- [The data] shows how management reserves totaling almost \$1.4 billion have been depleted since the 2004 Replan.
- By mid-2007, the development program had completed one half of the amount of work scheduled, but had expended two-thirds of the budget. Management reserves had shrunk to about \$400 million, less than one-half the amount officials believed necessary to complete the final 6 years of development.

Lockheed's EVMS is Decertified in October 2010

27. Lockheed's EVM System was decertified by the DCMA on or about October 4, 2010 because of its inability to cure the deficiencies in the System.

28. At the time its EVM System was decertified, Lockheed estimated that it would take until November 2011 to complete its corrective action plan to cure System deficiencies. This estimated date of completion was overly optimistic as Lockheed has yet to correct the deficiencies.

The Government Withholds Payments Due to the Lack Of Progress in Correcting EVMS Deficiencies

29. Effective February 24, 2012, DFAR 252.242-7005 empowered Contracting Officers to withhold up to five percent of amounts due if the

contractor is found to have “significant deficiencies” in one of the contractor’s business systems, including its EVMS.

30. Immediately following the effective date of the new rule, the DCMA imposed a two percent withhold on payments to Lockheed because its corrective action plan for resolving EVMS deficiencies was found to be inadequate. At that time, the withhold amounted to approximately \$1 million per month.

31. In June, 2012, the DCMA halted its review of Lockheed’s EVMS due to a lack of adequate progress in correcting the deficiencies and imposed the maximum penalty allowed, increase the amount withheld from payments to five percent. As of late October 2012, a total of \$46.5 million was being withheld from Lockheed.

32. The ranking member of the Senate Armed Services Committee John McCain, on December 6, 2011, stated on the floor of the Senate that, as cost and schedule problems spiraled out of control, “The Joint Strike Fighter program has been both a scandal and a tragedy. . . . [W]e are saddled with a program [which] has little to show for itself after 10 years and \$56 billion in taxpayer investment that has produced less than 20 test and operation aircraft.”

33. As of July 2012, Lockheed estimated that total development costs for the F-35 would exceed \$55 billion, up from \$35 billion when the program began in 2002.

JURISDICTION AND VENUE

34. The Court has jurisdiction over the subject matter of the False Claims Act claims pursuant to 31 U.S.C. § 3732(a), which specifically confers jurisdiction on this Court for actions brought pursuant to § 3729 and 3730 of Title 31, pursuant to 28 U.S.C. § 1331, which confers federal subject matter jurisdiction for federal questions and pursuant to 28 U.S.C. § 1345 which confers federal subject matter jurisdiction over actions where the United States is plaintiff.

35. Contemporaneous with the filing of this Complaint, Solomon provided the Attorney General of the United States a statement of material evidence and information regarding the allegations herein of which Solomon is aware, together with a copy of the Complaint, in accordance with the provisions of 31 U.S.C. § 3730(b)(2).

36. This Court has personal jurisdiction over each defendant herein pursuant to 31 U.S.C. § 3132(a) because each submitted or caused to be submitted false claims directly or indirectly to the Government and because each has made, used, submitted or caused to be made or used, false or fraudulent records and conspired in this District to get false claims paid or approved.

37. Venue is proper in this District under 31 U.S.C. § 3730(b)(1).

38. This suit is not based upon the public disclosure of allegations or transactions in a criminal, civil or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media and to the extent that some allegations

or transaction alleged herein have been publicly disclosed, Solomon is an “original source” of same within the meaning of the False Claims Act, and voluntarily disclosed such information to the government before filing this action. Solomon gained direct and independent knowledge of the frauds alleged herein through his observation and participation in the JSF Program while employed with defendant Northrop.

PARTIES

The Plaintiff-Relator

39. This action is brought by Plaintiff Relator Paul J. Solomon on his own behalf and on behalf of the United States of America.

40. Plaintiff Relator Solomon is a citizen of California and was employed by defendant Northrop for approximately 32 years, from 1976 through 2008.

41. In 1990, Solomon graduated with honors from the Air Force Institute of Technology Cost/Schedule Control Systems Criteria course. The completion of the course provided certification that he was qualified to perform Earned Value Management System certification and compliance reviews.

42. During 1993-1998, Solomon was Northrop’s representative on the National Defense Industrial Association – Program Management System team which created the NDIA ANSI EIA 748-A Standard for Earned Value Management Systems. In recognition of his work, Solomon received the David Packman Excellence in Acquisition Award for that effort. The Award is given to Department of Defense civilian and/or military organizations, groups, and

teams who have demonstrated exemplary innovations and best practices in the defense acquisition process.

43. From December 2005 through September 2007, Solomon was Northrop's EVMS Surveillance Monitor on the F-35 Program.

The Defendants

44. Defendant Lockheed Martin Corp. ("Lockheed") is a Maryland corporation, headquartered in Bethesda, Maryland, which does business in the State of Texas.

