



CASE NO: A-22-846788-C  
Department 14

1 Michael P. Balaban (Local Counsel)  
2 **NV Bar Number 9370**  
3 mbalaban@balaban-law.com  
4 Law Offices of Michael P. Balaban  
5 10726 Del Rudini Street  
6 Las Vegas, NV 89141-4216  
7 (702)586-2964  
8 Fax (702)586-3023

9 Neil L. Henrichsen (Pro Hac Vice to be applied for)  
10 **FL Bar Number 111503**  
11 nhenrichsen@hslawyers.com  
12 Henrichsen Law Group, PLLC  
13 301 W Bay St  
14 14th Floor  
15 Jacksonville, FL 32202  
16 (904) 381-8183

17 *Attorneys for the Plaintiff*  
18 *Andrew James*

19 **DISTRICT COURT**  
20 **CLARK COUNTY, NEVADA**

21 STATE OF NEVADA, ex rel. ANDREW  
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CASE NO.  
DEPT.  
**COMPLAINT**

vs.

THI OF NEVADA AT CHEYENNE, LLC  
D/B/A COLLEGE PARK REHABILITATION  
CENTER 2856 EAST CHEYENNE AVE.  
NORTH LAS VEGAS, NV 89030,  
Defendant.

COMPLAINT - 1

1 This is a *qui tam* action filed under the Nevada False Claims Act, Nev. Rev. Stat. Ann. §§  
2 357.010 *et seq.*, by Relator Andrew James (“Mr. James” or “Relator”), in the name of the State  
3 of Nevada, to recover penalties and damages arising from the Defendant THI of Nevada At  
4 Cheyenne, LLC D/B/A College Park Rehabilitation Center (“College Park Rehab” or  
5 “Defendant”) knowing and willful presentation of false claims to the Government for the State of  
6 Nevada, and states in support as follows:  
7

8 **PARTIES**

9 1. Relator, Andrew James, is a citizen of the United States and Nevada, residing in  
10 Pahrump, Nevada.  
11

12 2. Defendant College Park Rehab is a for profit corporate entity organized in the  
13 State of Nevada with its principal place in North Las Vegas, Clark County, Nevada. College  
14 Park Rehab receives government funding through its billing to the Nevada Medicaid program.  
15

16 3. At all times relevant herein, Defendant performed services and production  
17 for the Nevada Department of Health and Human Services (“DOH”) as set forth herein.  
18

18 **JURISDICTION AND VENUE**

19 4. Relator hereby alleges causes of action under Nev. Rev. Stat. Ann. §§ 357.010 *et*  
20 *seq.*, commonly known as the Nevada False Claims Act, arising from Defendant’s  
21 misrepresentations to the Nevada Government (the “Government”) through its agencies.  
22

23 5. Relator is the original source of all allegations contained in this Complaint  
24 in that he has direct and independent knowledge of the allegations.  
25

26 6. Jurisdiction over all stated causes of action is conferred upon this Court by  
27 jurisdiction Article VI, § 6 of the Nevada Constitution in that this action is excluded from the  
28 jurisdiction of the Justice Courts as the amount in controversy is over \$15,000.00.



1           14.     Relator James, a licensed Master Electrician, worked on certain electrical systems  
2 at the College Park Rehab Facility in late 2013 and 2014.

3           15.     In 2014, the Facility’s electrical systems had numerous problems that created  
4 serious safety issues with the Facility.  
5

6           16.     In June 2014, while working at the Facility, Relator James was seriously injured  
7 as a result of an “Arc Flash” at the Facility.

8           17.     An “Arc Flash” is a phenomenon where a flash over of electric current leaves its  
9 intended path and travels through the air from one conductor to another, to human or to ground.  
10 The results are often violent and when a human is in close proximity to the arc flash, serious  
11 injury and even death can occur.  
12

13           18.     The Arc Flash explosion at the Facility was determined to have been caused by a  
14 loose screw which was among several screws that had been left inside panel “MSA” that rolled  
15 from where it had been laying and fell into the energized bus bars and made contact between B  
16 and C phase of this three phase 1600 amp 120/208V switchboard. Additionally, Arc Flash  
17 hazards typically are minimal or non-existent on electrical equipment at this low of a voltage  
18 because a properly maintained circuit breaker which normally provides power to this type of  
19 panel by design should trip or de-energize the panel within a few milliseconds thus ending the  
20 Arc Flash and the plasma ball which generates heat in excess of 35,000 degrees Fahrenheit.  
21 However, the main breaker within switchboard MSA at the Facility *never* tripped when the short  
22 circuit happened thus allowing the Arc Flash and plasma ball to continue and develop for  
23 approximately 5 full seconds until the plasma ball self-extinguished.  
24  
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26           19.     Defendant is responsible for the maintenance of the electrical power  
27 distribution equipment at the Facility.  
28

1           20.     The Facility’s continued participation in Nevada Medicaid was contingent on  
2 compliance with all Federal and State laws, rules, and regulations.

