

**UNITED STATES of America, ex rel. and Benny SANDERS,
Plaintiffs,**

v.

EAST ALABAMA HEALTHCARE AUTHORITY, et al., Defendants.

Civil Action No. 95-D-446-E.

United States District Court, M.D. Alabama, Eastern Division.

September 24, 1996.

E. STATUTE OF LIMITATIONS

The statute of limitations for claims under the false claims act is two-pronged. 31 U.S.C.A. § 3731(b) (West Supp.1996). The first prong requires that claims must be brought within six years of the date of the violation; under the second prong, claims must be brought within three years after the material facts are known or should have been known, but in no case more than ten years following the commission of the violation. *Id.* This action was filed on March 31, 1995, more than fifteen years after the initially alleged fraudulent securing of the CON. *See supra* part II. However, the complaint, both in its original and amended form, is based upon past, present, and future payments by the United States Government to East Alabama Healthcare Authority. Pl.s' First Am. Compl. ¶¶ 30, 35, 39(h), 40. As mentioned earlier, the allegedly fraudulent CON is the basis for the allegedly false claims, but the CON itself is not the actual subject of the complaint.

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Therefore, any evaluation of the False Claims Act statute of limitations must focus on the requests for federal reimbursement and not on the date that the CON was granted. Under this analysis, several points become quickly clear. First, no claim more *1413 than ten years prior to the date that Sanders filed the original complaint is actionable under the False Claims Act. Second, the Plaintiffs must show that some or all of the Defendants fraudulently concealed a false claim in order to fully utilize the statute of limitations. The Plaintiffs must also show that they acted within three years of learning of facts material to the false claim or within three years of the time in which the government official responsible for this area knew or should have known that false claims were submitted. In addition, if the Plaintiffs are unable to prove fraudulent concealment occurred, then the Defendants are only responsible for any false claims that occurred within six years of the filing of the original complaint.

The original complaint was filed on March 31, 1995 so the Plaintiffs may not succeed on a claim attacking claims submitted before March 31, 1985. If the Plaintiffs are unable to prove that false claims were fraudulently concealed, then the Plaintiffs may not prevail on any claim prior to March 31, 1989. In addition, the Plaintiffs must show that claims on any fraudulently concealed reimbursement claims were brought within three years of the date of discovery.