45. At all times relevant to this complaint LMC acted through its Lockheed Martin Aeronautics Company business area, which has an office and place of business in Fort Worth, Texas.

46. Defendant Northrop Grumman Systems Corporation ("Northrop") is a wholly owned subsidiary of Northrop Grumman Corporation, has its principal headquarters in Los Angeles, CA, and does business in the State of Texas.

47. At all times relevant to this complaint, Northrop acted through its Integrated Systems sector, Air Combat Systems ("ACS") business area, having an office and place of business in El Segundo, CA.

48. In early 1997, defendant Lockheed Martin and The Boeing Co. were selected to develop prototypes for the JSF Program concept demonstration phase.

49. Lockheed and Northrop signed a Teaming Agreement relating to the JSF Program on April 15, 1999.

50. Lockheed's primary responsibilities on the JSF Program included, but were not limited to performance of aircraft final assembly, overall system integration, mission system, and providing forward fuselage, wings and flight controls systems.

51. ACS's primary responsibilities on the JSF Program included, but were not limited to providing, electro-optical Distributed Aperture System (DAS), Communications, Navigation, Identification (CNI), center fuselage, weapons bay, and arrestor gear.

52. On September 17, 1999 Lockheed and ACS executed a Memorandum of Agreement for Work Content on the JSF Program.

53. On October 26, 2001 the United States government entered into the "Joint Strike Fighter Systems Design and Development Program Conformal Contract, contract N00019-02-C-3002 through P00012 (the "SDD Contract") with Lockheed.

54. Pursuant to the Teaming Agreement, Lockheed awarded an Implementing Subcontract to ACS under Purchase Order Number M4383 dated July 29, 2002.

The Cost Plus Award Fee Contract

55. The prime contract was a "Cost Plus Award Fee" contract.

56. At the time the contract was entered into, the total estimated cost was more than \$16.5 billion, with a maximum award fee available of nearly \$2.5 billion, for a total estimated cost plus award fee of over \$19 billion.

57. Upon receipt of an Award Fee, the contractor Lockheed would distribute a portion of the Fee to the subcontractors on the Project.

THE DEFENDANTS WERE REQUIRED TO UTILIZE A COMPLIANT "EARNED VALUE MANAGEMENT SYSTEM"

58. The SDD contract incorporated 48 CFR 252.242-7005 relating to Cost/Schedule Status Reports, which, among other things, requires Lockheed to maintain procedures for the application of Management Reserve as well as a compliant EVM System. The Regulation provides in pertinent part:

- The Contractor shall use management procedures in the performance of this contract that provide for-
 - (1) Planning and control of costs;
 - (2) Measurement of performance (value for completed tasks); and
 - (3) Generation of timely and reliable information for the cost/schedule status report (C/SSR).
 - As a minimum these procedures must provide for –
 - * * *
 - (2) Applying all direct and indirect costs and provisions for use and control of management reserve and undistributed budget;
 - * * *
- c) The Contractor may use a cost/schedule control system that has been recognized by the cognizant Administrative Contracting Officer (ACO) as complying with the earned value management system criteria provided in DoD 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPsP and Major Automated Information System (MAIS) Acquisition Programs.

59. The SDD contract also incorporated by reference DFARS 252.234-7001, which required Lockheed to maintain a compliant Earned Value Management Systems. The Supplement states in pertinent part:

In the performance of this contract, the Contractor shall use an earned value management system (EVMS) that has been recognized by the

cognizant Administrative Contracting Officer (ACO) as complying with the criteria provided in DoD 5000.2-R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major Automated Information System (MAIS) Acquisition Programs.

60. In addition to the CFR relating to Cost/Schedule Status Reports referred to above, and the DFARS, Lockheed was required to follow its own policies and procedures, also known as "Command Media," regarding Management Reserve.

61. The SDD contract also required all subcontractors on the project, including Northrop, to utilize a compliant EVM System.

Management Reserve is Not to Be Used to Cover Cost Overruns

62. Lockheed's Joint Strike Fighter – EVM Process Description Process 7.0 relating to Management Reserve states in pertinent part:

The purpose of this document is to establish the process for creation, maintenance and distribution of Management Reserve (MR).

* * *

Management Reserve is held for current and future needs and must not be used to offset accumulated overruns and underruns.

Furthermore, Process 7.1.2, Uses of MR, states:

- 1) Circumstances that are a candidate for Management Reserve include work scope growth/changes, rate changes and other program unknowns.
- 2) Increases in costs that **"do not"** qualify for MR should be addressed with EAC recognition including:
 - a. In-scope work evaluated through the EAC Monitoring process described herein
 - b. Rework
 - c. Recovery to schedule

Process 7.1.2(3) states:

MR will not be used to cover overruns for the mere purpose of improving performance metrics. Doing so masks actual performance metrics and

degrades the Team's ability to effectively manage program performance and adequately predict likely cost and schedule outcomes.

63. Lockheed's command media also states that "The Management Reserve Process is applicable to the total JSF Team ([Northrop], BAE Systems and LM)."

