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Civil
Qui Tam

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Jack Chin

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, THE
STATES OF CALIFORNIA, DELAWARE,
FLORIDA, GEORGIA, HAWAII,
ILLINOIS, INDIANA, LOUISIANA,
MASSACHUSETTS, MICHIGAN,
NEVADA, NEW HAMPSHIRE, NEW
MEXICO, OKLAHOMA, RHODE
ISLAND, TENNESSEE, TEXAS,
VIRGINIA and WISCONSIN and THE
DISTRICT OF COLUMBIA ex rel. JACK
CHIN,

Plaintiffs,

vs.

WALGREEN COMPANY, RITE AID
CORPORATION and [REDACTED]
[REDACTED]

Defendants.

Case No. CV 09-1293 PSG [PJWx]

FIRST AMENDED COMPLAINT

DEMAND FOR JURY TRIAL

**[FILED IN CAMERA AND UNDER
SEAL PURSUANT TO 31 U.S.C. §
3730(b)(2)]**

1 Pursuant to Rule 15(a)(1)(A) of the Federal Rules of Civil Procedure, *Qui Tam* Plaintiff
2 Jack Chin, by and through his attorneys, brings this amended complaint on behalf of the United
3 States, the States of California, Delaware, Florida, Georgia, Hawaii, Illinois,
4 Indiana, Louisiana, Massachusetts, Michigan, Nevada, New Hampshire, New Mexico,
5 Oklahoma, Rhode Island, Tennessee, Texas, Virginia and Wisconsin, the District of Columbia
6 and on his own behalf as follows:

7 **I.**

8 **JURISDICTION**

9 1. This is an action for civil damages and penalties arising under the laws of the
10 United States and the laws of various states to redress violations of the False Claims Act, 31
11 U.S.C. § 3729 *et seq.* and analogous state laws. This Court has subject matter jurisdiction
12 pursuant to 31 U.S.C. §§ 3732(a) and (b) because the defendants transact business in this district
13 and can be found in this district. This court has supplemental jurisdiction over the state law
14 claims for violations of the analogous state law statutes under 28 U.S.C. § 1367 and 31 U.S.C. §
15 3732(b).

16 **II.**

17 **VENUE**

18 2. Venue is proper in this district under 31 U.S.C. § 3732(a) because the defendants
19 transact business in this district and can be found in this district.

20 **III.**

21 **PARTIES**

22 3. *Qui Tam* plaintiff Jack Chin ("Chin") is a citizen of the United States. Chin, who
23 holds a B.S. degree in chemistry from New York University and a Doctorate in Pharmacy from
24 Temple University, has practiced as a licensed pharmacist in the private retail sector for the past
25 two years. Chin is unaware of any prior public disclosure of the allegations in this case, but if any
26 such public disclosure has occurred, Chin qualifies as an original source.

27 4. Defendant Walgreen Company ("Walgreen") is a for profit Illinois Corporation
28

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1 that owns and operates a nationwide chain of retail pharmacies under the "Walgreens" brand
2 throughout the United States. Walgreen is headquartered at 200 Wilmot Road, Deerfield, IL,
3 60015.

4 5. Defendant Rite Aid Corporation ("Rite Aid") is a for profit Delaware Corporation
5 that owns and operates a nationwide chain of retail pharmacies under the Rite Aid brand
6 throughout the United States. Rite Aid is headquartered at 30 Hunter Lane, Camp Hill,
7 Pennsylvania 17011.

8 6. Defendant [REDACTED] a for profit Delaware
9 Corporation that owns and operates a nationwide chain of retail pharmacies under the [REDACTED] and
10 [REDACTED] brands throughout the United States. [REDACTED]
11 [REDACTED]

12 7. At all times relevant hereto, defendants acted through their agents and employees
13 and the acts of defendants' agents and employees were within the scope of such agency and
14 employment.

15 **IV.**

16 **FIRST CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED]**

17 **FOR VIOLATION OF 31 U.S.C. §§ 3729(a)(1) and (a)(2)**

18 8. Chin incorporates by reference herein the allegations made above in paragraphs
19 1-7, inclusive.

