

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

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LUCIA PACCIONE,

Plaintiff

v.

CEPHALON, INC.,

Defendant.

CIVIL ACTION NO.

FILED UNDER SEAL

JURY TRIAL DEMANDED

03-6268

COMPLAINT

The United States of America *ex rel.* Lucia Paccione state as follows for their Complaint against Cephalon, Inc. (hereinafter referred to as "Cephalon"):

I. NATURE OF THE CASE

1. This is an action by the United States of America and Relator/Plaintiff Lucia Paccione (hereinafter "Paccione") against Cephalon to redress violations of the False Claims Act 31 U.S.C. §§ 3729-3730.

2. Defendant Cephalon, a Delaware corporation, is a research-based, global pharmaceutical company, with its principal place of business located at 145 Brandywine Parkway, West Chester, PA 19380.

3. From in or about September 1994 to January 14, 2003, Plaintiff Paccione was employed by Cephalon as a Medical Sales Specialist, who was responsible for the marketing of Cephalon pharmaceutical products in the Philadelphia and New Jersey areas.

II. JURISDICTION AND VENUE

4. This is a civil action arising under the laws of the United States to redress violations of 31 U.S.C. §§3729-3730. This court has jurisdiction over the subject matter of this action: (i) pursuant to 31 U.S.C. §3732, which specifically confers jurisdiction on this Court for actions

brought pursuant to 31 U.S.C. §§3729 and 3730; (ii) pursuant to 28 U.S.C. §1331, which confers federal subject matter jurisdiction; and (iii) pursuant to 28 U.S.C. §1345, because the United States is a plaintiff.

5. This suit is not based upon prior public disclosures of allegations or transactions in a criminal, civil, or administrative hearing, lawsuit or investigation or in a Government Accounting Office or Auditor General's report, hearing, audit, or investigation, or from the news media.

6. To the extent that there has been a public disclosure unknown to Paccione, Paccione is an original source under 31 U.S.C. §3730 (e)(4), 740 ILCS 175/4(e)(4), and other state whistleblower statutes. She has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the government before filing a *qui tam* action based on the information.

7. Plaintiff Paccione is concurrently providing to the Attorney General of the United States and to the United States Attorney for the Eastern District of Pennsylvania a statement summarizing known material evidence and information related to this Complaint, in accordance with the provisions of 31 U.S.C. §3730(b)(2). This disclosure statement is supported by material evidence.

8. This court has jurisdiction over Cephalon under 31 U.S.C. §3732(a) because Cephalon can be found in, is authorized to transact business in, and is now transacting business in this District. In addition, acts proscribed by 31 U.S.C. §3729 have occurred in this District.

9. Venue is proper in the Eastern District of Pennsylvania and (c) because Cephalon conducts business in this District and, upon information and belief, the acts giving rise to this action occurred within this District.

III. PARTIES

10. The United States of America is the plaintiff for whom recovery is sought for false and fraudulent claims submitted to federally funded government programs.

11. Plaintiff and relator Lucia Paccione is a citizen and resident of the Commonwealth of Pennsylvania. She brings this action on her own behalf and on behalf of the government pursuant to 31 U.S.C. §3730(b)(1).

12. Defendant Cephalon, a Delaware corporation, is a research-based, global pharmaceutical company, with its principal place of business located at 145 Brandywine Parkway, West Chester, PA 19380.

IV. BACKGROUND

Cephalon Sales Organization

13. At all times relevant to this action, Defendant Cephalon maintained sales and sales support field forces that were divided into two sales divisions, the Central Nervous System Division ("CNS") and the Pain Division. The CNS Division currently markets Provigil and Gabitril. The Pain division markets Actiq.

14. Both Sales Divisions are divided into geographic regions throughout the country. Each Sales Division employs sales representatives who report to a District Manager for that Division. The District Managers then report to a Regional Manager for that Division. The Regional Managers then report to the National Sales Director.

15. For the past 8 1/2 years Lucy Paccione worked in the CNS Northeast Region as a medical sales representative, area trainer, and an institutional representative. During that time, she marketed Stadol (a co-marketing agreement with BMS), ITB (Medtronics), Gabitril (a co-