64. Northrop's own command media also provides that Management Reserve is not to be used to cover cost overruns. Northrop's "Western Region EVMS System Description Manual F208 ("EVMS Manual F208"), Section 3.5.4(a) states in pertinent part that "[Management] Reserve is held for current and future needs and is not used to offset accumulated overruns or underruns."

Defendants' Were Required to Develop Estimates At Completion Based On What was "Most Likely" to Occur

65. The American National Standards Institute (ANSI)/Electronic Industries Association (EIA) Earned Value Management System (EVMS) standard (ANSI/EIA-748-98) requires that contractors periodically develop comprehensive estimates of "costs at contract completion."

66. Lockheed's command media, JSF Teammate EVM Process Description Process 8.0 – Comprehensive Estimate At Complete (EAC), states in pertinent part that "[t]he EAC will be the most likely cost assessment (i.e., there is equal chance the actual cost will be lower or higher by the same amount) for the completion of all authorized work...."

67. Likewise, Northrop's command media, EVMS Manual F208, states at Section 3.9b: "The estimate at completion (EAC) for direct costs is developed at the control account level and is the most likely estimate of the total cost for authorized efforts."

The Determination of an Award Fee was Dependent on the Extent to Which Lockheed Accurately Monitored and Reported Costs and Maintained a Compliant EVM System.

68. The SDD Contract sets forth the “criteria and procedures” for assessing Lockheed’s performance for purposes of determining how much, if anything, it should receive as an award fee during any given Award Fee Period.

69. The SDD Contract identifies four “Categories” by which Lockheed’s performance was to be assessed. For each of these four Categories, the SDD Contract also identifies “Areas of Emphasis.” Attached to the Contract was an “Award Fee Evaluation Criteria Matrix” which set forth “Adjective Definitions and Descriptions” (the “Definitions”) which further defines the criteria the government would utilize in assessing award fees.

70. Three of the four Categories upon which award fees were to be based relate to either the degree to which costs were accurately monitored and reported and/or the adequacy of the Lockheed’s and Northrop’s EVM Systems.

71. The first of the relevant Categories for determining award fees was “Affordability.”

- a. One of the Areas of Emphasis for assessing Affordability was Lockheed’s “Reduction in Development, Production and Ownership Cost.” The Definitions state that this assessment would be based on the extent to which Lockheed provided “incentives to Subcontractors to reduce development, production and sustainment cost.”
- b. The second Area of Emphasis for assessing Affordability was Lockheed’s “Development of an Affordability Assessment Process.” The

Definitions state that this assessment would be based on the extent to which Lockheed developed an affordability management process, which includes the establishment of affordability goals, and a recurring assessment of cost performance through the use of jointly established metrics.”

72. The second of the three relevant Categories for determining whether Lockheed merited an award fee was “Management.”

- a. One Area of Emphasis for assessing Management was “Responsiveness.” The Definitions state that this would include an examination of the “[t]imely and effective development of a seamless and automated integrated management information system that interfaces with the JSF Virtual Enterprise and includes . . . Earned Value Management System (EVMS).”
- b. A second Area of Emphasis for evaluation “Management” was “Subcontract Management.” The Definitions indicate that this assessment would include an examination of Lockheed’s “surveillance and monitoring of the compliance and maintenance of key subcontractors’ EVMS.”

73. The third Category for determining whether Lockheed merited an award fee was “Development of Cost Control.” An Area of Emphasis for assessing this Category focused specifically on “EVMS Implementation.” The Definitions indicate that the following factors would be considered in evaluating EVMS Implementation:

- a. The adequacy of Lockheed's "cost control and reporting system;"
- b. The accuracy of "cost performance reports;" and
- c. Evidence regarding the extent to which "EVMS . . . is . . . integrated with other management systems...."

74. Earned value is a calculated value. Earned value ("EV"), when measured by the percentage of work completed technique that was used by Northrop, equals the estimated budget at completion ("BAC") multiplied by the percentage of work completed as of that date. EV can be expressed in the equation: $EV = BAC \times \% \text{ of work completed}$. EV, when using the Level of Effort (LOE) technique, equals the Budgeted Cost for Work Scheduled (BCWS). If the increase in BAC is completely applied to the current month's BCWS of an LOE work package, then the EV increases by the amount of the increase in BAC. As the equations show, there is a direct relationship (variation) between earned value and budget at completion. If BAC increases, then EV increases.

75. Lockheed and Northrop boosted BAC by transferring budget from management reserve ("MR") into BAC, thereby artificially increasing BAC and deceptively increasing earned value. By doing so, Lockheed and Northrop falsely represented the amount of earned value to the government, and the government relied on these false representations when deciding the amount of the award fee. Additional information regarding the two techniques follows.

76. Northrop primarily used the percent complete technique. Percent complete is typically measured by the ratio of completed work components to

the total planned components. In most of the Northrop accounts, the numerators and denominators were typically:

- Number of design drawings (also referred to as BTPs in MOA, Build To Print)
- Number of software designs or components

So EV for drawings is the percent complete of drawings X BAC for all the drawings in the work package.

