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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA *ex rel.*
BENJAMIN POEHLING,

Plaintiff,

v.

UNITEDHEALTH GROUP, INC. *et al.*,

Defendants.

CASE NO. 2:16-cv-08697-FMO-PVCx

**DEFENDANTS' NOTICE OF
MOTION AND MOTION FOR
SUMMARY JUDGMENT**

Hon. Fernando M. Olguin

Hearing Date: September 5, 2024

Hearing Time: 10:00 a.m.

Courtroom: 6D

**TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF
RECORD:**

PLEASE TAKE NOTICE that, on September 5, 2024 at 10:00 a.m., or as soon thereafter as the parties may be heard, in Courtroom 6D of the United States District Court, Central District of California, located at 350 W. 1st Street, Los Angeles, California 90012, Honorable Fernando M. Olguin presiding, UnitedHealth Group Incorporated and its affiliated entities named as Defendants in this action (“United” and “Defendants”) will and hereby move this Court for summary judgment in their favor against Plaintiff United States of America (“Plaintiff”) and Plaintiff-Relator Benjamin Poehling (“Plaintiff-Relator”).

United brings this motion pursuant to Federal Rule of Civil Procedure 56(a) and Local Rule 56-1 on the grounds that there is no genuine dispute as to any material fact on the following issues, and United is entitled to summary judgment:

Plaintiff and Plaintiff-Relator cannot show that United was overpaid.

Plaintiff and Plaintiff-Relator cannot show that United violated any duty to second guess doctor-certified diagnosis codes;

Plaintiff and Plaintiff-Relator cannot show that United’s conduct was material to CMS’s decision to pay United;

Plaintiff and Plaintiff-Relator cannot show that United concealed or improperly avoided an obligation to return money; and

Plaintiff’s and Plaintiff-Relator’s common-law claims fail. Plaintiff’s and Plaintiff-Relator’s unjust enrichment claim is precluded by the existence of an express contract between CMS and United, and Plaintiff’s and Plaintiff-Relator’s payment by mistake claim fails because Plaintiff and Plaintiff-Relator cannot show that United was paid money to which it was not entitled.

This motion is based upon this notice, the accompanying Joint Brief regarding the Cross Motions for Summary Judgment, Joint Evidentiary Appendix, Statement

of Uncontroverted Facts, and Proposed Judgment, all pleadings, records, and other documents on file with the Court in this action, and such oral argument as may be presented at the hearing of this motion.

Dated: August 6, 2024

Respectfully submitted,

LATHAM & WATKINS LLP
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By: /s/ David J. Schindler

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA *ex*
rel. BENJAMIN POEHLING,

Plaintiff,

v.

UNITEDHEALTH GROUP, INC. *et*
al.,

Defendants.

CASE NO. 2:16-cv-08697-FMO-PVCx

**[PROPOSED] JUDGMENT
GRANTING DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

Hon. Fernando M. Olguin

Hearing Date: September 5, 2024

Hearing Time: 10:00 a.m.

Courtroom: 6D

1 Before the Court are the Plaintiff the United States' ("Plaintiff") Motion for
2 Partial Summary Judgment and the UnitedHealth Group Incorporated's and its
3 affiliated entities named as Defendants' ("United" and "Defendants", and
4 collectively with Plaintiff, the "Parties") Motion for Summary Judgment. Having
5 considered the Parties' moving, opposition, and supplemental memorandum, all
6 supporting documents and pleadings of record, and oral argument of counsel, and
7 good cause appearing,

8 **IT IS HEREBY ORDERED** and **ADJUDGED** as follows:

9 Plaintiff's Motion for Partial Summary Judgment is **DENIED**, Defendants'
10 Motion for Summary Judgment is **GRANTED**, and judgment is hereby **ENTERED**,
11 in Defendants' favor, and against Plaintiff United States of America and Plaintiff-
12 Relator Benjamin Poehling ("Plaintiff-Relator"). Plaintiff and Plaintiff-Relator take
13 nothing by way of their:

14 (1) Claim for relief for violations of the reverse False Claims Act, 31 U.S.C.
15 § 3729(a)(1)(G);

16 (2) Common-law claim for relief for unjust enrichment; and

17 (3) Common-law claim for relief for payment by mistake.

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19 Dated: _____

20 Hon. Fernando M. Olguin
21 United States District Judge
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