

**REDDING INTERNIST DR. PATRICK CAMPBELL FILES  
MOTION FOR HEARING TO DETERMINE FAIRNESS OF  
TENET HEALTHCARE'S \$54 MILLION SETTLEMENT  
WITH UNITED STATES GOVERNMENT FOR  
UNNECESSARY OPEN-HEART SURGERIES**

**SEPTEMBER 15, 2003  
FOR IMMEDIATE RELEASE**

Dr. Patrick Campbell, an internal medicine specialist in Redding, California, and the whistleblower in *United States of America ex rel. Patrick Campbell, M.D. and State of California ex rel. Patrick Campbell, M.D., v. Redding Medical Center, Inc., a California Corporation, Tenet Healthcare Corporation, a Nevada Corporation, Chae Hyun Moon, M.D., Thomas Russ, M.D., Fidel Realyvasquez, M.D., et al.*, Case No. CIV-S-02-2457 DFL PAN, sought and received an order unsealing the file in his False Claims Act case (commonly referred to as a “whistleblower” action) against Redding Medical Center and its corporate parent, Tenet Healthcare, on Friday, September 5, 2003. Until receipt of that order, Dr. Campbell was prohibited from speaking to the press about the specifics of the whistleblower case because of a court order sealing the case file. The government settled Dr. Campbell’s whistleblower case on August 4, 2003 and announced it to the public August 6, 2003.

Dr. Campbell, through his counsel, David Rude, of the San Jose, California litigation firm of Clark & Rude LLP, recently filed a motion to obtain information as to the basis of the settlement and to require a court hearing to determine its fairness and reasonableness. At no time was Dr. Campbell or his counsel told of, or consulted about, the settlement negotiations taking place between Tenet and the government. Apparently, secret settlement negotiations between the government and Tenet were underway when the government filed a motion to dismiss Dr. Campbell’s case last June.

Dr. Campbell’s whistleblower case arises out of his uncovering one of the most, if not the most, outrageous and horrific schemes of corporate greed ever to have been perpetrated upon the citizens of this country. Following years of persistent behind-the-

scenes investigation by Dr. Campbell and unsuccessful attempts to persuade hospital administrators to take corrective action, and following a year of intense investigation by the federal government, all of the available evidence indicates that hundreds of open heart surgeries and related life-threatening cardiac procedures were performed on healthy patients with little or no signs of coronary artery disease and were performed solely for the purpose of collecting vast sums from federal and state healthcare programs. The direct beneficiaries of this horrific scheme were Redding Medical Center, Tenet Healthcare and, of course, the doctors who recommended and performed the surgeries and other unnecessary procedures.

It took years for Dr. Campbell to gather enough evidence to persuade the government to take action, but last year he was finally successful. Armed with the information provided by Dr. Campbell, the government obtained a comprehensive search warrant and on October 30, 2002, raided Redding Medical Center and seized thousands of patient medical records, initiated an ongoing criminal investigation and stopped the mayhem being inflicted on the patients and the resulting false billing of the government. As a result of Dr. Campbell's tireless efforts and revelations, the government was in a position to make Tenet Healthcare repay the government for the massive sums that Tenet had charged the government for unnecessary surgeries and dangerous diagnostic tests that debilitated Tenet patients, plus substantial penalties.

On Friday, August 1, 2003, Chief Judge David F. Levi of the U.S. District Court for the Eastern District of California issued a redacted memorandum of decision and order dismissing Dr. Campbell's case, which did not disclose Dr. Campbell's name. The next business day, Monday, August 4, 2003, the government signed its secret settlement agreement with Tenet.

On August 6, 2003, the U.S. Attorney for the Eastern District of California, McGregor Scott, and the head of the Civil Division of U.S. Attorney's office, Michael Hirst, announced the \$54 million settlement of the false medical billing claims, executed without the knowledge or consent of Dr. Campbell or his attorneys and without judicial review and approval.

On August 13, 2003, Dr. Campbell filed a formal motion with the Court to lift the seal on the file and to release Dr. Campbell from

any restrictions imposed by the seal on his ability to speak to the press that were imposed by the seal. On August 14, 2003, Dr. Campbell filed an objection to the settlement and a motion for an evidentiary hearing before the Court on the settlement because of the unfairness, inadequacy and prematurity of the settlement. Although the whistleblower law enacted by Congress in 1986 gives the whistleblower the right to object to the settlement on behalf of himself and on behalf of the public interest, and requires a hearing and court approval if the whistleblower does not consent to the settlement, the government has nevertheless released Tenet and Redding Medical Center from any further monetary and/or criminal penalties for medically unnecessary open heart surgeries or diagnostic tests performed at Redding Medical Center. The government has vehemently denied access to any information about the settlement or the negotiations leading to it, despite the fact they claimed the settlement was supposedly “record-breaking” and a “double win” for the public.