20 9. Walgreen, Rite Aid and [REDACTED] are approved suppliers and providers of
21 pharmaceuticals, prescription drugs and other medical supplies to eligible beneficiaries of
22 federally sponsored and funded health care programs, including Medicare, Tricare and Medicaid.
23 Medicare and Tricare are solely funded by the federal government. Medicare is a health insurance
24 program for the aged and disabled under Title XVIII of the Social Security Act. Part B of
25 Medicare pays for a limited set of outpatient drugs and biologic products. Part C of Medicare, the
26 Medicare Advantage ("MA") Program, provides for prescription drug coverage for eligible
27 Medicare beneficiaries who select to join an MA plan which includes prescription drug coverage.
28

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1 Part D of Medicare pays for expanded outpatient prescription drug coverage to eligible
2 beneficiaries through third-party insurance plans, otherwise known as Part D Plans ("PDPs").
3 Tricare is an agency of the U.S. Department of Defense that administers and supervises the health
4 care program for certain active duty and retired military personnel and their dependants and pays
5 for prescription drugs supplied by pharmacies to eligible beneficiaries.

6 10. Medicaid is medical assistance provided for certain low-income individuals under
7 a state plan approved under Title XIX of the Social Security Act. State Medicaid, which is
8 partially funded by the United States Government and partially funded by the state, pays for
9 prescription drugs supplied by pharmacies to eligible beneficiaries. Participation in each state's
10 Medicaid program is determined by regulations set by each state. Generally, each state assigns
11 providers, including participating pharmacies, a unique identification number which is included
12 on each electronic claim for reimbursement. Affixing this number to a claim certifies, under each
13 state's Medicaid regulations, that as a Medicaid provider the pharmacy is in compliance with all
14 applicable state and federal regulations.

15 11. The Federal Anti-Kickback Statute prohibits any person or entity from knowingly
16 and willfully offering to pay any remuneration, directly or indirectly, overtly or covertly, in cash
17 or in kind to any person to induce such person to purchase, order, or arrange for ordering any good
18 or item for which payment may be made in whole or in part under a federal health care program.
19 42 U.S.C. § 1320a-7b(b). The related Beneficiary Inducements Statute prohibits "offers to or
20 transfers [of] remuneration to any individual eligible for benefits under [Federal health care
21 programs] that such person knows or should know is likely to influence such individual to order
22 or receive from a particular provider, practitioner or supplier any item or service for which
23 payment may be made, in whole or in part, under [federal health care programs]." 42 U.S.C. §
24 1320a-7a(a)(5).

25 12. As a condition of enrollment as approved suppliers and providers of
26 ~~pharmaceuticals, prescription drugs and other medical supplies to eligible beneficiaries of the~~
27 ~~federally sponsored health care programs, Walgreen, Rite Aid and [REDACTED] certified that they~~

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1 understood and agreed that payment of a claim by the federally sponsored health care programs
2 was conditioned on the claim and the underlying transaction complying with the Federal Anti-
3 Kickback Statute, among other laws, regulations and program instructions, including the
4 Beneficiary Inducements Statute. (See e.g. CMS-855S, Section 15). Additionally, the defendants'
5 pharmacy agreements with various PDPs, MA plans and Pharmacy Benefit Management Plans
6 ("PBMs"), wherein payment to the defendants is made under federally sponsored health care
7 programs, were conditioned on the defendants' compliance with all applicable laws and
8 regulations, including the Federal Anti-Kickback Statute and the Beneficiary Inducements Statute,
9 and that any covered services provided by the defendants, including the sale of pharmaceuticals,
10 prescription drugs and other medical supplies to eligible beneficiaries of the federally sponsored
11 health care programs, would be done in compliance with their contractual obligations, including
12 compliance with the Federal Anti-Kickback Statute and the Beneficiary Inducements Statute.
13 Compliance with the Federal Anti-Kickback Statute and the Beneficiary Inducements Statute is a
14 prerequisite to payment of federal funds. A violation of the Federal Anti-Kickback Statute or the
15 Beneficiary Inducements Statutes vitiates a provider's right to receive or retain federal funds
16 arising from the related claim. A claim for payment submitted by a provider that has violated the
17 Federal Anti-Kickback Statute or the Beneficiary Inducements Statute is a false claim for payment
18 in violation of the False Claims Act.