3           21.     Defendant is required under CMS Conditions of Participation to maintain  
4 and inspect all electrical power distribution equipment at the Facility and maintain logbooks of  
5 all such maintenance and inspection activities. On information and belief, Defendant has failed  
6 to maintain inspection and/or maintenance records and/or log books since at least June 2012 in  
7 violation of CMS Conditions of Participation.  
8

9           22.     Defendant failed to perform the maintenance activities, resulting in no  
10 maintenance or inspections performed on switchboard MSA or on the main breaker within  
11 switchboard MSA. Accordingly, the Arc Flash explosion at the Facility set forth herein was a  
12 direct consequence of Defendant’s failures to comply with requirements of CMS Conditions of  
13 Participation.  
14

15           23.     By having an Arc Flash event that caused serious injury, and could have  
16 resulted in death to employees, there were violations of Occupational Safety Health  
17 Administration (“OSHA”) regulations, the National Electrical Safety Code (“NESC”), National  
18 Electrical Code (“NEC”) as adopted by Nev. Rev. Stat. Ann. § 278.583, Nev. Admin. Code  
19 449.74539(3) and NFPA 70E Standard For Electrical Safety In The Workplace.  
20

21           24.     Accordingly, the possibility of an Arc Flash and other electrical problems at the  
22 Facility creates serious and substantial safety issues for patients and staff at the Facility.  
23

24           25.     In June 2014, a company known as Southwest Electritech Services, an electrical  
25 systems testing company, performed a testing study of the electrical systems at the Facility,  
26 which was provided to College Park Rehab on or around July 8, 2014. The results of that testing  
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28

1 identified, *inter alia*, substantial and serious problems regarding the Facility’s electrical system  
2 integrity and coordination in case of system disturbance or malfunction.

3           26.     Specifically, Southwest Electritech Services found that panel/switchboard  
4 “MSA” was not rated to handle the available fault current supplied by the utility company  
5 transformer. Based on this finding they indicate that this panel must be replaced, which the  
6 administration at College Park was made aware of in July 2014. Relator James was present at a  
7 site visit on March 5, 2019 with employees of Defendant and others, and it was observed that  
8 Defendant had still failed to replace or otherwise repair panel MSA after the Southwest  
9 Electritech Services’ report indicated that it needed to be replaced, and after the panel sustained  
10 substantial fire damage due to the major Arc Flash explosion on June 6, 2014.

11           27.     A subsequent Arc Flash incident occurred at the Facility after June 6, 2014,  
12 further illustrating that there are substantial safety issues which are well known by Defendant,  
13 however, Defendant refuses to correct them in direct violation of the CMS Conditions of  
14 Participation and thus DHCFP Medicaid Services Manual § 503.1.

15           28.     Pursuant to regulations and rules of Nevada Medicaid, skilled nursing facilities  
16 such as College Park Rehab are required to comply with CMS Conditions of Participation, and  
17 certify the same to the Government.

18           29.     CMS regulations applicable to the Facility require that an electrical system at a  
19 skilled nursing facility, like that operated by College Park Rehab, is part of the physical hospital  
20 environment, and that as a participant in the Nevada Medicaid program, Defendant, as owner of  
21 the Facility, was required to certify and maintain documentation of maintenance of its electrical  
22 systems, including equipment.

23           30.     For example, CMS Conditions of Participation require electrical systems to  
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1 maintain adherence to manufacturer requirements and specific standards, including the National  
2 Fire Protection Association Life Safety Code (“LSC”) and Health Care Facilities Code  
3 (“HCFC”), and preclude inclusion in the Alternative Equipment Maintenance Program.

4  
5 31. For example, the CMS State Operations Manual at Section 482.41(c)(2) provides,  
6 in pertinent part, as follows:

7 The hospital must ensure that the condition of the physical plant and overall hospital  
8 environment is developed and maintained in a manner that provides an acceptable level  
9 of safety and well-being of patients, staff and visitors...

10 All equipment maintenance policies, procedures and programs, as well as specific  
11 equipment maintenance inventories, activities and schedules, fall under the purview of  
12 the hospital’s clinical maintenance personnel, safety department personnel or other  
13 personnel who have been assigned responsibility for equipment maintenance by hospital  
14 leadership. Hospitals comply with this regulation when they follow the manufacturer-  
15 recommended maintenance activities and schedule. Hospitals may choose to perform  
16 maintenance more frequently than the manufacturer recommends, but must use the  
17 manufacturer-recommended maintenance activities in such cases. When equipment is  
18 maintained in accordance with the manufacturer’s recommendations, the hospital must  
19 maintain documentation of those recommendations and the hospital’s associated  
20 maintenance activity for the affected equipment.

