MARTIN & JONES PLLC
Attorneys at Law

The Mayo Clinic has agreed to pay $1.26 million to settle a federal whistleblower lawsuit arising from false billing claims. In the qui tam ("whistleblower" lawsuit), four whistleblowers and the Department of Justice accused the Mayo Clinic of knowingly submitting false claims for nonexistent pathology tests from 1999 to 2007.

The case began five years ago when an attorney filed suit under the False Claims Act, also known as the federal whistleblower law. The attorney was investigating potential medical malpractice claims on behalf of Mayo Clinic patients when he discovered that the clinic had been routinely billing Medicare, Medicaid, and other government health programs for two sets of pathology sets, while performing only one. The lawsuit was filed in 2007, but kept under seal until 2010 while the Justice Department investigated the allegations. The case was unsealed and thus became public in 2010 when the Justice Department joined the lawsuit.

Under the settlement, the attorney will split the relator's share of $230,000 with the families of three patients who joined him in the lawsuit. The Complaint alleged that the Mayo Clinic billed the government for both a frozen tissue slide – used for quicker analysis- and a permanent tissue slide, but that the clinic never "made or examined" the permanent ones. The complaint involved an estimated 10,000 tests, costing up to $100 each.

Qui tam lawsuits are an important part of government agencies' efforts to combat health care fraud. It is customary for whistleblowers that step forward and expose fraud on the government through improper billing practices and the like to receive a share of the total recovery. The award for a whistleblower is typically 15-25 percent of the total recovery and is referred to as the "relator's share."