On August 22, 2003, Dr. Campbell filed a Supplemental Memorandum in Support of Objection to Proposed Settlement and petition for Evidentiary Hearing based on the contents of the Settlement Agreement provided by the government, which excluded the so-called “outlier” portion of the payments for the unnecessary cardiac procedures and surgeries. After investigation and analysis, but without the information the government refused to produce, Dr. Campbell believes that these outlier payments amount to 60-75% of the false medical billing claims paid by the government. However, the settlement agreement releases Tenet and Redding Medical Center from any further civil or criminal liability for medically unnecessary open-heart surgeries and/or invasive diagnostic tests.

On the morning of September 5, 2003, the hearing on Dr. Campbell’s motion to unseal the file was held. Later that day, the Court granted Dr. Campbell’s motion to unseal the file with one minor exception. On September 5, 2003, a judgment of dismissal was entered in Dr. Campbell’s whistleblower case. An amended memorandum of opinion and order restoring Dr. Campbell’s name to the order was also filed on September 5, 2003, but was file-stamped by the Court August 1, 2003. The government is expected to argue now that because Dr. Campbell’s case was dismissed one court day before the settlement on a procedural technicality, no discovery of the facts and circumstances surrounding the settlement should be

allowed, and no evidentiary hearing on the settlement should be held, so that no one can now examine or test the basis of the government's secret settlement with Tenet. If the government actually believed the settlement was a tremendous "double win" for the public, then it should welcome the opportunity to explain its "record breaking" settlement.

Dr. Campbell is highly confident that the Ninth Circuit will overturn the order of dismissal. Dr. Campbell's confidence rests on the fact that the whistleblower law provides that, when there is full public disclosure of the false claims at issue before any whistleblower suits are filed as was the case here, then the whistleblower must qualify as an "original source" of the government's knowledge of the fraud. Dr. Campbell is an original source--an insider with nearly a decade of knowledge of what happened in Redding. Father John Corapi, who filed a whistleblower case three days before Dr. Campbell, is a victim along with his private insurance company, who paid for the diagnostic procedure he underwent. Luckily for Father Corapi, his involvement in this matter was limited to a 72-hour period. Dr. Campbell does not believe that Father Corapi is an "original source" within the meaning of the whistleblower law. Indeed, the government has clearly indicated its intent to dismiss Father Corapi's whistleblower case on that basis and although Judge Levi had to assume that Father Corapi was not a real whistleblower, he dismissed Dr. Campbell's case anyway.

The dismissal of Dr. Campbell's whistleblower case presents a unique and compelling issue of law. The Ninth Circuit Court of Appeals will now decide the issue as a matter of first impression under a de novo review standard, which means that the appellate court decides the issue without regard for the lower court's ruling.

Common sense is usually what the law is. Here, common sense should rule. The Ninth Circuit wants a bright line test. A common sense bright line test is available. The first "original source" whistleblower to file an action after full public disclosure by the government should be designated the true whistleblower. If the real insider with knowledge of the facts is eliminated by a non-whistleblower, then there is no whistleblower left to cause the settlement to be examined.

Tellingly, this “record-breaking” settlement caused Tenet’s stock value to rise (not fall!) shortly after the settlement was announced by far more than the \$54 million paid to settle the case.

On September 8, 2003 Senator Charles Grassley (R-IA), Chairman of the Senate Finance Committee, sent a scathing letter and a document request to Tenet seeking all documents related to this settlement. The document request and cover letter are available at Senator Grassley’s website ([www.grassley.senate.gov](http://www.grassley.senate.gov)). Dr. Campbell’s request for discovery contained in the pending motion objecting to the settlement seeks similar information from the government.

As might be expected, Dr. Campbell is busy with his private medical practice and the recent developments in this case require a tremendous amount of his time. Please thoughtfully consider the fact that Dr. Campbell and his lawyers are working as hard as they can to see that Tenet repays the government for what they did to their patients in Redding. We thank all members of the press in advance for their respect for Dr. Campbell’s privacy in his personal and professional life.

The government’s response to the pending motions is due September 26, 2003. Dr. Campbell and David Rude, Esq. intend to issue another press release shortly thereafter. Press packages are available upon request. Please direct all inquiries to David Rude at Clark & Rude LLP (408) 971-1099, email [drude@crlaw.net](mailto:drude@crlaw.net).