19 13. Chin is informed and believes, and hereby alleges, that at various times during the
20 course of the last ten years, the defendants have paid unlawful remuneration to numerous eligible
21 beneficiaries of the federally sponsored health care plans and programs in violation of the Federal
22 Anti-Kickback Statute and the Beneficiary Inducements Statute to induce such persons to
23 purchase, order, or arrange to order or otherwise influence such persons to order prescription
24 drugs and other medical supplies from the defendants' pharmacies for which payment would be
25 made in whole or in part under a federal health care program. Specifically, defendants have given
26 to such eligible beneficiaries gift cards valued in the amount of \$25 and in other varying amounts
27 which were more than nominal in order to induce such beneficiaries to transfer their patronage
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1 and to purchase prescription drugs and other medical supplies from the defendants. Defendants
2 knew that such inducements offered to beneficiaries of publicly funded programs were unlawful
3 and expressly acknowledged the unlawfulness of such inducements in the fine print of written
4 materials advertising such gift cards in return for prescription transfers.

5 14. Chin first obtained knowledge of the defendants' unlawful practices during his
6 employment as a retail pharmacist by the Sweetbay Supermarket Company which operates a chain
7 of supermarkets in the Southeast United States. On numerous occasions, Medicare and Medicaid
8 beneficiaries and other federally funded health care program enrollees would present prescription
9 transfer gift cards obtained from Walgreen and [REDACTED] pharmacies and other large nation-wide
10 pharmacy chains to him at Sweetbay and request that Sweetbay honor the gift cards as credits
11 against purchases at Sweetbay. In order to remain competitive, Sweetbay would normally honor a
12 competitor's gift cards, except that Chin refused to honor them if he determined that the customer
13 was a Medicare or Medicaid beneficiary or an enrollee in a publicly funded health care program.
14 These customers informed Chin that the defendants had provided them the gift cards in return for
15 transferring their prescriptions to the defendants' pharmacies and purchasing prescription drugs
16 from the defendants.

17 15. In order to confirm the reports that he had received from customers who were
18 enrollees or beneficiaries of federally funded health care programs that they had unlawfully
19 received gift cards from the defendants in return for transferring their prescriptions to the
20 defendants' pharmacies and for purchasing prescription drugs from the defendants, Chin decided
21 to investigate. His investigation has confirmed that the defendants' unlawful practices are being
22 committed on a nation-wide basis.

23 A. On January 31, 2009, Chin presented a prescription for his father-in-law to
24 a Walgreens pharmacy in Clermont, Florida. The information Chin provided to the Walgreen
25 pharmacy informed the pharmacy that his father-in-law was a beneficiary of a federally funded
26 health care program and the pharmacy billed the federal program for the prescription drug. When
27 Chin returned to the pharmacy to pick up the prescription drug, he asked about the \$25 gift card
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1 for prescription drug transfers then being advertised by Walgreen and was handed a \$25 gift card
2 by the Walgreen employee along with the prescription drugs for his father-in-law and a receipt
3 showing the Walgreens store, the date and time of the transaction, the purchase of the
4 prescription drug identified by an RX identification number, the co-pay Chin paid for the
5 prescription and the \$25 gift card.

6 B. On February 1, 2009, Chin repeated the same procedure for his mother-in-
7 law's drug prescription at a [REDACTED] pharmacy in Clermont, Florida. Like his father-in-law's
8 prescription, the information that Chin provided the [REDACTED] pharmacy informed the pharmacy that
9 his mother-in-law was the beneficiary of a federally funded health care program. The pharmacy
10 billed the federal program for the prescription drug and gave Chin a \$25 gift card for the
11 prescription transfer after Chin asked about the \$25 gift card then being advertised by [REDACTED] The
12 receipt received by Chin from the [REDACTED] pharmacy also identified the [REDACTED] store, the date and time
13 of the transaction, the prescription by an RX identification number, the co-pay paid by Chin for
14 the prescription drugs and the \$25 gift card.