77. Northrop also used the LOE technique for some engineering changes. LOE is normally used for non-technical support work that has periodic costs but no work products. Examples are program management, leases, plant security etc. The BAC is allocated to monthly budgets called Budgeted Cost for Work Scheduled (BCWS). Each month, earned value (also called Budgeted Cost of Work Performed or BCWP) is automatically computed equal to BCWS. If more resources were used (more security guards than planned), there is a cost overrun.

78. When Northrop inappropriately used the LOE technique for accounts or work packages called "engineering changes," the statement of work was anticipated design changes (hardware design drawings or software components). For these work packages, monthly EV = BCWS, regardless of the number of drawings actually completed. Eventually, large cost overruns were reported. Then, when Northrop received additional budget from MR, it applied that budget to the first open month thereby increasing the monthly BCWS by the amount of the BAC increase.

79. Transferring management reserve to BAC had another deceptive effect. By artificially boosting earned value, Lockheed and Northrop deceptively reduced cost overruns. Cost overrun equals actual costs minus earned value. (Cost overrun = actual cost – EV.) If earned value is increased, then the delta between actual costs and earned value decreases, and the cost overrun decreases (and perhaps disappears). This is another deceptive result of Lockheed's and Northrop's transferring budget from management reserve to budget at completion.

Lockheed and Northrop Conspired To Violate EVM System Guidelines Regarding Estimate at Completion and Management Reserve

80. Pursuant to the SDD Contract, Lockheed and Northrop were required to conduct, and did conduct periodic Estimate at Completion ("EAC") evaluations of actual and expected program costs.

81. Sometime after Lockheed was awarded the prime contract of the JSF Program, but prior to May 5, 2005, Lockheed received approval from the United States government JSF Program Office to plan and implement a comprehensive rebaselining of cost, schedule, associated statement of work, and other JSF program requirements necessary to recover performance during SDD (the "Replan"). The Replan included a revised comprehensive EAC, the third such revision to the EAC ("EAC [3]"), which also revised Northrop's EAC ("Northrop EAC[3]").

82. On January 17, 2005, Lockheed and Northrop agreed that the value of Northrop's EAC [3] budget baseline (exclusive of Contributed Management Reserve, Award Fee and California Tax Credit) would be \$3.954 billion.

Northrop agreed to plan and implement its effort at a "Should Perform Target" of \$3.721 billion in recognition of the affordability considerations facing the JSF Program.

83. On May 9, 2005, defendants Lockheed and Northrop entered a Memorandum of Agreement (the "MOA") concerning Northrop's EAC[3]. The parties expressly recognized in the MOA that the \$3.721 billion value of Northrop's EAC [3] constituted a "significant performance challenge" which could be "accomplished only by achieving substantial performance efficiencies in a number of areas beyond otherwise normal expectations."

84. The Northrop EAC[3] value of \$3.721B that was reported by defendants to the government was not the "most likely" estimate of what Lockheed and/or Northrop calculated the estimated costs would be, but was intentionally understated by \$233 million.

85. The MOA further expressly stated that "[i]n the event [Northrop] is unable to meet the Performance Parameters defined [in the MOA] and is thereby unable to perform to the agreed to [Northrop] EAC [3] value, Lockheed agrees to increase [Northrop's] Budget at Completion ("BAC") and EAC for costs in excess of \$3.721B out of the Program Management Reserve or other budget sources available to Lockheed."

86. Thus, the defendants knew that Northrop's EAC[3] was most likely to incur cost overruns of \$233 million, but agreed to wrongfully apply Management Reserve to conceal such expected cost overruns from the government.

Defendants Misused Management Reserve in Award Fee Period 10:

87. Solomon performed surveillance audits of Northrop's EVM System during Award Fee Period 10 by auditing a limited sample of data. The limited sample of data that was audited by Solomon revealed more than \$10 million worth of Management Reserve budget which had been improperly utilized by defendants to reduce reported cost variances in order to conceal cost overruns. The following chart sets forth the details regarding each instance of such misuse of Management Reserve identified in Solomon's audit sample:

Award Fee Period 10			
Con- tractor	WBS (1)	CPR Month(2)	Decrease in Cost Variance
Northrop	1622	Sept. 2006	\$2,205,000
Northrop	1412	Sept. 2006	\$1,016,000
Northrop	3130	Sept. 2006	\$3,063,000
Northrop	1412	Sept. 2006	\$865,000
Northrop	1232	Sept. 2006	\$1,716,000
Northrop	1233	Sept. 2006	\$1,657,000
Total Sample			\$10,522,000
(1) WBS: Work Breakdown Structure Number			
(2) CPR: Contract Performance Report Month			

88. As stated above, Solomon's EVMS surveillance audit during Award Fee Period 10 encompassed only the sampling of a limited number of cost accounts, and it is unlikely that Solomon observed all instances in which Management Reserve was misused to misstate reported cost variances in order to conceal cost overruns during Award Fee Period 10.

