CODOSSIER
November 5, 2026
REF **LT-20261105-65041E**

Separation Offer Decision, Claim Forum, and Government Billing Track

Prepared for counsel

Client age 52
Client years of service Five years
Company headcount About 1,400 employees
Days from September 4, 2026 deadline to AS OF date 62 ← *September 4, 2026; AS OF 2026-11-05*
Unvested RSUs (stated value) About $180K
June 30 vest tranche (stated value; vest date June 30, 2027) About $60K
Days from termination date to June 30, 2027 vest 18 ← *June 12, 2026; June 30, 2026*
2025 bonus subject to clawback About $41K
Demand range (gross) $1.6M to $2.0M
COBRA period requested Twelve months
Accommodation request (May 2025) pending without decision Eleven weeks
Requested core hours (flare days) 10-to-4
Three-week flare, January 2026 Three weeks
PIP absence citations Six dates of unplanned absence; five of six approved intermittent FMLA days
Days from April 2 VP remark to April 20 list draft 18 ← *April 2, 2026; April 20, 2026*
RIF size Eleven-person
Other RIF employees besides client Ten ← *eleven-person RIF; client is one of the eleven*
Replacement's age (took client's duties, same VP) 34
Age of employee added to list between versions (on medical leave) 56
Consulting pay $14,500 a month
Consulting pay total $203,000 ← *$14,500 per month; fourteen months as stated; an inclusive July 2021 to September 2022 count is fifteen months, which would give $217,500*
Consulting actual hours 50 to 55 per week
Consulting work split About 60/40 Manhattan / New Jersey
Contractual limitations period (arbitration clause) Six months from accrual
Days from AS OF date to December 9, 2026 34 ← *AS OF 2026-11-05; December 9, 2026*
Billing documents held by client: total / with PHI / without PHI Forty / twelve / twenty-eight

PIP issued 2026-01-29 · PAST
Email to HRBP copying VP disputing FMLA days in PIP 2026-02-09 · PAST
Verbal objection at check-in 2026-03-02 · PAST
Written Medicare billing complaint to CCO and CFO 2026-03-17 · PAST
VP references 'your compliance escalation' in 1:1 2026-04-02 · PAST
RIF selection list drafted by VP and CHRO (nine-name draft) 2026-04-20 · PAST
Position Elimination Rationale dated 2026-05-28 · PAST
Position eliminated in eleven-person RIF 2026-06-12 · PAST
RSU vest date for June 30 tranche 2026-06-12 · PAST
COBRA continuation election (29 U.S.C. §1165(a)(1)) 2026-08-11 · PAST
New client came in 2026-11-03 · PAST
Decision: sign, counter, or walk and file 2026-11-06 · IMMINENT · 1 days
Bring in FCA counsel 2026-11-18 · OPEN · 13 days
ADA charge PIP discrete act (42 U.S.C. §12117(a), incorporating 42 U.S.C. §2000e-5(e)(1)) 2026-11-25 · OPEN · 20 days
Shortest federal clock runs out (as stated by counsel) 2026-12-09 · OPEN · 34 days
SOX whistleblower retaliation (18 U.S.C. §1514A(b)(2)(D)) 2026-12-09 · OPEN · 34 days
Contractual six month accrual bar (Contractual: arbitration provision's six-month accrual clause, not a source of law) 2026-12-12 · OPEN · 37 days
ADA charge termination (42 U.S.C. §12117(a), incorporating 42 U.S.C. §2000e-5(e)(1)) 2027-04-08 · LATER · 154 days
ADEA charge termination (29 U.S.C. §626(d)(1)(B)) 2027-04-08 · LATER · 154 days
CEPA retaliation (N.J.S.A. 34:19-5) 2027-06-12 · LATER · 219 days
Company counsel's final deadline on the separation offer 2027-09-04 · LATER · 303 days
FMLA interference PIP (29 U.S.C. §2617(c)(1)) 2028-01-29 · LATER · 450 days
FMLA retaliation termination (29 U.S.C. §2617(c)(1)) 2028-06-12 · LATER · 585 days
LAD retaliation (Montells v. Haynes, 133 N.J. 282 (1993) (LAD claims governed by two-year limitation of N.J.S.A. 2A:14-2)) 2028-06-12 · LATER · 585 days
LAD ADA ADEA discriminatory discharge (Montells v. Haynes, 133 N.J. 282 (1993)) 2028-06-12 · LATER · 585 days
Fca retaliation (31 U.S.C. §3730(h)(3)) 2029-06-12 · LATER · 950 days

This matter resolves the client's termination by the employer through a decision on the separation offer that funds the income gap and preserves employability without a gag, while keeping any government report on the billing issue outside the release and placing claims in a New Jersey forum.

