

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLANDCHAMBERS OF  
WILLIAM M. NICKERSON  
SENIOR UNITED STATES DISTRICT JUDGE101 WEST LOMBARD STREET  
BALTIMORE, MARYLAND 21201  
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December 4, 2014

Mr. Rideout &amp; Counsel of Record

Re: Rideout v. Futurecare Rehabilitation Services, Inc.  
Case No. WMN-14-994

Dear Mr. Rideout and Counsel:

I am in receipt of Mr. Rideout's Memorandum Regarding Plaintiff's Claim of Title VII Violation, ECF No. 35, which he submitted in response to the Court's Order to provide an explanation as to his intention to bring a Title VII claim. In this explanation, Rideout concedes that he "does not belong to a 'protected class'" but argues that such membership is not a necessary element or prerequisite "to claim a Violation of Title VII by his/her employer." *Id.* at 1. He argues that his protected activity under Title VII was opposing the unlawful act of billing inflation contrary to Maryland law.

Opposition to potentially illegal billing practices does not constitute a protected activity under Title VII. 42 U.S.C. § 2000e-3 prohibits employers from discriminating against an employee because the employee opposed an unlawful employment practice related to Title VII. Gethers v. Harrison, \_\_ F. Supp. 2d \_\_\_, Civ. No. 5:12-CV-430-F, 2014 WL 2616629, \*7 (E.D.N.C. June 12, 2014) ("[P]rotected activity falls into two categories: participation activity or opposition activity. Participation activity refers to activity in formal Title VII EEOC proceedings. Opposition activity includes complaints about alleged discriminatory activities.") (citations omitted). An unlawful employment practice related to Title VII is one which discriminates against a member of a protected class based on the member's race, color, sex, religion, or national origin. Laughlin v. Metropolitan Washington Airports Authority, 149 F.3d 253, 259 (4th Cir. 1998). Therefore, membership in a protected class, or opposing an employment practice that discriminates against a protected class, is a prerequisite to a Title VII suit. Allegedly fraudulent billing practices, by their nature, do not discriminate against a class of people based on their race, color, sex, religion, or national origin. Thus, Mr. Rideout has conceded he cannot bring a Title VII claim, which is the sole basis for this Court's jurisdiction.

Mr. Rideout argues, in the alternative, that he has a potential False Claims Act (FCA) or Fraud Enforcements and Recovery Act (FERA) claim and requests that the Court treat his submission as a motion to amend so that he may add those claims. ECF No. 35 at 4. The current complaint before the Court constitutes the Second Amended Complaint. Mr. Rideout amended his complaint once while the case was in state court. This Court then granted Mr. Rideout leave to amend a second time in August, 2014, despite that amendment being outside the window of