Misuse of Management Reserve in Award Fee Period 11:

89. Lockheed's 100% rating during Award Fee Period 11, particularly in regards to the Cost Control Incentive component, was undeserved in that it was predicated on false statements regarding defendants' cost performance during the period.

90. It is likely that Management Reserve was used more extensively to conceal cost overruns. In the course of Solomon's EVMS surveillance audits during Award Fee Period 11, the audit sample revealed more than \$2.9 million worth of Management Reserve which had been improperly utilized by defendants to cover cost overruns. The following chart sets forth the details regarding each instance of such misuse of Management Reserve identified in Solomon's audit sample:

Award Fee Period 11			
Con- tractor	WBS (1)	CPR (2) Month	Decrease in Cost Variance
Northrop	3400	March 2007	\$2,943,000
(1) WBS: Work Breakdown Structure Number			
(2) CPR: Contract Performance Month			

91. As stated above, Solomon's EVMS surveillance audit of Award Fee Period 11 encompassed only the sampling of a limited number of cost accounts, and it is unlikely that Solomon observed all instances in which Management Reserve was misused to conceal cost overruns during Award Fee Period 11.

Misuse of Management Reserve in Award Fee Periods 10 and 11:

92. During the course of his EVMS surveillance audits, Solomon identified instances in which Northrop misapplied management reserve to conceal cost overruns from the government, but was unable to place the misuse of Management Reserve a specific period. He was, however, able to determine that the misuse of Management Reserve occurred in either Period 10 or Period 11, or, was spread out over the two periods.

93. In the course of Solomon's EVMS surveillance audit During Award Fee Periods 10 and 11, the audit sample revealed more than \$1.4 million worth of Management Reserve which had been improperly utilized by defendants to cover cost overruns during one or both of these periods. The following chart sets forth the details regarding each instance of such misuse of Management Reserve identified in Solomon's audit sample:

Award Fee Periods 10 and 11			
Con- tractor	WBS (1)	CPR (2) Month	Decrease in Cost Variance
Northrop	1233		\$1,325,000
Northrop	8230A		\$85,000
Total			\$1,410,000
(1) WBS: Work Breakdown Structure Number			
(2) CPR: Contract Performance Month			

Misuse of Management Reserve in Award Fee Period 12:

94. In Award Fee for Period 12, which began in May 1, 2007 and ended on October 31, 2007, Lockheed received an Award Fee of \$15 million.

95. In the course of Solomon's surveillance audits during Award Fee Period 12, the audit sample revealed more than \$3.1 million worth of Management Reserve which had been improperly utilized by defendants to cover cost overruns. The following chart sets forth the details regarding each instance of such misuse of Management Reserve identified in Solomon's audit sample:

Award Fee Period 12			
Con- tractor	WBS (1)	CPR (2) Month	Decrease in Cost Variance
Northrop	1238		\$684,000
Northrop	1200		\$2,500,000
Total			\$3,184,000
(1) WBS: Work Breakdown Structure Number			
(2) CPR: Contract Performance Month			

96. As stated above, Solomon's EVMS surveillance audit of Award Fee Periods 12 encompassed only the sampling of a limited number of cost accounts, and it is unlikely that Solomon observed all instances in which Management Reserve was misused to conceal cost overruns during Award Fee Periods 12.

Misuse of Management Reserve Spanning Multiple Award Fee Periods

97. On August 31, 2006, Lockheed authorized \$97 million of Management Reserve to increase the budgets of open work packages. Lockheed described this increase in budget as a "Risk Mitigation" strategy. Solomon obtained a

copy of a chart prepared by Lockheed which details the breakdown of how the \$97 million was to be allocated:

