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# Illinois Physical Therapy Co. Can't Duck FCA Suit

By [Sophia Morris](#)

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Law360 (October 22, 2018, 6:48 PM EDT) -- An Illinois federal judge on Friday declined to dismiss a whistleblower's False Claims Act suit accusing a physical therapy provider of billing Medicare for thousands of individual physical therapy services that were not actually provided, saying the whistleblower's claims of fraud were sufficiently detailed.

U.S. District Judge Joe Billy McDade said that Barbara Morgan, a former third-party billing services provider for central Illinois-based Champion Fitness Inc., had put forward enough evidence to allow her case against the physical therapy provider to proceed by presenting specific examples of the alleged thousands of instances of fraudulent billing carried out by the company, including 500 alone by its owner, Jeff Schade.

"Each of the five examples specifies in detail — including dates, times and locations — what made a particular bill fraudulent," the judge said. "This meets the required injection of precision and measure of substantiation."

Morgan launched her qui tam action in 2013, accusing Champion Fitness and Schade of fraudulently billing

the government for Medicare Part B claims for individual physical therapy sessions that did not take place, as they were actually group sessions.

The complaint said there were “280 occasions in 2010, 174 occasions in 2011 and 35 occasions in 2012” when Schade and Champion Fitness turned in bills for physical therapy services either performed or supervised by Schade that were fraudulent.

These physical therapy sessions allegedly occurred at overlapping times, or where there was no way that Schade could have been present at the location. Other physical therapists besides Schade are also alleged to have participated in the fraudulent billing, filing thousands of fraudulent claims between 2010 and 2012, the complaint said.

The federal government declined to intervene in the case in May, allowing for the case to be unsealed. Schade and Champion Fitness moved for dismissal in August, claiming that Morgan had failed to provide the requisite “who, what, where, when and how” in relation to her allegations of fraud.

Stuart Chanen, an attorney for the defendants, told Law360 on Monday that the suit “has no merit.”

But Judge McDade said that the details put forward by Morgan did in fact provide five examples of the alleged fraud that “specify the what, where, when and who explicitly.”

The court also said that Morgan’s use of “and/or” in the complaint when referring to alleged fraudulent statements made by “defendants and/or their agents” was not a violation of pleading standards. Given that the complaint alleges thousands of instances of fraudulent billing, the court said it made sense for Morgan to “leave open the possibility that some of those claims might have been submitted at the direction of defendants rather than by them directly,” the order said.

Michael Leonard, an attorney for Morgan, told Law360 on Monday that he and his client “look forward to proceeding with depositions, and ultimately taking this case to a jury.”

Morgan is represented by Michael I. Leonard of LeonardMeyer LLP.

Champion Fitness and Schade are represented by Stuart J. Chanen of [Valorem Law Group LLP](#).

The case is U.S. v. Champion Fitness Inc. et al., case number [1:13-cv-01593](#), in the U.S. District Court for the Central District of Illinois.

--Editing by Aaron Pelc.

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## Case Information

### Case Title

[United States of America v. Champion Fitness, Inc. et al](#)

### Case Number

[1:13-cv-01593](#)

### Court

Illinois Central

### Nature of Suit

Qui Tam

### Judge

[Joe Billy McDade](#)

### Date Filed

December 23, 2013

### Law Firms

- [Valorem Law Group](#)

### Judge Analytics

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- [Joe B. McDade](#)

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