15 C. On April 1, 2009, Chin repeated the same procedure for his father-in-law's
16 drug prescription at a [REDACTED] pharmacy in Dothan, Alabama. The information that Chin provided
17 the [REDACTED] pharmacy informed the pharmacy that his father-in-law was the beneficiary of a federally
18 funded health care program. The pharmacy billed the federal program for the prescription drug
19 and gave Chin a \$25 gift card for the prescription transfer after Chin asked about the \$25 gift card
20 then being advertised by [REDACTED] The receipt received by Chin from the [REDACTED] pharmacy also
21 identified the [REDACTED] store, the date and time of the transaction, the prescription by an RX
22 identification number, the co-pay paid by Chin for the prescription drugs and the \$25 gift card.

23 D. On or about March 24, 2009, T.O., who is a beneficiary of a
24 federally funded health care program, presented her prescription as a new customer to a
25 Walgreens pharmacy in Aurora, Colorado. The information T.O. provided to the Walgreens
26 pharmacy informed the pharmacy that she was a beneficiary of a federally funded health care
27 program under Medicare Part D. The pharmacy billed the federal program for the prescription

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1 drug and charged T.O. a co-pay. When T.O. asked about the \$25 gift card for prescription drug
2 transfers then being advertised by Walgreen, she was handed a \$25 gift card by the Walgreens
3 employee. The RX number for the prescription filled for T.O. by the Walgreens pharmacy is
4 0050625-11616. The Walgreens gift card number is 6050634374184885.

5 E. On or about April 7, 2009, T.O. presented her prescription as a new
6 customer to a Rite Aid pharmacy in Aurora, Colorado. The information T.O. provided to the Rite
7 Aid pharmacy informed the pharmacy that she was a beneficiary of a federally funded health care
8 program under Medicare Part D. The pharmacy billed the federal program for the prescription
9 drug and charged T.O. a co-pay. When T.O. asked about the \$25 gift card for prescription drug
10 transfers then being advertised by Rite Aid, she was handed a \$25 gift card by the Rite Aid
11 employee. The RX identification for the prescription filled for T.O. by the Rite Aid pharmacy is
12 06284 0180578. The Rite Aid gift card number is 6006496635532094963.

13 F. On or about April 9, 2009, T.O. presented a prescription to the same
14 Walgreens pharmacy in Aurora, Colorado that had provided her a \$25 gift card on March 24,
15 2009. The information T.O. provided to the Walgreens pharmacy informed the pharmacy that she
16 was a beneficiary of a federally funded health care program under Medicare Part D. The pharmacy
17 billed the federal program for the prescription drug and charged T.O. a co-pay. When T.O. asked
18 about the \$25 gift card for prescription drug transfers then being advertised by Walgreen, she was
19 handed a \$25 gift card by the Walgreens employee. The RX number for the prescription filled for
20 Ott by the Walgreens pharmacy is 0051067. The Walgreens gift card number is
21 6050634370152477.

22 G. On or about April 20, 2009, A.A., who is a beneficiary of a
23 federally funded health care program, presented his prescriptions as a new customer to a
24 Walgreens pharmacy in Cotati, California. The information A.A. provided to the Walgreens
25 pharmacy informed the pharmacy that he was a beneficiary of a federally funded health care
26 program under Medicare Part D. The pharmacy billed the federal program for the prescription
27 drugs and charged A.A. a co-pay. When A.A. asked about the \$25 gift card for prescription drug
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1 transfers then being advertised by Walgreen, he was handed a \$25 gift card by the Walgreens
2 employee. Walgreens RFN number for the transaction is 0308-4089-8296-0904-1720. The
3 Walgreens gift card number is 6042393158718301. The prescription numbers are 1175198 and
4 1175202.

