

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA

a municipal corporation,
441 Fourth Street, N.W.
Washington, D.C. 20001,

Plaintiff,

v.

MICHELLE P. OSEGUEDA-WILLIAMS

3160 Mairfield Lane
Huntingtown, MD 20639

DONALD WILLIAMS

3160 Mairfield Lane
Huntingtown, MD 20639

Defendants.

Civil Action No.:

JURY TRIAL DEMANDED

FALSE CLAIMS ACT COMPLAINT AND JURY DEMAND

The District of Columbia (District), by its Office of the Attorney General, brings this action against Michelle Osegueda-Williams (Osegueda-Williams) and Donald Williams (Williams, and collectively Defendants) pursuant to the District's False Claims Act, D.C. Code § 2-381.02(a), and common law, seeking treble damages and civil penalties. The District alleges as follows:

Jurisdiction

1. This Court has subject matter jurisdiction over this case under D.C. Code § 11-921, as this action is brought by the District, and D.C. Code § 2-381.02(a), as the District asserts claims arising under the District's False Claims Act. This

Court has personal jurisdiction over the Defendants pursuant to D.C. Code § 13-423(a)(1) and (3) because Defendants committed acts in the District that are proscribed by the False Claims Act.

Parties

2. The District of Columbia (District), a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the permanent seat of the government of the United States. The District is represented through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code §§ 1-301.81(a)(1), 2-381.03. The Attorney General is specifically authorized to enforce the District's False Claims Act, pursuant to D.C. Code § 2-381.03(a).

3. Defendant Michelle Penelope Osegueda-Williams (Osegueda-Williams), formerly known as Michelle P. Osegueda, is an individual currently residing at 3160 Mairfield Lane, Huntingtown, Maryland 20639. Defendant Osegueda-Williams was an employee of the District of Columbia government for all times relevant to this Complaint. She was employed as a Dispatcher with the Metropolitan Police Department, and currently is employed as a Dispatcher with the Office of Unified Communications.

4. Defendant Donald Williams (Williams) is an individual currently residing at 3160 Mairfield Lane, Huntingtown, Maryland 20639. Defendant

Williams was an employee of the District of Columbia government during times relevant to this Complaint. Until January 2009, Defendant Williams was employed as a Master Patrol Officer with the District of Columbia Metropolitan Police Department. He currently is employed with the Washington Metropolitan Transit Authority.

Defendants' Child

5. Defendants are married and have a son, A.W., who attended four District of Columbia Public Schools (DCPS) schools in the time period relevant to this Complaint. For part of the 2004-2005 school year and from 2006 through 2013, A.W. attended Lafayette Elementary School, Barnard Elementary School, Shaw Middle School at Garnet-Patterson, and Eastern High School.

6. A.W. attended these schools tuition-free, as if he were a District resident.

7. At all times relevant to the acts described in this Complaint, Defendants resided in the State of Maryland.

District of Columbia False Claims Act

8. The District of Columbia Procurement Reform Amendment Act (the District's False Claims Act) provides for the award of treble damages and civil penalties for, *inter alia*, knowingly making or causing to be made false statements to conceal, avoid, or decrease an obligation to pay money to the District. D.C. Code § 2-381.02(a).

9. The District’s False Claims Act includes the following pertinent provisions:

(a) Any person who commits any of the following acts shall be liable to the District for 3 times the amount of damages which the District sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the District for the costs of a civil action brought to recover penalties or damages, and may be liable to the District for a civil penalty of not less than \$5,500, and not more than \$11,000, for each false or fraudulent claim for which the person:

* * *

(6) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the District, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the District . . .

D.C. Code § 2-381.02(a) (2013).

10. The District’s False Claims Act defines “[k]nowing” or “knowingly” to mean “[t]hat a person, with respect to information, does any of the following: (i) Has actual knowledge of the information; (ii) Acts in deliberate ignorance of the truth or falsity of the information; or (iii) Acts in reckless disregard of the truth or falsity of the information.” D.C. Code § 2-381.01(7)(A) (2013). Proof of specific intent to defraud is not required for an act to be knowing. D.C. Code § 2-381.01(7)(B) (2013).

11. The District’s False Claims Act defines “[m]aterial” to mean “having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.” Section 2-381.01(8)

12. The District’s False Claims Act defines “obligation” to mean “an established duty, whether or not fixed, arising from . . . statute or regulation, or from the retention of any overpayment.” D.C. Code § 2-381.01(9).