THE BOTTOM LINE

Counter; do not sign as drafted and do not walk and file as the only path. Signing is closed by the false return-of-property representation, the missing agency carve-outs and the 21-day group paper with no disclosures, which cannot support a valid ADEA waiver. Walking gives up funding the gap and an employable exit, which is the client's first priority. The decision falls due Friday, November 6, 2026. Send nothing to the company before then. The first statutory date after it is November 25, 2026 for an ADA charge on the January 29 PIP, which comes before December 9, 2026 for SOX. File both, and treat December 9 as possibly earlier if the RIF notice predates June 12. The contractual bar then ends December 12, 2026. Treat it as live unless a tolling agreement is signed. Do not treat the September 4 deadline as dead. Settle that against your own file. The qui tam stays outside every release, with FCA counsel engaged by November 18, 2026 and the PHI left untouched. The counter's value, the dollar figure for eight weeks' pay and the equity at current price, cannot be computed. The open blockers are: whether the September 4 deadline was extended in writing or lapsed; the date and form of the RIF notice; whether FCA counsel is retained; whether any charge or motion to compel is pending; whether the other ten RIF employees received the same paper; the Third Circuit standard on pre-filing releases of a qui tam; and the tax treatment of attorney's fees.

WHAT WAS ASKED — WHAT THIS PLAN ANSWERS

By Friday: sign, counter, or walk and file.
Counter, with protective filings running in parallel. Signing as drafted is foreclosed, and walking to file alone abandons the goal of funding the gap without a gag. Make the decision Friday, November 6, 2026 and put nothing in writing to the company before it. The counter should demand $1,600,000 to $2,000,000 and require an agency carve-out, an express exclusion of the government track, no gag cooperation clause, a struck clawback, twelve months of COBRA and an agreed neutral reference. Do not rest the counter on the September 4 deadline being dead, because the record does not settle that. The ADA charge on the PIP by November 25, 2026 and the OSHA complaint by December 9, 2026 proceed regardless of how talks go.

I want to know whether they got the same paperwork.
The record does not establish whether the other ten received the same paperwork. What it shows is that the client got a 21-day version with no decisional-unit disclosure in an eleven-person RIF, which is defective for a group program that needs 45 days and disclosures. The answer would come from company production, company counsel or the other RIF employees. Demand the decisional-unit disclosure and the scoring matrix, since a missing retained-employee half could void the age waiver for the whole group.

I need my exposure before I use them.
The exposure is real but bounded, and it should be fully assessed before any use of the documents. HIPAA's good-faith provision covers disclosure to a health oversight agency or a retained attorney, New Jersey's Quinlan totality test governs whether taking the documents is protected, and criminal exposure exists under State v. Saavedra. None of that makes it safe to move the twelve PHI extracts now. Leave them where they are, send them to no one including you, and let FCA counsel set the handling and decide how the extracts are used. The answer also depends on facts not in the record: when and how the documents were transferred, and whether the company has any record of it.

PRESCRIPTIONS — WHAT TO DO, IN ORDER

01 **Freeze the billing documents and engage FCA counsel now.** Lead with this because it stops losses that cannot be undone: a public-disclosure or first-to-file problem, or mishandled PHI, grows with time and cannot be reversed. Tell the client in writing to leave the twelve PHI extracts exactly where they are, with no forwarding, deleting, re-syncing or new copying. Counsel keeps holding only the twenty-eight non-PHI copies. Have the client record, dated and unchanged, when and how the forty documents reached Gmail and the laptop. Engage FCA counsel now so they are in place by the November 18, 2026 target. Ask whether FCA counsel has been retained and whether any qui tam or public disclosure already exists, because first-to-file status cannot be assumed. The qui tam position (fca_qui_tam) has no computed deadline, but sealed-docket exposure grows weekly. FCA counsel also reviews the plan for the OSHA complaint text and any agency filing that mentions billing.