LM JSF Team Program Information

Non-Technical Data – Releasable to Foreign Nationals



EAC4 RISK MITIGATION AREAS



WBS/TEAM	2006				2007				TOT
	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	
1200 AIRFRAME									
LM	3.5	3.0	2.5	2.5	2.0	2.0	1.0	0.5	17.0
NGC	1.5	1.5	1.0	0.5	1.0	0.5	0.5	0.5	7.0
BAE	1.0	1.0	0.5	0.5	0.5	0.5	0.5	0.5	5.0
TOTAL	6.0	5.5	4.0	3.5	3.5	3.0	2.0	1.5	29.0
1300 VEH SYST									
LM	3.0	3.0	2.5	2.0	2.0	1.5	1.0	1.0	16.0
NGC	1.0	-	-	-	1.0	-	-	-	2.0
BAE	-	1.0	-	-	-	1.0	-	-	2.0
TOTAL	4.0	4.0	2.5	2.0	3.0	2.5	1.0	1.0	20.0
1400 MISS SYST									
LM	4.0	3.5	3.0	2.5	2.0	1.5	1.0	0.5	18.0
TOTAL	4.0	3.5	3.0	2.5	2.0	1.5	1.0	0.5	18.0
1700 SD&I									
LM	2.0	2.0	1.5	1.5	1.0	1.0	0.5	0.5	10.0
TOTAL	2.0	2.0	1.5	1.5	1.0	1.0	0.5	0.5	10.0
3100 PROD OPS									
LM	2.0	1.5	1.3	1.0	1.0	1.0	0.5	0.5	8.8
NGC	1.0	0.5	0.5	-	-	-	-	-	2.0
BAE	0.5	0.5	0.5	0.5	-	-	-	-	2.0
TOTAL	3.5	2.5	2.3	1.5	1.0	1.0	0.5	0.5	12.8
8500 CATB									
LM	2.0	1.5	1.0	1.0	0.5	0.5	0.5	-	7.0
TOTAL	2.0	1.5	1.0	1.0	0.5	0.5	0.5	-	7.0
TOTAL									
LM	16.5	14.5	11.8	10.5	8.5	7.5	4.5	3.0	76.8
NGC	3.5	2.0	1.5	0.5	2.0	0.5	0.5	0.5	11.0
BAE	1.5	2.5	1.0	1.0	0.5	1.5	0.5	0.5	9.0
TOTAL	21.5	19.0	14.3	12.0	11.0	9.5	5.5	4.0	96.8

Use or disclosure of the information contained herein is subject to the restrictions on the Cover Page
LM JSF Team Program Information

1

98. The “Risk Mitigation” strategy referred to by Lockheed constitutes a blatant misuse of Management Reserve budget by both defendants in violation of DoD requirements, SDD contract requirements, ANSI/EIA-748 guidelines, as well as their own respective command media guidelines.

99. As indicated by Lockheed’s chart, of the \$97 million increase in budget from Management Reserve, \$11 million was allocated to Northrop.

100. During the course of his duties, Solomon obtained a document dated October 9, 2006 entitled “JSF Budget/Schedule/EAC Change Request, SDD

N00019-02-C-3002," which was prepared by Lockheed and submitted to Northrop. Upon completion of the Request by Northrop and submission to Lockheed, the increase in budget would become effective.

101. The misuse of Management Reserve budget by Northrop as part of EAC4 Risk Mitigation is difficult to relate to specific Award Fee periods due to the fact that some of the budget was to be applied against work to be performed over multiple Award Fee periods, and certain other work was behind schedule and cost variances would not be reported until such work was completed.

102. During the course of his EVMS surveillance audits, Solomon was able to determine that only \$9 million of the \$11 million in Management Reserve budget that had been authorized by Lockheed was actually utilized by Northrop to falsely diminish cost variance data due to the fact that a Northrop production manager refused to accept and implement \$2 million of the budget. The breakdown of the increase in Management Reserve budget that was actually utilized by Northrop is as follows:

Multi-Periods Fraud Summary re LGSC				
Con-tractor	WBS	CPR Months	Budget Increase (\$000)	De-crease in Cost Variance
Northrop	1200	Sept. 2006 - Apr. 2007+	7000	\$7,000,000

Northrop	1300	Same	2000	\$2,000,000
Total Northrop			9000	\$9,000,000

103. As indicated by the EAC4 Risk Mitigation chart set forth above, Lockheed authorized the issuance of \$76.8 million in Management Reserve to increase the budgets of open work packages at Lockheed.

104. As was true in regards to "Risk Mitigation" allocations to Northrop, the misuse of Management Reserve by Lockheed is difficult to relate to specific Award Fee periods due to the fact that some of the budget was to be applied against work to be performed over multiple Award Fee periods, and certain other work was behind schedule and cost variances would not be reported until such work was completed.

105. The breakdown of how the \$76.8 million in Management Reserve budget was to be allocated is as follows:

Multi-Periods Fraud Summary re Lockheed				
Con-tractor	WBS	CPR Months	Budget Increase (\$000)	De-crease in Cost Variance
Lockheed	1200	Same	17000	\$17,000,000
Lockheed	1300	Same	16000	\$16,000,000
Lockheed	1400	Same	18000	\$18,000,000
Lockheed	1700	Same	10000	\$10,000,000
Lockheed	3100	Same	8800	\$8,800,000
Lockheed	8500	Same	7000	\$7,000,000
Total Lockheed			76800	\$76,800,000

Lockheed Received an Award Fee for Period 10:

106. Relator does not know the amount that was given to Lockheed as an award fee for Period 10, which began on May 1, 2006 and ended on October 31, 2006.

107. An Lockheed "Communications Log" from December 1, 2006, however, suggests that there was indeed an award fee for the period:

The F-35 Team took a step forward this week with an improved Award Fee score for Period 10 (May 06 to Oct 06) over the prior six months' assessment. The SFFPO recognized our joint progress with a "Very Good" rating and an overall score of 92%. We received partial credit for the preparations for first flight, recent BTP progress . . . , and factory ramp-up as well as recent improvements in cost and schedule performance.