District of Columbia Nonresident Tuition Statute

13. D.C. Code § 38-302(a)(2) requires that nonresident tuition be paid for each child who attends a District public school and does not have a parent, guardian, custodian, or other primary caregiver who resides in the District. Nonresident tuition rates are set by the District’s Office of the State Superintendent of Education to “cover all expenses” incurred by DCPS in educating the student. D.C. Code § 38-302(b).

14. “Nonresident student” means “[a]n individual under the age of 18 who is enrolled in a District of Columbia public school or public charter school, and does not have a parent, guardian, custodian, or primary care giver . . . residing in the District of Columbia.” D.C. Code § 38-1800.02(25)(A).

15. “Parent” is defined as “a natural parent, stepparent, or parent by adoption who has custody or control of a student, including joint custody.” D.C. Code § 38-301(11). “Primary care giver” is defined as “a person other than a parent or court appointed custodian or guardian who is the primary provider of care and support to a child who resides with him or her, and whose parent, custodian or guardian is unable to supply such care or support” D.C. Code § 38-301(10).

16. Nonresidents are required to pay tuition to enroll nonresident children in District public schools because public funds are appropriated to DCPS for the sole purpose of educating children and youth who are residents of D.C. D.C. Code § 38-2902.

A.W.’s Attendance at DCPS Schools

17. In March 2005, A.W. began attending Lafayette Elementary School, a DCPS school.

18. A.W. attended Lafayette Elementary School tuition-free, as if he were a District resident for part of the 2004-2005 school year. During this time, A.W. was living with Defendants in District Heights, Maryland.

19. In 2006, A.W. began attending Barnard Elementary School, a DCPS school.

20. A.W. attended Barnard Elementary School, tuition-free, as if he were a District resident for the entirety of the 2006-2007, 2007-2008, and 2008-2009 school years. During this time, A.W. was living with Defendants in District Heights, Maryland.

21. In 2009, A.W. began attending Shaw Middle School at Garnett-Patterson, a DCPS school.

22. A.W. attended Shaw Middle School at Garnet-Patterson, tuition-free, as if he were a District resident for the entirety of the 2009-2010, 2010-2011, and 2011-2012 school years. During this time, A.W. was living with Defendants in District Heights, Maryland.

23. In 2012, A.W. began attending Eastern High School, a DCPS school.

24. A.W. attended Eastern High School, tuition-free, as if he were a District resident for the entirety of the 2012-2013 school year. During this time, A.W. was living with Defendants in District Heights, Maryland.

**Defendants' Failure to Pay Nonresident Tuition Owed
to DCPS schools**

25. Nonresident tuition for A.W. to attend Lafayette Elementary School for part of the 2004-2005 school year was \$2,830.50.

26. Nonresident tuition for A.W. to attend Barnard Elementary School for the 2006-2007, 2007-2008, and 2008-2009 school years was \$7,527.00, \$8,002.00, and \$8,770.00, respectively.

27. Nonresident tuition for A.W. to attend Shaw Middle School at Garnet-Patterson for the 2009-2010, 2010-2011, and 2011-2012 school years was \$9,033.00, \$9,213.00, and \$9,213.00, respectively.

28. Nonresident tuition for A.W. to attend Eastern High School for the 2012-2013 school year was \$10,584.00.

29. The total amount of nonresident tuition for A.W.'s attendance at DCPS schools for these time periods was \$65,172.50.

30. To date, Defendants have not paid any of the nonresident tuition owed for A.W.'s attendance at DCPS schools for part of the 2004-2005 school year and from 2006 through 2013, nor have any tuition payments been made on their behalf.

