

Ga. Surgery Biz To Pay \$3M To End False Claims Suit

By **Rosie Manins**

Law360 (December 7, 2021, 7:49 PM EST) -- A Georgia surgical company and its physician owner have agreed to pay just over \$3 million to settle a former staff doctor's whistleblower suit alleging they received millions of dollars in kickbacks for unnecessary genetic and toxicology testing as well as nasal surgeries.

Milton Hall Surgical Associates LLC — doing business as the Ear, Nose & Throat Institute, or the ENT Institute — and its Florida-based owner Jeffrey Gallups agreed to pay the seven-figure settlement to end the recently unsealed False Claims Act suit.

Gallups and Milton Hall, which operates about a dozen surgical centers in the metropolitan Atlanta area, came to an agreement on Nov. 30 with former staff doctor Myron Jones and the federal and Georgia governments, which intervened in the case, according to a settlement notice filed on Dec. 1 in the Northern District of Georgia.

U.S. District Judge Steven D. Grimberg administratively closed the case on Dec. 2. He ordered in late September for parts of the record to be unsealed within 60 days, after the state and federal governments had intervened.

The plaintiffs plan to dismiss the case upon receipt of the full settlement amount, while Jones is separately seeking attorney fees and costs.

The parties said in the settlement agreement that Gallups and Milton Hall acknowledge their liability and debt to the government of almost \$5.4 million for their violations of the False Claims Act. If the \$3 million settlement amount is not paid in time, the government can seek all \$5.4 million in debt plus interest.

Jones alleged under seal in 2017 that Gallups and Milton Hall illegally made millions of dollars in kickbacks from health care service providers for sham medical procedures for which they illegally got federal reimbursements.

The settlement specifically relates to kickbacks from Texas company Next Health LLC, which Milton Hall patients were allegedly referred to for unnecessary testing, and Minnesota business Entellus Medical Inc., which made devices used in nasal procedures allegedly ordered unnecessarily for Milton Hall patients.

"Pursuant to this arrangement, the government contends that Dr. Gallups caused MHSa and/or MHSa's physician employees to order medically unnecessary genetic and toxicology tests from NextHealth for their patients," the settlement states. "The government contends that, in return for these referrals, Dr. Gallups was paid illegal remuneration in the form of a percentage of the revenues that NextHealth received from Medicare, Medicaid and TRICARE."

The scheme Gallups and Milton Hall purportedly had with Next Health allegedly ran from 2015 to 2017. Their kickback plan with Entellus lasted from 2014 to 2018, case records show.

Gallups reportedly told Milton Hall's doctors to exclusively order certain products made by Entellus for nose examinations that were medically unnecessary. He also allegedly encouraged his doctors to increase the number of "balloon sinuplasty surgeries" that involved Entellus products, which their patients did not need.

Gallups and his business received meals, trips and cash payments from Entellus in return, per the settlement.

The defendants must pay the \$3 million within a year, at a rate of least \$100,000 per month, and cough up the first million within seven days. As the whistleblower in the case, Jones, a Georgia doctor, will receive 20% of the settlement payments made to the government.

Jones quit his job with Milton Hall in June 2017, two years after being hired at one of its clinics, fearing retaliation for challenging the kickback practices, per his complaint.

He alleged that he and other physicians were made to order unnecessary tests for all patients over the age of 12, and that the patients often received surprise bills for thousands of dollars despite being told the tests wouldn't cost them anything.

Jones also alleged that Milton Hall overcharged its patients by hundreds of dollars for preoperative assessments.

Gallups pled guilty in October to a related criminal count of health care fraud, brought by the federal government in September, for which he faces a maximum penalty of 10 years of imprisonment. Gallups is due to be sentenced in the criminal case, also in the Northern District of Georgia, on Feb. 11.

Raymond L. Moss of Moss & Gilmore LLP, representing Jones, told Law360 it's not every day that a physician and medical company owner admits criminal activity related to a whistleblower case in Georgia.

"My client is very pleased with the result," Moss said Tuesday. "Dr. Gallups has been found personally responsible."

Counsel for Gallups and Milton Hall did not immediately respond to questions about the case on Tuesday, and neither did representatives for Georgia and the federal government.

Jones is represented by Raymond L. Moss of Moss & Gilmore LLP.

Georgia is represented by James P. Mooney of the state attorney general's office.

The U.S. is represented by Paris A. Wynn of the U.S. Attorney's Office for the Northern District of Georgia.

Gallups and Milton Hall are represented by Scott R. Grubman of Chilivis Grubman Dalbey & Warner LLP.

The case is U.S. ex. rel. et al. v. Milton Hall Surgical Associates LLC et al., case number 1:17-cv-02472, in the U.S. District Court for the Northern District of Georgia.

--Editing by Daniel King.