

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 2:13CR20600
Hon. Paul D. Borman

v

D-1 FARID FATA,

Defendant.

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**MOTION FOR DETERMINATION OF RESTITUTION
AND FOR COURT APPROVAL
OF THE UNITED STATES' FINAL VICTIM LIST**

The United States, pursuant to 18 U.S.C. §§ 3664(f) & (i), respectfully moves this Court for an order determining the amount of restitution due from Farid Fata in this case. Additionally, the United States respectfully requests that the Court order restitution to each victim as identified in this motion and approve the United States' final victim list to be used by the Clerk of the Court to pay restitution to the victims in this case.

History

Farid Fata was sentenced by this Court on July 10, 2015. The amount of loss that would qualify as restitution due Medicare and Blue Cross/Blue Shield of Michigan was known at the time of sentencing. However, the determination of

restitution was deferred, pursuant to *United States v Dolan*, 130 S.Ct. 2533 (2010), pending a determination of the amount of restitution that was due the individual patient victims or their estates. This date has been extended to March 29, 2019. (ECF 233)

With respect to the individual patient claims only, the United States contracted with Ms. Randi Ilyse Roth, CEO of Complex Settlements PC, to act as the Claims Facilitator. Ms. Roth and her company were hired to aid in the design and administration of the restitution process and to perform the initial evaluation of the claims submitted by the individual patients or their estates. The hiring of Ms. Roth was approved by the Court after the Court evaluated Ms. Roth's experience and suitability to facilitate the process.

On April 11, 2016, this Court entered an Order Establishing a Restitution Plan and Review of Claims for Restitution. (ECF 186) The order established the four categories of pecuniary loss that would be eligible as restitution in this case for the individual patient victims or their estates. The Facilitator filed two reports with respect to her role as the Claims Facilitator in this case. The initial report was filed on January 12, 2017 (ECF 193) and detailed the steps taken to notify individual patients and their family members of the process to file a claim for restitution. The second, and final report by the Facilitator, was filed on November 14, 2017. (ECF 207) The Claims Facilitator recommended restitution in the total amount of

\$4,125,041.07 be awarded to approximately 605 individual patient victims or their estates.

Approximately 70 claimants disputed the award as determined by the Facilitator and sought review of their claim by the Court by filing a “Request for Review of Denial of Claim” (Request for Review). Magistrate Judge Grand has reviewed every Request for Review, as well as the responses of the United States to every Request for Review and issued a Report and Recommendation for each.

The Court has issued its orders adopting the Report and Recommendation of Magistrate Judge Grand for each individual patient victim or their estate. The Requests for Review, the responses of the United States, the Reports and Recommendations issued by Magistrate Judge Grand, and the Orders Adopting the Reports and Recommendations are contained in case number 2:17mc50557, which case is under seal. Case number 2:17mc50557 is under seal and will remain under seal as it contains the personal identifying information and private health information of individual patients or their estates.

On March 4, 2019, Farid Fata filed a Waiver of Appearance with the Court. (R. 235) This waiver states that Farid Fata has specifically waived his personal appearance at any final restitution proceeding.

Restitution Amounts to be Imposed

The United States requests that the Court impose restitution in the amount of **\$26,480,879.37** against Farid Fata and find that this amount is due and payable immediately. The United States requests that the Court enter an Amended Judgment to reflect the final determination of restitution in this case.

This amount is comprised of two general categories of claims: individual patient victims and/or their estates and insurance claims.

Individual claims

The United States has created a database for the individual patient victims, or their estates, to reflect the amounts due as restitution. From this database, a spreadsheet has been generated that lists information in the following fields:

Each victim's last name

Each victim's first name

The complete address for the claimant

The tracking number (assigned by the Facilitator)

The total amount of the claim, as well as the component parts of the claim (e.g., the amount of each category of restitution due to the victim or their estate)

The United States is now prepared to submit to the Court the spreadsheet for the final victim list for the individual patient victims or their estates. Because the list

contains the names and addresses of individual victims, the list will be provided to the Court, under seal for, review. Upon approval of the amount of restitution owed to each individual patient victim or their estate, the final victim list will be provided to the Clerk of the Court.

The United States is asking that the Court order restitution in the amount of **\$4,227,262.37¹** for *individual patient victims or their estates*.

Insurance claims

Additionally, the United States requests that the Court order restitution, in the following amounts, to the following insurance companies and/or governmental agencies:

Victim	Amount of restitution
Blue Cross/Blue Shield of Michigan	\$2,945,156
Aetna Inc.	\$3,131,395
Wisconsin Physician Service/TriCare	\$39,493
Equian	\$616,422
Optum	\$32,169

¹ This amount is comprised of the following components:

Total Table One Claims:	\$1,736,763.60
Total Table Two Claims:	\$406,694.45
Total Table Three Claims:	\$10,556.49
Total Funeral Expenses:	\$2,073,247.83

First Recovery Group	\$832,905
CMS/Medicare Trust Fund	\$14,656,077
<u>Total Insurance Claims:</u>	<u>\$22,253,617</u>

The United States requests that the Court order restitution in the amount of **\$22,253,617** for insurance claims incurred by private insurance companies or governmental agencies.

The Court's Ordered Payment Schedule

“If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may provide for a different payment schedule for each victim based on the type and amount of each victim’s loss and accounting for the economic circumstances of each victim.” 18 U.S.C. § 3664(i)

For the payment schedule in this case, the United States requests that the Court, in its discretion, enter an order that the individual patient victims, or their estates, are to be paid first.

After payment of the individual patient claims, then payments to Blue Cross/Blue Shield of Michigan, Aetna, Wisconsin Physician Services/Tri-Care, Equian, Optum, and First Recovery Group will be made on a pro rata basis. After these companies have been paid in full, any additional funds will be paid to CMS/Medicare Trust Fund until its claim is paid in full.

Additional Payment Order

At this time, the United States requests that the Court direct the Clerk of the Court that it may not begin payments until the entry of a separate Court order encompassing specific payment terms.

Coordination with Clerk's Office

The United States will make itself available to coordinate with the Clerk's Office in implementing the Court's orders.

The United States respectfully requests that the Court enter an Amended Judgment imposing restitution in the amount of **\$26,480,879.37** against Farid Fata and find that this amount is due and payable immediately and grant such other and further relief as is deemed just and reasonable.

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Date: March 25, 2019

CERTIFICATE OF SERVICE

I certify that on March 25, 2019, I filed the foregoing Motion for Determination of Restitution and for Court Approval of the United States' Final Victim List with the Court's electronic filing system, which system will send notice of the filing to all counsel of record.

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Date: March 25, 2019