Defendants' False Statements to a DCPS School
(2013-2014 School Year)

31. On May 31, 2013, Defendant Williams signed an Enrollment Form to re-enroll A.W. as a student at Eastern High School for the 2013-2014 school year. On the Enrollment Form, Defendant Williams stated that he, Defendant Osegueda-

Williams and A.W. lived at 1516 1st St, N.W., Washington, D.C 20001. Under the Parent/Guardian Information and Other Primary Caregiver Information section, Defendant Williams identified himself as a Parent or Guardian and as A.W.'s father; he also identified Defendant Osegueda-Williams as A.W.'s mother and living at 1516 1st St., N.W., D.C. 20001. Under the "Residency Status" section of the Enrollment Form, Defendant Williams checked the box on the form next to "D.C. Resident (Student and parent or legal guardian live in D.C.)," indicating that he and A.W. were District residents. Under the "Housing Status" section, Defendant Williams checked the box next to "Permanent." Defendant Williams signed the Enrollment Form, certifying that he completed the form, that the information on the form was accurate, and that he understood that "providing false information for purposes of defrauding the government is punishable by law."

32. On May 30, 2013, Defendant Osegueda-Williams signed and submitted a Sworn Statement of D.C. residency to DCPS, affirming that she lived in the District at 1516 1st St, N.W., Washington, D.C. 20001. Defendant Osegueda-Williams also indicated that she was A.W.'s "parent/guardian/caregiver." Defendant Osegueda-Williams signed the form, stating that she understood that enrollment of A.W. was based on her representation of District residency, and that if the information in the verification form was false, she would be liable for payment of tuition for A.W.

33. Defendant Williams knew the information he provided on the Enrollment Form was incorrect because, when he signed and submitted the form, he

knew that he, Defendant Osegueda-Williams and A.W. were living in Maryland, and not at the District address stated on the form.

34. Defendant Osegueda-Williams knew that the information she provided on the Sworn Statement of D.C. Residency was false because when she signed and submitted the form, she knew that she and A.W. were living in Maryland, and not at the District address stated on the form.

35. Relying on the Enrollment Form and Sworn Statement of D.C. Residency Defendants submitted to Eastern High School, DCPS allowed A.W. to attend Eastern High School as a student for the 2013-2014 school year, tuition-free.

Defendants' Failure to Pay Nonresident Tuition Owed to a DCPS School

36. Nonresident Tuition for A.W. to attend Eastern High School for the 2013-2014 school year was \$10,795.00.

37. To date, Defendants have not paid any of the nonresident tuition owed for A.W. to attend Eastern High School for the 2013-2014 school year, nor have any tuition payments been made on their behalf.

COUNT I
False Claims Act
Knowingly Making a False Record or Statement Material to Avoid an Obligation to
Pay the District
(D.C. Code § 2-381.02(a)(6))

38. Paragraphs 1 through 37 are realleged as if fully set forth herein.

39. Defendants Osegueda-Williams and Williams knowingly made, used, and caused to be made or used, false records or statements to conceal, avoid, or decrease a material obligation to pay the District. Defendants knowingly signed and submitted false enrollment forms and/or false sworn statements of D.C. residency, stating that A.W. resided with them in the District, causing a DCPS school to decline to charge nonresident tuition for A.W.'s attendance for the 2013-2014 school year in violation of D.C. Code § 2-381.02(a)(6).

COUNT II
Unjust Enrichment

40. Paragraphs 1 through 37 are realleged as if fully set forth herein.

41. To date, Defendants continue to owe the District the entire nonresident tuition for A.W.'s attendance at Lafayette Elementary School, Barnard Elementary School, Shaw Middle School at Garnet-Patterson, and Eastern High School.

42. By having their son, A.W., attend DCPS schools for part of the 2004-2005 school year and the entirety of the 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, and 2013-2014 school years and by avoiding their obligation to pay nonresident tuition to the District despite their and A.W.'s residency in Maryland, Defendants have been unjustly enriched to the detriment of the District.

Prayer for Relief

WHEREFORE, the District respectfully requests that the Court enter judgment in its favor and against Defendants award damages as follows:

- (1) On Count I against Defendants Osegueda-Williams and Williams, award the District treble statutory damages in an amount to be determined at trial, but not less than \$32,385.00 (three times \$10,795.00); civil penalties of not less than \$5,500.00 and not more than \$11,000.00, payable to the District, for each violation of the District's False Claims Act;
- (2) On Count II against Defendants, award the District actual damages in an amount to be determined at trial, but not less than \$75,967.50; and
- (3) Award the District interest, costs, and other recoverable expenses permitted by law; and
- (4) Award the District such further and additional relief as may be just and proper.

Jury Demand

The District of Columbia hereby demands a trial by jury by the maximum number of jurors permitted by law.

Dated: May 30, 2019.

Respectfully submitted,

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