02 **Decide Friday, November 6, 2026: counter, sign nothing, and send nothing before the decision.** Do not sign as drafted, because the return-of-property representation would be false, there is no carve-out, and the 21-day group paper is defective. Do not choose walk-and-file as the sole path either, because it gives up funding the gap and an employable exit. Counter, with protective filings running in parallel. Send nothing in writing to the company before the decision is made. Whether the September 4 deadline was extended or lapsed is unsettled on this record. Check your own file for any written extension, and do not build the counter on the deadline being dead. The counter should be built on the demand range of $1,600,000 to $2,000,000. It needs an agency carve-out, an express exclusion of the qui tam and any award, no gag cooperation clause, a struck clawback, a neutral reference with an agreed departure narrative that protects unemployment, and no billing facts or PHI.

03 **File the ADA charge on the January 29 PIP by November 25, 2026.** The position ends November 25, 2026, earlier than the December 9, 2026 date counsel has been working. Filing is a duty with a fixed last day; choosing when to file the termination-based ADA and ADEA charges (last day April 8, 2027) is the elective part. Consider filing all charges together. A signed tolling pause protects that date only if signed by both sides before November 25 with one restart method. Do not let settlement talks stand in for the filing. File earlier than the last day because the practice target is not set.

04 **File the SOX complaint with OSHA no later than December 9, 2026, drafted with FCA counsel.** The position ends December 9, 2026. The 180 days may run from the unequivocal notice of the termination decision, which could be earlier than June 12, 2026. Ask the client for the date and form of the RIF notice and the date the 21-day agreement was received, and file on the earlier clock if the notice predates June 12. The filing itself is a duty; its content is the elective part. Have FCA counsel review it so it carries no PHI and no billing extracts and does not create a public-disclosure problem. Keep the company-quotable dates checked against the client's records, including March 17. A SOX settlement after filing needs OSHA approval, so keep that in the counter's structure.

05 **Fix the claim vehicle and the court posture before December 12, 2026.** The contractual six-month bar (contractual_six_month_accrual_bar) ends December 12, 2026 on the June 12 termination, and the January 29 PIP clock under it is already past. New Jersey authority supports its unenforceability for LAD claims, but whether Texas law would enforce it if JAMS law governs is not established. Treat December 12 as live. Either obtain a signed tolling agreement before it, or file in D.N.J. or Superior Court before it. Any court filing now is limited to claims needing no charge, such as LAD and FMLA. Settle the CEPA election first, because a CEPA filing may waive substantially related LAD and common-law claims. The CEPA last day is June 12, 2027, so when to file it is elective. If the company moves to compel, challenge formation specifically and ask for a claim-by-claim order that keeps the SOX claim in court. The Q1 2027 posture should then already exist.

06 **Build the counter's value schedule and the tax structure.** This step depends on the decision and the filings above. Collect the stock plan, award papers and pay records to test the June 12 end date against the June 30 vest of about $60,000, the $180,000 unvested units and the $41,000 clawback. Ask in writing, after the Friday decision, for the company's for-cause basis. Pull the neurologist's dated post-PIP records for the physical-sickness allocation, since stress-caused symptoms must not be blended in. Decide the fee-payment structure with tax advice. Ask the client for post-termination income, unemployment status, health coverage and whether a COBRA notice ever arrived, since the 60-day date from June 12 has passed.

07 **Demand the RIF disclosures and preserve the scoring matrix.** Press for the decisional-unit disclosure, the ages and titles of selected and retained employees, and the scoring matrix the CHRO referenced. Also ask whether the other ten received the same 21-day paper. Confirm the date your preservation letter was sent and get the complete tracker and personnel file, since the company's production was partial. Request who added the client's name between the nine-name and eleven-name lists and whether the Chief Compliance Officer or General Counsel touched it. This gathering comes after the clock-driven steps, and it feeds both the age-waiver challenge and the discharge theory.

DATES & POSITIONS

None of these periods rests on a signed rule in this knowledge base — confirm each before relying on it.