108. According to the SDD contract, a "Very Good" rating and an overall score of 92% meant the Lockheed was entitled to 92% of the money available in the Award Fee pool for Period 10.

109. At this point in time, Relator does not know how much of the award fee for Period 10 was given by Lockheed to Northrop.

Lockheed Received a Cost Control Award Fee of \$42 Million in Period 11

110. In Award Fee Period 11, which began in November 1, 2006 and ended on April 30, 2007, Lockheed received an award fee of \$42 million pertaining to "Cost Control (objective) Incentive," based on a rating of 100%.

111. At this point in time, Relator does not know how much of the Period 11 award fee was given to Northrop by Lockheed.

Lockheed Received a Cost Control Award Fee of \$15.5 Million in Period 12

112. In Award Fee Period 12, which began on May 1, 2007 and ended on October 31, 2007, Lockheed received an award fee of \$15.550 million for "Cost Control, based on a rating of 45.7%.

113. At this point in time, Relator does not know how much of the award fee for Period 12 Lockheed gave to Northrop.

Defendants Submitted False Statements Regarding Cost Variances During Award Fee Periods 10, 11 and 12

114. The SDD contract required the defendants to submit cost variance data to the government.

115. Based on information and belief, Lockheed submitted false cost variance data to the government on a monthly basis during Award Fee Periods 10, 11 and 12.

116. Based on information and belief, Northrop submitted false cost variance data to the government on a monthly basis during Award Fee Periods 10, 11 and 12.

117. Based on information and belief, Northrop submitted false cost variance data to Lockheed, which was known by Lockheed to be false. Nevertheless,

Lockheed incorporated Northrop's false cost variance data into its own data which was submitted to the government.

118. The defendants submitted the false cost variance data, directly and/or indirectly, to the government for the purpose of obtaining award fees during Periods 10, 11 and 12.

119. The award fees that were given by the government to Lockheed, during Award Fee Periods 10, 11 and 12 were substantially based upon the false cost variance data that had been submitted to it, directly and/or indirectly, by defendants.

120. The government did not know that the cost variance data submitted to it, directly and/or indirectly, by the defendants during Award Fee Periods 10, 11 and 12 was false, and had the government known the data was false, would not have granted the award fees that were given to defendants during these Periods.

121. It was not until after the end of Award Fee Period 12 that the government began to recognize the violations of EVMS guidelines that had been committed by defendants, particularly in regards to the misuse of Management Reserve budget to distort cost variances and conceal cost overruns of the JSF Program.

122. Subsequent to Award Fee Period 12, the government has decertified Lockheed's EVM System, reduced award fees, and imposed substantial withholds on progress payments due to the defendants violations of EVMS guidelines, including misuse of Management Reserve. Nevertheless, after five

years of these sanctions, the defendants have yet to adequately correct these problems.

COUNT I
AWARD FEE PERIOD 10
FEDERAL FALSE CLAIMS ACT - PRESENTATION OF FALSE CLAIMS
(31 U.S.C. § 3729(a)(1))

123. Relator Solomon realleges the preceding paragraphs as if set forth herein.

124. By virtue of the acts and omissions described above during Award Fee Period 10 defendants, and each of them knowingly presented, or caused to be presented, to an officer or employee of the United States Government false or fraudulent claims for payment or approval in violation of 31 U.S.C. § 3729(a)(1).

125. The acts and omissions described above were material to contract approvals, audit and monitoring approval, payments and other contract actions by the United States.

126. The acts and omissions described above caused damages to the United States, in substantial amounts to be determined at trial.

COUNT II
AWARD FEE PERIOD 10
FEDERAL FALSE CLAIMS ACT - FALSE RECORDS AND STATEMENTS
(31 U.S.C. § 3729(a)(2))

127. Relator Solomon realleges the preceding paragraphs as if set forth herein.

128. By virtue of the acts and omissions described above during Award Fee Period 10, defendants knowingly agreed to make use of, and did indeed make use of, or cause to be made use of, false records or statements to get false or

fraudulent claims paid or approved by the Government, in violation of 31 U.S.C. § 3729(a)(2).

129. The acts and omissions described above were material to contract approvals, audit and monitoring approval, payments and other contract actions by the United States.

130. The acts and omissions described above caused damages to the United States, in substantial amounts to be determined at trial.

COUNT III
AWARD FEE PERIOD 11
FEDERAL FALSE CLAIMS ACT – PRESENTATION OF FALSE CLAIMS
(31 U.S.C. § 3729(a)(1))

131. Relator Solomon realleges the preceding paragraphs as if set forth herein.

132. By virtue of the acts and omissions described above during Award Fee Period 11 defendants, and each of them knowingly presented, or caused to be presented, to an officer or employee of the United States Government false or fraudulent claims for payment or approval in violation of 31 U.S.C. § 3729(a)(1).

133. The acts and omissions described above were material to contract approvals, audit and monitoring approval, payments and other contract actions by the United States.