5 16. As a result of the defendants' knowing payment of such unlawful remunerations to
6 the beneficiaries and enrollees of federally funded health care programs to induce and reward said
7 beneficiaries and enrollees to purchase prescription drugs from the defendants, wherein such
8 programs paid for such prescription drugs in whole or in part, defendants have knowingly caused
9 false claims to be submitted to the federally funded health care programs resulting in
10 reimbursement to the defendants of millions of dollars from the federally funded health care
11 programs in violation of the Federal False Claims Act, 31 U.S.C. § 3729 et seq., the Federal Anti-
12 Kickback Statute, 42 U.S.C. § 1320a-7b(b), and the Beneficiary Inducements Statute, 42 U.S.C.
13 § 1320a-7a(a)(5). Because of these acts, the United States has suffered monetary damages in an
14 amount which will be proven at trial.

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17 **V.**

18 **SECOND CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED]**
19 **FOR VIOLATION OF THE CALIFORNIA FALSE CLAIMS ACT**
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21 17. Chin incorporates by reference herein the allegations made above in paragraphs
22 1-16, inclusive.

23 18. By virtue of the above-described acts, among others, defendants have knowingly
24 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
25 State of California, false MediCal (California Medicaid) claims for payment or approval for
26 prescription drugs in violation of the California False Claims Act, Cal. Gov. Code §12650 et seq.
27 Because of these acts, the State of California has suffered monetary damages in an amount which
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1 will be proven at trial.

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3 **VI.**

4 **THIRD CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
5 **VIOLATION OF THE DELAWARE FALSE CLAIMS AND REPORTING ACT**
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7 19. Chin incorporates by reference herein the allegations made above in paragraphs
8 1-16, inclusive.

9 20. By virtue of the above-described acts, among others, defendants have knowingly
10 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
11 State of Delaware, false Medicaid claims for payment or approval for prescription drugs in
12 violation of the Delaware False Claims and Reporting Act, Delaware Statute Title VI, Section
13 1201. Because of these acts, the State of Delaware has suffered monetary damages in an amount
14 which will be proven at trial.
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16 **VII.**

17 **FOURTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
18 **VIOLATION OF THE FLORIDA FALSE CLAIMS ACT**
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20 21. Chin incorporates by reference herein the allegations made above in paragraphs 1-
21 16 inclusive.

22 22. By virtue of the above-described acts, among others, defendants have knowingly
23 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
24 State of Florida, false Medicaid claims for payment or approval for prescription drugs in violation
25 of the Florida False Claims Act, Florida Statute §§68.081-68.09. Because of these acts, the State
26 of Florida has suffered monetary damages in an amount which will be proven at trial.

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28 **FIRST AMENDED COMPLAINT**

VIII.

**FIFTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR
VIOLATION OF THE GEORGIA FALSE MEDICAID CLAIMS ACT**

23. Chin incorporates by reference herein the allegations made above in paragraphs 1-16 inclusive.

24. By virtue of the above-described acts, among others, defendants have knowingly submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the State of Georgia, false Medicaid claims for payment or approval for prescription drugs in violation of the Georgia False Medicaid Claims Act, § 49-4-168 et seq. Because of these acts, the State of Georgia has suffered monetary damages in an amount which will be proven at trial.

IX.

**SIXTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR
VIOLATION OF THE HAWAII FALSE CLAIMS ACT**

25. Chin incorporates by reference herein the allegations made above in paragraphs 1-16 inclusive.

26. By virtue of the above-described acts, among others, defendants have knowingly submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the State of Hawaii, false Medicaid claims for payment or approval for prescription drugs in violation of the Hawaii False Claims Act, Haw. Rev. Stat. § 661-21 et seq. Because of these acts, the State of Hawaii has suffered monetary damages in an amount which will be proven at trial.

X.

**SEVENTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR
VIOLATION OF THE ILLINOIS WHISTLEBLOWER**

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28. By virtue of the above-described acts, among others, defendants have knowingly submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the State of Illinois, false Medicaid claims for payment or approval for prescription drugs in violation of the Illinois Whistleblower Reward and Protection Act, 740 ILCS 175/3 et seq. Because of these acts, the State of Illinois has suffered monetary damages in an amount which will be proven at trial.

**EIGHTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR
VIOLATION OF THE INDIANA
FALSE CLAIMS AND WHISTLEBLOWER PROTECTION ACT**

30. By virtue of the above-described acts, among others, defendants have knowingly submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the State of Indiana, false Medicaid claims for payment or approval for prescription drugs in violation of the Indiana False Claims and Whistleblower Protection Act, IC 5-11-5.5-2 et seq. Because of these acts, the State of Indiana has suffered monetary damages in an amount which will be proven at trial.

NINTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR

1 **VIOLATION OF THE LOUISIANA MEDICAL ASSISTANCE**
2 **PROGRAMS INTEGRITY LAW**

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4 31. Chin incorporates by reference herein the allegations made above in paragraphs 1-
5 16 inclusive.

6 32. By virtue of the above-described acts, among others, defendants have knowingly
7 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
8 State of Louisiana, false Medicaid claims for payment or approval for prescription drugs in
9 violation of the Louisiana Medical Assistance Programs Integrity Law, Louisiana Rev. Stat. §
10 46:439.1 et seq. Because of these acts, the State of Louisiana has suffered monetary damages in an
11 amount which will be proven at trial.

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13 **XIII.**

14 **TENTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
15 **VIOLATION OF THE MASSACHUSETTS FALSE CLAIMS ACT**

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17 33. Chin incorporates by reference herein the allegations made above in paragraphs 1-
18 16 inclusive.

19 34. By virtue of the above-described acts, among others, defendants have knowingly
20 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
21 State of Massachusetts, false Medicaid claims for payment or approval for prescription drugs in
22 violation of the Massachusetts False Claims Act, Mass. Gen. Laws, Ch. 12, § 5(A) et seq. Because
23 of these acts, the State of Massachusetts has suffered monetary damages in an amount which will
24 be proven at trial.

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26 **XIV.**

27 **ELEVENTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
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FIRST AMENDED COMPLAINT

1 **VIOLATION OF THE MICHIGAN MEDICAID FALSE CLAIMS ACT**

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3 35. Chin incorporates by reference herein the allegations made above in paragraphs 1-
4 16 inclusive.

5 36. By virtue of the above-described acts, among others, defendants have knowingly
6 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
7 State of Michigan, false Medicaid claims for payment or approval for prescription drugs in
8 violation of the Michigan Medicaid False Claims Act, M.C.L. 400.601 *et seq.* Because of these
9 acts, the State of Michigan has suffered monetary damages in an amount which will be proven at
10 trial.

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12 **XV.**

13 **TWELFTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
14 **VIOLATION OF THE NEVADA FALSE CLAIMS ACT**

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16 37. Chin incorporates by reference herein the allegations made above in paragraphs 1-
17 16 inclusive.

18 38. By virtue of the above-described acts, among others, defendants have knowingly
19 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
20 State of Nevada, false Medicaid claims for payment or approval for prescription drugs in violation
21 of the Nevada False Claims Act, Nevada Rev. Stat. § 357.010 *et seq.* Because of these acts, the
22 State of Nevada has suffered monetary damages in an amount which will be proven at trial.

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24 **XVI.**

25 **THIRTEENTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
26 **VIOLATION OF THE NEW HAMPSHIRE MEDICAID FRAUD**
27 **AND FALSE CLAIMS ACT**

28 FIRST AMENDED COMPLAINT

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2 39. Chin incorporates by reference herein the allegations made above in paragraphs 1-
3 16 inclusive.

4 40. By virtue of the above-described acts, among others, defendants have knowingly
5 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
6 State of New Hampshire, false Medicaid claims for payment or approval for prescription drugs in
7 violation of the New Hampshire Medicaid Fraud and False Claims Act, New Hampshire Rev.
8 Stat. 167:61 *et seq.* Because of these acts, the State of New Hampshire has suffered monetary
9 damages in an amount which will be proven at trial.