POSITION	LAST DAY	ACT BY	BASIS
COBRA continuation election	2026-08-11	—	29 U.S.C. §1165(a)(1)
ADA charge PIP discrete act	2026-11-25	—	42 U.S.C. §12117(a), incorporating 42 U.S.C. §2000e-5(e)(1)
SOX whistleblower retaliation	2026-12-09	—	18 U.S.C. §1514A(b)(2)(D)
Contractual six month accrual bar	2026-12-12	—	Contractual: arbitration provision's six-month accrual clause, not a source of law
ADA charge termination	2027-04-08	—	42 U.S.C. §12117(a), incorporating 42 U.S.C. §2000e-5(e)(1)
ADEA charge termination	2027-04-08	—	29 U.S.C. §626(d)(1)(B)
CEPA retaliation	2027-06-12	—	N.J.S.A. 34:19-5
FMLA interference PIP	2028-01-29	—	29 U.S.C. §2617(c)(1)
FMLA retaliation termination	2028-06-12	—	29 U.S.C. §2617(c)(1)
LAD retaliation	2028-06-12	—	Montells v. Haynes, 133 N.J. 282 (1993) (LAD claims governed by two-year limitation of N.J.S.A. 2A:14-2)
LAD ADA ADEA discriminatory discharge	2028-06-12	—	Montells v. Haynes, 133 N.J. 282 (1993)
Fca retaliation	2029-06-12	—	31 U.S.C. §3730(h)(3)
LAD failure to accommodate	—	—	
Fca qui tam	—	—	
Dodd frank retaliation	—	—	
Owbpa group waiver prerequisites	—	—	
Employer motion to compel arbitration	—	—	
NJ wage misclassification consulting period	—	—	
Ny labor law misclassification consulting period	—	—	
Flsa claims consulting period	—	—	

BUCKET 1 OF 3

Forum, limitations clocks, and claim vehicle

FORUM FIGHT — weak checkbox, early clocks

The 2022 checkbox, the six-month bar and the claim clocks decide whether the client or the employer picks the forum, and the first charge deadline is November 25, 2026.

Related – Bucket 3 (Government track and PHI document exposure): the offer's deadline and release terms that interact with these clocks
Related – Bucket 2 (Separation offer defects and settlement leverage): any qui tam filing is outside this forum analysis

PROPOSITION 1.1 Unfairness weighed across fee split and bar

CLOCKS CLOSE — November 25 leads

Unconscionability, cost-splitting, the six-month bar and the charge clocks run together, and the earliest open date is November 25, 2026 for an ADA charge on the PIP, ahead of December 9, 2026 for SOX.

HOW TO WIN

+ The earliest open federal deadline is November 25, 2026, for an ADA charge on the January 29 PIP; any pause must name one restart method, be signed by both sides, and be finished before that date.
+ Decide claim by claim whether agency or court filing comes first; a SOX claim runs from OSHA to federal court in set order, and OSHA complaint content can be quoted back by the company, so check each date and plead only what the records support.
+ Limitations: LAD claims run two years with each discrete act (PIP, review downgrade, RIF selection) accruing on its own date; FMLA runs two years from the last event, or three if willful (PIP interference runs to January 29, 2028). *
+ NJ weighs procedural and substantive unconscionability together on a sliding scale, and effective vindication reaches forum-access costs such as filing and administrative fees, not the cost of proving the claim (Italian Colors). *
+ SOX protects reports to a supervisor about conduct reasonably believed to be fraud, fitting the March 17 written report, and coverage rests on the employer's own Nasdaq listing measured when retaliation occurred, so parent or contractor theories are weak. *
+ The record shows no written employer answer to the accommodation request, and the PIP followed approved FMLA leave; the first written objection is the key date for the timeline.
+ The statutory SOX bar voids pre-dispute arbitration of the SOX dispute itself and does not depend on any SEC report, listing status at signing, or the timing of coverage.
+ If OSHA issues no final decision within 180 days of filing, the claimant may bring a de novo federal action, so a pending complaint should not be treated as a bar.

BLIND SPOTS

– Track every claim on a shared calendar: a claim can die unnoticed if the agency's automatic number is wrong or a second agency never received a filing, and calendaring from one claim's start date can mark live claims dead or dead ones live.
– The party resisting arbitration on cost grounds bears the burden of showing a likelihood of prohibitive cost (Green Tree); a categorical attack fails, and JAMS minimum standards cap the employee's fee where arbitration is a condition of employment. *
– The company will say the March 17 complaint went around the supervisor; check whether the Chief Compliance Officer and CFO who received it are proper recipients.
– A pause that restarts from a fixed final date can erase the time left on a claim; read the restart wording exactly and sign only before the deadline.
– NJ's statute voiding waivers of procedural rights for discrimination and retaliation claims has been held preempted by the FAA, and the sliding-scale test weighs procedural and substantive unfairness in one assessment, so a combined weighing does not rescue the waiver. *

PROPOSITION 1.2 Court decides whether checkbox formed agreement

FORMATION FIRST — checkbox is the weak link

The only arbitration assent is a 2022 HRIS checkbox bundled with the I-9 and direct-deposit forms, with no signature block or opt-out, so a court must first decide whether any agreement to arbitrate formed.

