

APPENDIX F

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SUMMARY OF ARGUMENT

GROUND ONE

THAT THE GOVERNMENT WHOLLY FAILED TO PROVE THE EXISTENCE OF A CONSPIRACY. WHILE AT VARIOUS SIDEBAR DISCUSSIONS THE GOVERNMENT STATED THE APPELLANT'S SECRETARIES WERE CO-CONSPIRATORS AT NO TIME DID THE GOVERNMENT ADDUCE ANY TESTIMONY DURING THE TRIAL BEFORE THE JURY TO PROVE SUCH. NO ONE TESTIFIED AS TO ANY AGREEMENT WHICH IS A BASIC ELEMENT OF CONSPIRACY.

GROUND TWO

THAT THE APPELLANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO CONFRONTATION AND CROSS-EXAMINATION WHERE THE GOVERNMENT ALLEGED SPECIFIC ILLEGAL BILLING INVOICES (AS TO SIX SPECIFIC PATIENTS OF THE APPELLANT) AND THE GOVERNMENT, WHILE PLACING ALL OF THE RELEVANT PATIENTS LISTED AS TO COUNTS TWO THRU NINE ON THEIR WITNESS LIST, ONLY CALLED ONE PATIENT TO TESTIFY (AND WHOSE TESTIMONY REALLY AMOUNTED TO NO PROOF OF ANY ILLEGAL BILLING). THE FAILURE OF THE GOVERNMENT TO CALL THE OTHER FIVE PATIENTS TO TESTIFY DENIED APPELLANT HIS SIXTH AMENDMENT RIGHTS OF CONFRONTATION AND CROSS-EXAMINATION.

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GROUND THREE

THAT BASED UPON SIMPLE MATH, IT WAS WHOLLY IMPOSSIBLE FOR THE HEALTH CARE FRAUD ALLEGED BY THE GOVERNMENT TO HAVE BEEN COMMITTED. WHILE NEITHER SIDE THOUGHT TO CONSIDER THE MATHEMATICS TO PROVE NO CRIME HAD OCCURRED, THE FACT REMAINS THAT USING THE WITNESS TESTIMONY ADDUCED AT TRIAL THAT BASIC, GRAMMAR-SCHOOL MATH PROVES THAT THE EVIDENCE WAS INSUFFICIENT TO PROVE HEALTH CARE FRAUD AND ANY OVERBILLING OR FRAUDULENT BILLING.