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11 **XVII.**

12 **FOURTEENTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
13 **VIOLATION OF THE NEW JERSEY FALSE CLAIMS ACT**
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15 41. Chin incorporates by reference herein the allegations made above in paragraphs 1-
16 16 inclusive.

17 42. By virtue of the above-described acts, among others, defendants have knowingly
18 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
19 State of New Jersey, false Medicaid claims for payment or approval for prescription drugs in
20 violation of the New Jersey False Claims Act, New Jersey Stat. 2(A):326-1 *et seq.* Because of
21 these acts, the State of New Jersey has suffered monetary damages in an amount which will be
22 proven at trial.

23
24 **XVIII.**

25 **FIFTEENTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
26 **VIOLATION OF THE NEW MEXICO FALSE CLAIMS ACT**
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28 **FIRST AMENDED COMPLAINT**

43. Chin incorporates by reference herein the allegations made above in paragraphs 1-16 inclusive.

44. By virtue of the above-described acts, among others, defendants have knowingly submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the State of New Mexico, false Medicaid claims for payment or approval for prescription drugs in violation of the New Mexico Medicaid False Claims Act, New Mexico Stat. § 27-14-1 *et seq.* Because of these acts, the State of New Mexico has suffered monetary damages in an amount which will be proven at trial.

XIX.

**SIXTEENTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR
VIOLATION OF THE RHODE ISLAND STATE FALSE CLAIMS ACT**

45. Chin incorporates by reference herein the allegations made above in paragraphs 1-16 inclusive.

46. By virtue of the above-described acts, among others, defendants have knowingly submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the State of Rhode Island, false Medicaid claims for payment or approval for prescription drugs in violation of the Rhode Island State False Claims Act, Ch.1.1, § 9-1.1-1 *et seq.* Because of these acts, the State of Rhode Island has suffered monetary damages in an amount which will be proven at trial.

XX.

**SEVENTEENTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR
VIOLATION OF THE TENNESSEE MEDICAID FALSE CLAIMS ACT**

1 47. Chin incorporates by reference herein the allegations made above in paragraphs 1-
2 16 inclusive.

3 48. By virtue of the above-described acts, among others, defendants have knowingly
4 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
5 State of Tennessee, false Medicaid claims for payment or approval for prescription drugs in
6 violation of the Tennessee Medicaid False Claims Act, Tenn. Stat. §§ 75-1-181 *et seq.* Because of
7 these acts, the State of Tennessee has suffered monetary damages in an amount which will be
8 proven at trial.

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10 **XXI.**

11 **EIGHTEENTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
12 **VIOLATION OF THE TEXAS MEDICAID FRAUD PREVENTION ACT**
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14 49. Chin incorporates by reference herein the allegations made above in paragraphs 1-
15 16 inclusive.

16 50. By virtue of the above-described acts, among others, defendants have knowingly
17 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
18 State of Texas, false Medicaid claims for payment or approval for prescription drugs in violation
19 of the Texas Medicaid Fraud Prevention Act, Texas Human Resources Code, Ch. 36, § 36.101 *et*
20 *seq.* Because of these acts, the State of Texas has suffered monetary damages in an amount which
21 will be proven at trial.

22
23 **XXII.**

24 **NINETEENTH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
25 **VIOLATION OF THE VIRGINIA FRAUD AGAINST TAXPAYERS ACT**
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27 51. Chin incorporates by reference herein the allegations made above in paragraphs 1-
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1 16 inclusive.

2 52. By virtue of the above-described acts, among others, defendants have knowingly
3 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
4 State of Virginia, false Medicaid claims for payment or approval for prescription drugs in
5 violation of the Virginia Fraud Against Taxpayers Act, Ch. 3, Title 8.01, Article 19.1 *et seq.*
6 Because of these acts, the State of Virginia has suffered monetary damages in an amount which
7 will be proven at trial.