HOW TO WIN

+ NJ requires explicit, affirmative assent to waive court rights, and a bundled checkbox over linked forms does not show assent to a forum term; the clause must also clearly say the employee gives up suing in court (Atalese, Leodori). *
+ Ask for a written ruling on three separate elements: a specific agreement to arbitrate, consideration, and authority of the signer.
+ The company's log proves a click, not the displayed text; obtain the HRIS audit record showing what was shown and whether delegation and class terms appeared.
+ A delegation clause is enforced unless the attack targets it specifically (Rent-A-Center), so whether the checkbox formed any agreement is for the court first; read the arbitration wording closely, since 'arbitrability' or 'enforceability' sends validity to the arbitrator. *
+ Whether continued work after the 2022 notice counts as assent turns on when notice arrived, whether any written objection exists, and how long pay continued; settle this before arguing unfairness or who decides.
+ Where the 2022 checkbox and 2021 consulting agreement name different forums, the court decides which controls (Coinbase v. Suski); if a motion to compel is filed, ask for an order sorting each claim separately so the SOX claim and consulting claims are not swept together. *
+ Under the NJ ABC test the employer must prove all three prongs, and failing any one establishes employment.
+ The SOX arbitration bar applies to the SOX dispute regardless of when the agreement was signed, so the 2022 checkbox cannot compel arbitration of it. *
+ The court decides formation, and NJ accepts continued employment as assent only after clear notice that it constitutes assent; a challenge that the checkbox formed no agreement stays with the court despite the delegation clause.
+ A click is not proof of a formed agreement; a missing agreement, return promise or authority defeats the clause before fairness is reached.

BLIND SPOTS

– Attacking the whole agreement rather than the delegation clause can hand validity to the arbitrator in Texas; choose the target before any briefing.
– The company can invoke FAA preemption (Kindred Nursing) against the Atalese and Leodori assent standards, so do not rest the formation attack on them alone. *

BUCKET 2 OF 3

Separation offer defects and settlement leverage

UNSIGNABLE OFFER — counter, don't sign

The eight-week offer ignores about $180,000 in unvested RSUs and the about $41,000 clawback, and its 21-day group release and missing agency carve-outs make it unsignable as drafted.

Related – Bucket 2 (Separation offer defects and settlement leverage): the government track and PHI exposure; the counsel limit against release language reaching the government track
Related – Bucket 1 (Forum, limitations clocks, and claim vehicle): arbitration clause, six-month bar, claim clocks and CEPA/LAD vehicle choice that bear on the fallback posture
Related – Bucket 1 (Forum, limitations clocks, and claim vehicle): the 1099 period supporting a tenure theory

PROPOSITION 2.1 Each covenant marked up separately

RELEASE DEFECTS — gag terms, failed age waiver

The offer has no SEC, OSHA or EEOC carve-out, its 21-day group release lacks the 45 days and disclosures an eleven-person RIF requires, and the money must stay clear of the government track.

HOW TO WIN

+ Mark up each term as accept, revise or strike; Rule 21F-17 bars enforcing confidentiality against SEC contact, the offer has no carve-out for the SEC or agencies, no waiver may bar an EEOC charge, and the cooperation clause cannot impede agency communications; the test is whether the carve-out in substance preserves those communications. *
+ For a group termination program, a waiver of ADEA rights requires, among other things, 45 days to consider, a 7-day revocation period, and disclosure of the decisional unit (29 U.S.C. §626(f)(1)). The 21-day version with no decisional-unit disclosure fails at least two of those requirements, so the waiver is ineffective as to ADEA claims. Retaining the severance does not ratify it (Oubre v. Entergy Operations, Inc., 522 U.S. 422 (1998)). *
+ NJ makes unenforceable any settlement term that conceals details of a discrimination, retaliation or harassment claim and requires a confidentiality provision to be cleared. *
+ Employees cannot waive prospective FMLA rights but may release past FMLA claims without DOL or court approval (29 C.F.R. §825.220(d)); a signed release can reach past claims only. *

BLIND SPOTS

– A disclosure can look complete with the let-go list filled in while the retained-employee half and the decisional-unit scoring are missing; press for the full unit and scoring matrix, and do not accept the company's label that the defect stays inside the age clause, since the missing disclosures bear on whether the other federal claims' release survives under the totality test (Coventry).
– An agency sentence may protect filing but say nothing about money from it, and a general release waiving all relief can then reach awards; a carve-out that names an agency but does not exempt it from the waiver fails silently and surfaces only when the right is used.
– A liquidated-damages figure may be an unenforceable penalty, and cooperation or no-rehire terms may act as gags; the cooperation duty must be kept apart from the agency carve-out and state that it does not reach agency communications.