21 32. College Park Rehab is required upon each and every enrollment with the  
22 Medicaid program with the Government to certify compliance with all Federal and State laws,  
23 rules and regulations, including CMS Conditions of Participation, to certify and acknowledge  
24 compliance with, *inter alia*, all safety and maintenance requirements for the Facility’s electrical  
25 power system.

26 33. Additionally, College Park Rehab is required to maintain documentation of any  
27 and all of the Facility’s electrical system equipment maintenance pursuant to the CMS  
28 requirements.

34. Defendant College Park Rehab has failed to maintain the electrical system,  
including equipment, at the Facility as required by Nevada Medicaid.





1           42.     The Government was obligated to pay Defendant for services which were in  
2 compliance with the rules and regulations related to the Nevada Medicaid program, which are  
3 incorporated into Defendant's respective agreements with the Government.

4  
5           43.     Since at least 2012, Defendant has been submitting false certifications to the  
6 Government and has made payment requests to the Government for services pursuant to the  
7 Nevada Medicaid program that were paid by the Government because of, *inter alia*, the  
8 fraudulently certified information regarding the Facility. The false certifications included  
9 certifications regarding the maintenance and repair of the Facility's electrical systems, including  
10 equipment. These certifications were prepared as a condition of payment based on information  
11 provided by Defendant's management personnel who were also on notice, and participated in,  
12 the creation of improper certifications and invoices to the Government.  
13

14           44.     In each of the payment requests to the Government by Defendant, Defendant  
15 certified that it was entitled to payment of the amounts. Defendant's payment requests were  
16 executed by an authorized representative of Defendant who had knowledge of, or were otherwise  
17 on notice of, and participated in, the fraudulently certified information regarding the Facility.  
18

19           45.     Because of the willful failure by Defendant to comply with the rules,  
20 regulations and obligations of the Nevada Medicaid program of the Government as a condition  
21 of payment, through the false certifications and payment requests Defendant knowingly  
22 presented, or caused to be presented, false or fraudulent claims for payment or approval to the  
23 Government.  
24

25           46.     In performing all of the acts described herein, Defendant has defrauded the  
26 Government by knowingly, willfully or recklessly presenting, or causing to be presented, to one  
27 or more officers, employees or agents of the Government, a false and fraudulent claim for  
28

1 payment or approval, in contravention of the Nevada False Claims Act, Nev. Rev. Stat. Ann. §  
2 357.040(1)(a), to the damage of the treasury of the Government, by causing it to pay out money  
3 it was not obligated to pay. In carrying out these wrongful acts, Defendant has engaged in a  
4 protracted course and pattern of fraudulent conduct that was material to Defendant's presentment  
5 of false claims for payment by the Government.  
6

7 47. The Government has been damaged to the extent of any payments to Defendant  
8 as a result of each of Defendant's knowing, willful, and reckless disregard for the requirements  
9 as detailed above and the willful presentation of false claims for payments related to said work in  
10 violation of Nev. Rev. Stat. Ann. § 357.040(1)(a). Damages to the Government include, but are  
11 not limited to, the full value of any such fraudulent claims.  
12

13 48. As a direct and proximate result of Defendant's conduct, the Government has  
14 been damaged.  
15

16 49. Additionally, each and every such fraudulent claim presented by Defendant  
17 would be subject to a civil fine under the Nevada False Claims Act of five thousand-five hundred  
18 to eleven thousand dollars (\$5,500 – \$11,000).  
19

20 **COUNT II**  
**Violation of Nev. Rev. Stat. Ann. § 357.040(1)(b)**  
**(Use of a False Record or Statement)**

21 50. Relator James realleges the allegations contained in Paragraphs 1-39 above with  
22 the same force and vigor as if set out here in full.  
23

24 51. Defendant contracted with the Government to provide skilled nursing services for  
25 Nevada Medicaid patients at the Facility.  
26

27 52. The Government was obligated to pay Defendant for services which were in  
28

1 compliance with the rules and regulations related to the Nevada Medicaid program, which are  
2 incorporated into Defendant's respective agreements with the Government.

