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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

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

Plaintiffs,

v.

UNITEDHEALTH GROUP, INC., *et al.*,

Defendants.

No. CV 16-08697 FMO-PVCx

UNITED STATES' NOTICE OF
MOTION AND MOTION FOR PARTIAL
SUMMARY JUDGMENT

DATE: September 5, 2024

TIME: 10:00 am

COURT: Hon. Fernando M. Olguin

1 PLEASE TAKE NOTICE that, on September 5, 2024 at 10:00 am, or as soon
2 thereafter as the matter may be heard, before the Honorable Fernando M. Olguin, United
3 States District Judge, United States Courthouse, Courtroom 6D, 350 W. First Street, Los
4 Angeles, California, the United States of America will and hereby does move for an
5 order of partial summary judgment on the legal issue of whether materiality is an
6 element of the second prong of the reverse false claim provision of the False Claims Act,
7 31 U.S.C. §3729 (a)(1)(G).

8 The motion is and will be made pursuant to Rule 56(a), Fed. R. Civ. P., and L.R.
9 56-1 on the grounds that there is no genuine dispute as to any fact material to this issue
10 and that the United States is entitled to partial judgment as a matter of law.

11 This motion is based upon the accompanying Memorandum of Points and
12 Authorities and [proposed] Order, the pleadings and other papers on file herein, and such
13 evidence and argument as may be presented in connection with the hearing of this
14 motion.

15 Dated: August 6, 2024

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UNITED STATES DISTRICT COURT
FOR THE 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] ORDER ON UNITED
STATES' MOTION FOR PARTIAL
SUMMARY JUDGMENT AND
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

Upon consideration of the United States' Partial Motion for Summary Judgment ("United States' Partial Motion") and the arguments submitted by the parties, IT IS HEREBY ORDERED that the UNITED STATES' PARTIAL MOTION is GRANTED. Pursuant to this Order, materiality is not a required element of proof under the second prong of 31 U.S.C. § 3729(a)(1)(G).

Upon consideration of the Defendants' Motion for Summary Judgment ("Defendants' Motion") and the arguments submitted by the parties, IT IS HEREBY ORDERED that DEFENDANTS' MOTION is DENIED.

IT IS SO ORDERED.

Dated: _____

HON. FERNANDO M. OLGUIN
U.S. District Court Judge

PROOF OF SERVICE BY MAILING

I am over the age of 18 and not a party to the within action. I am employed by the Office of United States Attorney, Central District of California. My business address is 300 North Los Angeles Street, Suite 7516, Los Angeles, California 90012.

On **August 6, 2024**, I served **UNITED STATES' NOTICE OF MOTION AND MOTION FOR PARTIAL SUMMARY JUDGMENT; [PROPOSED] ORDER ON UNITED STATES' MOTION FOR PARTIAL SUMMARY JUDGMENT AND DEFENDANTS' MOTION FOR SUMMARY JUDGMENT** on each person or entity named below by enclosing a copy in an envelope addressed as shown below and placing the envelope for collection and mailing on the date and at the place shown below following our ordinary office practices. I am readily familiar with the practice of this office for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

Date of mailing: **August 6, 2024**. Place of mailing: Los Angeles, California.

Person(s) and/or Entity(ies) to Whom mailed:

Timothy P. McCormack
Constantine Cannon LLP
1001 Pennsylvania Avenue, NW
Suite 1300 North
Washington, DC 20004

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on: **August 6, 2024** at Los Angeles, California.


CAROL M. YBARRA