PROPOSITION 2.2 Owed baseline and bonus clawback test

VALUE ON THE TABLE — 18 days short

If nothing is signed, the client is owed about $60,000 at the June 30 vest, about $180,000 in unvested units and a clawback strike on about $41,000, and June 12 falls 18 days before the vest.

HOW TO WIN

+ Get the neutral-reference wording in writing and compare it with how the company will code the separation on the state form. Payroll codes can override a promise to protect unemployment.
+ Termination is a COBRA qualifying event with 18 months of coverage and at least 60 days to elect, measured from the later of loss of coverage or the election notice. The demand's twelve months must be tested against that baseline. *

BLIND SPOTS

– The June 12 end date falls 18 days before the June 30 vest of about $60,000. Check the date against the stock plan and award papers, because it decides whether that tranche vests.
– A discharge for work-connected misconduct disqualifies or delays unemployment (N.J.S.A. 43:21-5(b)). The unarticulated for-cause theory behind the clawback is the term that could carry that label, so keep it out of the agreement. *
– The company controls the entry that fixes the June 12 end date, and a date before the June 30 vest cuts off about $60,000. Compare it with the personnel file and pay records rather than accepting the company's production.
– The employer must notify the plan administrator within 30 days and the administrator send the election notice within 14 days after that. A late or missing notice moves the start of the 60-day election period. Was a notice ever delivered, and when? *
– If the release calls the end mutual or protects benefits, the company's state filing may still describe it differently and cost the client unemployment. Compare the actual filing with the release wording.
– A gap between June 12 and the start of continuation coverage can leave claims denied, and extra COBRA months netted against cash add nothing. Check the plan's notice and premium bills, not the settlement wording.

PROPOSITION 2.3 Protected activity predates RIF and elimination

STRONG LIABILITY — tax allocation must be earned

Retaliation, accommodation and discharge theories are strong because the PIP counted five approved FMLA days among six absences, and any physical-sickness tax allocation must rest on documented post-PIP MS exacerbation.

HOW TO WIN

+ The FMLA bars counting protected leave as a negative factor and interference needs only a denied entitlement, not intent; five of the PIP's counted days were approved leave, and the May 2025 10-to-4 core-hours request is an accommodation request, not FMLA leave, so FMLA focus stays on the PIP's treatment of approved leave. *
+ The LAD and ADA require reasonable accommodation, including modified schedules, and an interactive process once requested; a request left 'under review' for eleven weeks with no answer is actionable where accommodation was plausible. *
+ The LAD and FMLA bar reprisal for opposing prohibited practices, and the February 9 written and March 2 verbal objections support the claim; an action is materially adverse if it might dissuade a reasonable worker (Burlington Northern), and NJ applies the same standard. *
+ CEPA needs a reasonable belief of illegality, whistleblowing, adverse action and causal connection, with a one-year period ending June 12; instituting a CEPA action waives other state and common-law claims substantially related to it (N.J.S.A. 34:19-8), so settle the vehicle first. *
+ The FCA protects an employee discharged for efforts to stop FCA violations, with three years from the retaliation; the March 17 complaint fits that protected activity. *
+ The tax test is whether employer conduct caused a documented physical exacerbation of the MS, not whether the MS predated the PIP; damages for personal physical sickness are excluded from income, but emotional distress is not except for medical care costs, and ADEA back pay is treated separately.

BLIND SPOTS

– The company will try to show the downgrade was planned before the leave request, so gather drafts, routing and earlier notes dating each step; the causation timeline cannot run from the February 9 objection to the January 29 PIP because the PIP came first.
– If the disability claim fails on comparators, the retaliation claim can be dismissed in the same order without its own review; plead and argue retaliation separately so the employer cannot fold it into the disability argument and narrow discovery, keeping the February 9 email and March 2 conversation in view.
– Do not focus only on the VP's 'unreliable' remark or the December Slack; the stronger point is that the PIP counted approved leave days.
– Open question: the LAD, ADA and ADEA discriminatory discharge claim itself, which rests on duties going to a 34-year-old under-40 employee. *
– A reorganization memo or performance note dated after the complaint, or one that clashes with earlier reviews, can be tested against the timeline.
– A demand letter listing physical and emotional symptoms together cannot prove the MS exacerbation came first; do not use its blended wording.
– Open question: how attorney's fees in the recovery are taxed under 26 U.S.C. §62(a)(20) and Commissioner v. Banks, which decides how much of the award is net. *
– A stress-caused symptom may be treated as MS-caused and excluded from tax, and the mistake can surface after signing when someone reads the record.