3         53. Since at least 2012, Defendant has been submitting false certifications as a  
4 condition of payment to the Government and has made payment requests to the Government for  
5 services pursuant to the Nevada Medicaid program that were paid by the Government because  
6 of, *inter alia*, the fraudulently certified information regarding the Facility, including failure to  
7 maintain and repair the electrical systems as a condition of payment. These certifications were  
8 prepared based on information provided by Defendant's management personnel who were also  
9 on notice, and participated in, the creation of improper certifications and invoices to the  
10 Government.  
11  
12

13         54. In each of the payment requests to the Government by Defendant, Defendant  
14 certified that it was entitled to payment of the amounts claimed due. Defendant's payment  
15 requests were executed by an authorized representative of Defendant who had knowledge of, or  
16 were otherwise on notice of, and participated in, the fraudulently certified information regarding  
17 the Facility.  
18

19         55. Because of the willful failure by Defendant to comply with the rules, regulations,  
20 and obligations of the Nevada Medicaid program of the Government as described above, through  
21 the false certifications as a condition of payment and payment requests, Defendant knowingly  
22 presented, or caused to be presented, false or fraudulent claims for payment or approval to the  
23 Government.  
24

25         56. In performing all of the acts described herein, Defendant knowingly made, used  
26 or caused to be made or used a false record or statement to get a false or fraudulent claim paid or  
27 approved by the Government, in contravention of the Nevada False Claims Act, Nev. Rev. Stat.  
28

1 Ann. § 357.040(1)(b), to the damage of the treasury of the State of Nevada, by causing the  
2 Government to pay out money it was not obligated to pay. In carrying out these wrongful acts,  
3 Defendant has engaged in a protracted course and pattern of fraudulent conduct that was material  
4 to it obtaining payments from the Government.  
5

6 57. The Government has been damaged to the extent of any payments to  
7 Defendant as a result of Defendant's knowing and willful violations of Nev. Rev. Stat. Ann. §  
8 357.040(1)(b). Damages to the Government include, but are not limited to, the full value of any  
9 such fraudulent claims.  
10

11 58. Further, the Government has been damaged to the extent of any payments  
12 for additional work required or ordered done to bring the work performed by Defendant into  
13 compliance with the terms of Defendant's agreements and obligations to the Government and to  
14 the extent the Government had been forced to pay for any fraudulent and/or inflated services by  
15 Defendant.  
16

17 59. As a direct and proximate result of Defendant's conduct, the Government has  
18 been damaged.  
19

20 60. Additionally, each and every such fraudulent claim presented by  
21 Defendant would be subject to a civil fine under the Nevada False Claims Act of five thousand  
22 five hundred to eleven thousand dollars (\$5,500 – \$11,000).  
23

**PRAYER FOR RELIEF**

24 **WHEREFORE**, Relator Andrew James on behalf of the State of Nevada prays:

- 25 a) That this Court enter a judgment against Defendant in an amount equal to  
26 three times the amount of damages the State of Nevada has sustained  
27  
28

1 because of Defendant's misrepresentations regarding the amounts  
2 invoiced by said Defendant to the Government;

3 b) That this Court enter a judgment against Defendant in an amount equal to  
4 three times the amount paid to Defendant respectfully obtained by  
5 fraudulent means, plus a civil penalty of \$5,500 to \$11,000 for each  
6 violation of Nev. Rev. Stat. Ann. § 357.040, and the costs of this action,  
7 with interest, including the cost to the State of Nevada for its expenses  
8 related to this action;

9  
10 c) That in the event the State of Nevada continues to proceed with this  
11 action, Relator be awarded an amount for bringing this action of at least  
12 15% but not more than 25% of the proceeds accruing to the Government  
13 in this action or for the settlement of such claims;

14  
15 d) That in the event that the Nevada Government does not proceed with this  
16 action, Relator be awarded an amount that the Court decides is reasonable  
17 for collecting the civil penalty and damages, which shall be not less than  
18 25% nor more than 30% of the proceeds of the action with respect to the  
19 funds recovered on behalf of the State of Nevada Government or in  
20 settlement or judgment;

21  
22 e) That Relator be awarded pre-judgment and post-judgment interest as well  
23 as his attorneys' fees and costs; and

24  
25 f) That the Nevada Government and Relator receive all relief both at law and  
26 at equity, to which they may reasonably appear to be entitled.  
27  
28

1 Dated: January 15, 2022

Respectfully submitted,

2  
3 /s/ Michael P. Balaban, Esq.  
4 Michael P. Balaban (Local Counsel)  
5 Nevada Bar No. 9370  
6 LAW OFFICES OF MICHAEL P.  
7 BALABAN  
8 10726 Del Rudini Street  
9 Las Vegas, NV 89141-4216  
10 (702)586-2964  
11 Fax (702)586-3023  
12 mbalaban@balaban-law.com

13  
14 Neil L. Henrichsen (Pro Hac Vice to be  
15 applied for)  
16 Florida Bar No. 111503  
17 301 W. Bay Street, Suite 1400  
18 Jacksonville, FL 32202  
19 Tele: (904) 381-8183  
20 Fax: (904) 212-2800  
21 nhenrichsen@hslawyers.com

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28 Attorneys for Relator

**JURY TRIAL DEMANDED**

Plaintiff/Relator requests a jury trial for all claims and issues asserted in this action.

Respectfully submitted,

/s/ Michael P. Balaban, Esq.

Michael P. Balaban

Neil L. Henrichsen

Attorneys for Relator

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