8
9 **XXIII.**

10 **TWENTIETH CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
11 **VIOLATION OF THE WISCONSIN FALSE CLAIMS**
12 **FOR MEDICAL ASSISTANCE ACT**
13

14 53. Chin incorporates by reference herein the allegations made above in paragraphs 1-
15 16 inclusive.

16 54. By virtue of the above-described acts, among others, defendants have knowingly
17 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
18 State of Wisconsin, false Medicaid claims for payment or approval for prescription drugs in
19 violation of the Wisconsin False Claims for Medical Assistance Act, W.S.A. § 20.931 *et seq.*
20 Because of these acts, the State of Wisconsin has suffered monetary damages in an amount which
21 will be proven at trial.

22
23 **XXIV.**

24 **TWENTY FIRST CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
25 **VIOLATION OF THE OKLAHOMA MEDICAID FALSE CLAIMS ACT**
26

27
28 **FIRST AMENDED COMPLAINT**

1 55. Chin incorporates by reference herein the allegations made above in paragraphs 1-
2 16 inclusive.

3 56. By virtue of the above-described acts, among others, defendants have knowingly
4 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
5 State of Oklahoma, false Medicaid claims for payment or approval for prescription drugs in
6 violation of the Oklahoma Medicaid False Claims Act, 63 Okl. Stat. § 5053 *et seq.* Because of
7 these acts, the State of Oklahoma has suffered monetary damages in an amount which will be
8 proven at trial.

9
10 **XXV.**

11 **TWENTY SECOND CLAIM AGAINST WALGREEN, RITE AID AND [REDACTED] FOR**
12 **VIOLATION OF THE DISTRICT OF COLUMBIA**
13 **FALSE CLAIMS ACT**
14

15 57. Chin incorporates by reference herein the allegations made above in paragraphs 1-
16 16 inclusive.

17 58. By virtue of the above-described acts, among others, defendants have knowingly
18 submitted, and continue to submit, directly or indirectly, to officers, employees or agents of the
19 District of Columbia, false Medicaid claims for payment or approval for prescription drugs in
20 violation of the District of Columbia False Claims Act, D.C. Stat. § 2-308.03 *et seq.* Because of
21 these acts, the District of Columbia has suffered monetary damages in an amount which will be
22 proven at trial.

23
24 **PRAYER**

25 **WHEREFORE**, Plaintiffs pray that judgment be entered as followed:

26 ~~A. In an amount equal to three times the amount of damages the United States~~
27 ~~has sustained because of the defendants' false or fraudulent claims and~~

28 **FIRST AMENDED COMPLAINT**

1 civil penalties up to the maximum permitted by law, for the maximum *qui*
2 *tam* percentage share allowed pursuant to 31 U.S.C. § 3730(d) and for
3 attorney's fees, costs and reasonable expenses;

- 4 B. In an amount equal to the maximum amount of damages (multiplied under
5 state and local laws) sustained by the States of California, Delaware,
6 Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Massachusetts,
7 Michigan, Nevada, New Hampshire, New Mexico, Oklahoma, Rhode
8 Island, Tennessee, Texas, Virginia, Wisconsin, and the District of
9 Columbia because of the defendants' false or fraudulent Medicaid claims
10 and civil penalties up to the maximum permitted by state law, for the
11 maximum *qui tam* percentage share allowed pursuant to state and local
12 laws and for attorney's fees, costs and reasonable expenses; and
13 B. For any and all other relief to which the plaintiffs may be entitled.

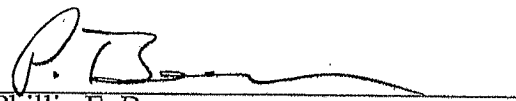
14
15 **JURY DEMAND**

16 Plaintiffs request trial by jury.

17
18 Dated: April 27, 2009

Respectfully Submitted,

20 **WARREN ■ BENSON Law Group**

21
22
23 By: 
24 Phillip E. Benson
25 Attorney for *Qui Tam* Plaintiff
26 Jack Chin

27
28 **FIRST AMENDED COMPLAINT**