BUCKET 3 OF 3

Government track and PHI document exposure

GOVERNMENT TRACK — protect it, quarantine PHI

The Medicare billing report belongs on a sealed government track that no release may touch, and the twelve PHI extracts in personal Gmail are the exposure to manage.

Related – Bucket 3 (Government track and PHI document exposure): missing agency carve-outs (SEC Rule 21F-17), the false return-of-property representation, and the demand item keeping the government track outside the release
Related – Bucket 1 (Forum, limitations clocks, and claim vehicle): whether any qui tam interacts with arbitration or the claim-vehicle choice

PROPOSITION 3.1 Government billing award share excluded from release

REWARD AT STAKE — release must exclude

Only a qui tam pays the client a share, 15 to 25 percent if the Government intervenes and 25 to 30 percent if not, so every release term must leave that track untouched.

HOW TO WIN

+ A relator receives 15 to 25 percent of proceeds if the Government intervenes and 25 to 30 percent if not, while SOX and OSHA reporting carry no share. Strike or exclude any release, assignment or waiver that touches it. *
+ The client's own FCA retaliation claim from the March 17 complaint and the June 12 termination is personal and releasable, unlike the qui tam. Price it in the counter rather than giving it away. *
+ SEC Rule 21F-17 bars impeding direct communication with SEC staff. An agency carve-out preserves the ability to report but does not by itself preserve a reward share, so the reward needs its own exclusion. *

BLIND SPOTS

– A general release signed before any qui tam filing may be argued to reach the qui tam. The Third Circuit standard on that question is open, so require an express exclusion of the qui tam and any award rather than relying on a general carve-out. *
– A release can pass the gag-clause check and still cost the client a reward share, and the loss may surface years later. Test reward eligibility separately from the secrecy and cooperation terms.

PROPOSITION 3.2 Billing evidence handling limited to counsel

PHI EXPOSURE — hold, don't move

Twelve of the forty billing documents hold PHI in personal Gmail and a synced laptop, sent to no one, and the client's exposure turns on how they are handled from here.

HOW TO WIN

+ A good-faith disclosure by a workforce member to a health oversight agency or a retained attorney is not a Privacy Rule violation (45 C.F.R. §164.502(j)(1)). It does not authorize forwarding PHI to anyone now, and nothing has moved. *
+ Whether taking employer documents is LAD-protected turns on a totality test (Quinlan): how obtained, to whom shown, content, why not sought in discovery, and the employer's policies. Gather the client's account of each factor. *
+ The intake record of what the client copied comes from the client's own account. Once the access cutoff is confirmed as on or before first contact with counsel, that record is the fixed starting point.

BLIND SPOTS

– The civil framework does not immunize against criminal prosecution for taking employer documents (State v. Saavedra upheld an indictment). FCA counsel should resolve that exposure before any use of the extracts. *
– The intake list records a copying event that already ended and was made without a hold letter or recoverability check. Skipped files and copied summaries will not show as gaps, so do not treat it as a complete inventory.
– Keep your own dated list of what was copied unchanged so its dates can be checked later. Anything dated after the fact on either side undermines the file.

** rests on law no one has signed in this knowledge base — confirm the authority before relying on it.*

OPEN QUESTIONS — WHAT DECIDES THIS MATTER AND WHO CAN ANSWER IT

WHAT DECIDES THIS MATTER

? What are the agreement's dollar terms, release scope, and any other disclosures or provisions beyond the 21-day period? · *blocks part of this analysis*
? Where does the dollar figure come from, and how is it calculated from the RSUs, bonus and other components? · *blocks part of this analysis*
? Does the controlling circuit treat effective vindication as an independent bar after Italian Colors? · *blocks part of this analysis*
? Did the consulting business operate during the engagement, per concurrent invoices or contracts? · *blocks part of this analysis*
? Was the March 17 complaint a reasonable belief of an enumerated fraud category? · *blocks part of this analysis*
? Can the employer accept a substitute that preserves agency-reporting material? · *blocks part of this analysis*
? Was the challenge pleaded against the delegation clause specifically? · *blocks part of this analysis*
? Will the independent-trade prong be established on this record? · *blocks part of this analysis*
? Which adjudicating body will issue the status determination? · *blocks part of this analysis*
? Which candidate forum's unknown-claims standard governs? · *blocks part of this analysis*
? What is the true decisional-unit population? · *blocks part of this analysis*
? Which covenants will the employer concede? · *blocks part of this analysis*
? Will the employer agree to a standstill? · *blocks part of this analysis*
? Did other ten RIF employees get same paperwork?
? Is she first to file?

QUESTIONS ONLY YOU CAN ANSWER

? What is Status of the September 4, 2026 company deadline: extended in writing or lapsed (the conversation treats it as live though it is 62 days past as of AS OF)? The record does not supply it; likely source: Company counsel correspondence and the attorney's file. · *blocks part of this analysis*
? What is Neurologist's post-PIP documentation: date, content, and diagnosis classification of the MS exacerbation? The record does not supply it; likely source: Neurologist records, obtained with client authorization. · *blocks part of this analysis*
? What is Client's post-termination status: current employment, income since June 12, 2026, unemployment claim status, and current health coverage? The record does not supply it; likely source: Client. · *blocks part of this analysis*
? What is Date and method of the transfer of the forty documents to client's Gmail and laptop sync? The record does not supply it; likely source: Client, with email and sync metadata. · *blocks part of this analysis*
? Whether any charge, complaint, or motion to compel arbitration is pending in any forum? The record does not supply it; likely source: Client, docket searches, and company counsel. · *blocks part of this analysis*
? What is Calendar date of the 'Friday' sign / counter / walk decision? The record does not supply it; likely source: Attorney and client calendars, anchored to AS OF 2026-11-05. · *blocks part of this analysis*
? What is Exact start and end days of the 1099 consulting period (July 2021 to September 2022)? The record does not supply it; likely source: SOW, invoices, and LLC records. · *blocks part of this analysis*
? What is Date client first disclosed MS to the employer and date intermittent FMLA approval issued? The record does not supply it; likely source: HR leave file and client. · *blocks part of this analysis*

FACTS THE RECORD STILL NEEDS

? What is RIF decisional-unit disclosure: job titles and ages of selected and non-selected employees, and whether the other ten received the same 21-day agreement with no disclosures? The record does not supply it; likely source: Company production or company counsel; the other RIF employees. · *blocks part of this analysis*
? What is Company's stated for-cause basis for the about $41,000 2025 bonus clawback (none has been articulated to client) and the bonus plan's recovery terms? The record does not supply it; likely source: Company written clawback notice or the bonus plan and agreement text. · *blocks part of this analysis*
? Who added client's name between the April 20 nine-name draft and the eleven-name version, when, and whether the CCO or GC touched the list? The record does not supply it; likely source: List version metadata, the RIF scoring matrix, and CHRO and VP testimony. · *blocks part of this analysis*
? What is HRIS acceptance record for the 2022 checkbox: timestamp, the agreement text displayed, and whether delegation and class-waiver language was shown? The record does not supply it; likely source: Company HRIS audit log. · *blocks part of this analysis*
? Whether the company has any record of the document transfer (DLP or access logs) or knowledge of it (currently assumed not)? The record does not supply it; likely source: Company IT records and discovery. · *blocks part of this analysis*
? What is RIF scoring matrix referenced in the CHRO email? The record does not supply it; likely source: Company production (preservation demand and discovery). · *blocks part of this analysis*

QUESTIONS OF LAW

? Whether any qui tam, public disclosure, or government investigation of the monitoring-day billing already exists (first-to-file and public-disclosure status)? The record does not supply it; likely source: FCA counsel via public-disclosure search and sealed-docket inquiry. · *blocks part of this analysis*

RAISED AT INTAKE, NOT PLACED IN THIS ANALYSIS

· Consulting-period facts: misclassification and separate MSA (under Forum, limitations clocks, and claim vehicle)
· Complaints about FMLA and no agency filing (under Forum, limitations clocks, and claim vehicle)
· Billing complaint and retaliation chain (under Forum, limitations clocks, and claim vehicle)
· Filing deadlines (under Forum, limitations clocks, and claim vehicle)
· Employer profile (under Forum, limitations clocks, and claim vehicle)
· Friday decision (under Separation offer defects and settlement leverage)
· September 4 deadline as lever (under Separation offer defects and settlement leverage)
· Demand package terms (under Separation offer defects and settlement leverage)
· Client priorities and ordering (under Separation offer defects and settlement leverage)