134. The acts and omissions described above caused damages to the United States, in substantial amounts to be determined at trial.

COUNT IV
AWARD FEE PERIOD 11
FEDERAL FALSE CLAIMS ACT -- FALSE RECORDS AND STATEMENTS
(31 U.S.C. § 3729(a)(2))

135. Relator Solomon realleges the preceding paragraphs as if set forth herein.

136. By virtue of the acts and omissions described above during Award Fee Period 11, defendants knowingly agreed to make use of, and did indeed make use of, or cause to be made use of, false records or statements to get false or fraudulent claims paid or approved by the Government, in violation of 31 U.S.C. § 3729(a)(2).

137. The acts and omissions described above were material to contract approvals, audit and monitoring approval, payments and other contract actions by the United States.

138. The acts and omissions described above caused damages to the United States, in substantial amounts to be determined at trial.

COUNT V
AWARD FEE PERIOD 12
FEDERAL FALSE CLAIMS ACT - PRESENTATION OF FALSE CLAIMS
(31 U.S.C. § 3729(a)(1))

139. Relator Solomon realleges the preceding paragraphs as if set forth herein.

140. By virtue of the acts and omissions described above during Award Fee Period 12, defendants knowingly presented, or caused to be presented, to an officer or employee of the United States Government false or fraudulent claims for payment or approval in violation of 31 U.S.C. § 3729(a)(1).

141. The acts and omissions described above were material to contract approvals, audit and monitoring approval, payments and other contract actions by the United States.

142. The acts and omissions described above caused damages to the United States, in substantial amounts to be determined at trial.

COUNT VI
AWARD FEE PERIOD 12
FEDERAL FALSE CLAIMS ACT - FALSE RECORDS AND STATEMENTS
(31 U.S.C. § 3729(a)(2))

143. Relator Solomon realleges the preceding paragraphs as if set forth herein.

144. By virtue of the acts and omissions described above during Award Fee Period 12, defendants knowingly agreed to make use of, and did indeed make use of, or cause to be made use of, false records or statements to get false or fraudulent claims paid or approved by the Government, in violation of 31 U.S.C. § 3729(a)(2).

145. The acts and omissions described above were material to contract approvals, audit and monitoring approval, payments and other contract actions by the United States.

146. The acts and omissions described above caused damages to the United States, in substantial amounts to be determined at trial.

COUNT VII
FEDERAL FALSE CLAIMS ACT - CONSPIRACY
(31 U.S.C. § 3729(a)(1))

147. Relator Solomon realleges the preceding paragraphs as if set forth herein.

148. Defendants, by virtue of the acts and omissions described above, conspired to defraud the United States Government by getting a false or False Claims Act Complaint

fraudulent claim allowed or paid, and to commit a violation of 31 U.S.C. § 3729 (a)(1) (A-B).

149. The acts and omissions described above were material to contract approvals, audit and monitoring approval and payments and other contract actions by the United States.

150. The acts and omissions described above caused damages to the United States, in substantial amounts to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff-Relator Paul J. Solomon, on behalf of himself and the United States Government, prays that:

1. This Court enter judgment against Defendants in an amount equal to three times the amount of damages the United States Government has sustained, plus a civil penalty of \$11,000 for each false claim made in violation of 31 U.S.C. § 3729;
2. The Relator be awarded the maximum amount allowed pursuant to §3730(d) of the False Claims Act;
3. The Relator be awarded all reasonable attorneys' fees, costs, and expenses;
4. The Court award pre-judgment and post-judgment interest;

5. The United States and the Relators receive all other relief, both at law and in equity, to which they are entitled.

DATED: November 7, 2012

Respectfully submitted,



Robert J. Hill,
Local Counsel for Plaintiff-Relator

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Paul J. Solomon

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NOV - 7 2012

JS 44 (Rev. 09/11)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America ex rel. Paul J. Solomon

DEFENDANTS

Lockheed Martin Corp., and Northrop Grumman Systems Corp.

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Delaware Corporation

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

HILL & HILL Attorneys and Counselors, PLLC (Robert J. Hill, Esq.)
6301 Preston Road, Suite 700, Plano, TX 75204
469-241-9355

Attorneys (If Known)

8-12CV-4495D

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☒ 1 U.S. Government Plaintiff☐ 3 Federal Question (U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAXLIT <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input checked="" type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN

(Place an "X" in One Box Only)

☒ 1 Original Proceeding☐ 2 Removed from State Court☐ 3 Remanded from Appellate Court☐ 4 Reinstated or Reopened☐ 5 Transferred from another district (specify)☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

31 U.S.C. Sec. 3729-32

Brief description of cause:

Plaintiff sues on behalf of USA for false claims submitted by defendants.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S)

PENDING OR CLOSED:

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/07/2012

SIGNATURE OF ATTORNEY OF RECORD

Robert J. Hill

Robert J. Hill

FOR OFFICE USE ONLY

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AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE