

False Claims Act and Qui Tam

Investigations and litigation under federal and state False Claims Acts (FCA) can be among the most complex disputes to confront companies and individuals in heavily regulated industries. Penalties and damages in FCA cases can and do pose an existential threat to most defendants.

Successfully navigating the rough waters of these multifaceted matters requires not only the experience of seasoned FCA litigators, but the insights of regulatory lawyers who can put those allegations in context because they understand your business and the rules that apply. That combination of skill sets lies at the core of our multidisciplinary FCA practice. From the initial fact-finding investigation through litigation and complex settlement discussions, we are the team you need on your side.

Our lawyers have handled every stage of investigation and litigation under the federal FCA, as well as similar cases filed under state false claims, anti-kickback, and fraud-on-the-taxpayer statutes. We have an extraordinary track record defending cases investigated and prosecuted by the government or private qui tam relators.

We've successfully defended FCA matters for corporations, joint ventures, state and local agencies, government entities, universities, and individuals across a wide range of industries, including health care, food and drug, education, government contracting and defense, financial services, technology, and energy.

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Practices

Litigation

Investigations

Our FCA litigators, many of whom spent years handling FCA cases for the U.S. Department of Justice (DOJ), have worked on hundreds of significant matters; from internal and government investigations to complex, multiparty, multijurisdictional settlement negotiations and from motions practice to trial to appeal.

Representative experience

Won dismissal of qui tam complaint brought against a major pharmaceutical company surrounding “off-label” uses not approved by the Food and Drug Administration (FDA).

Won dismissal of qui tam complaint against a national health insurer and its subsidiary alleging kickbacks to providers for referrals of dual-eligible Medicare and Medicaid beneficiaries for plan enrollment.

Won dismissal of a qui tam complaint filed against a national finance corporation, alleging company fraudulently obtained over US\$4.6bn in loans from the Federal Financing Bank and Farmer Mac.

Settled qui tam claim against major pharmaceutical companies alleging engagement in a scheme to misidentify certain “innovator” drugs as “non-innovator” to reduce Medicaid rebates owed the states.

Successful settlement of FCA claim around research and development of solar technology under contracts with the National Renewable Energy Laboratory, the Department of Energy, and the Department of Defense (DOD).

Won dismissal of qui tam complaint brought by an internal whistleblower against a state university alleging false and inflated payments of employee fringe benefit costs.

Successful defense of leading research institutions in an FCA investigation involving multiple federal agencies and over US\$1bn of federal funding.

Won dismissal of qui tam complaint brought against a state student loan authority relating to student loan subsidies.

Dismissal affirmed by the United States Court of Appeals for the Fourth Circuit.

Quashed civil investigative demand served by state attorney general on state university seeking academic records for claimed investigation under state FCA statute. Sustained on appeal to state supreme court.

Successful settlement of an FCA claim involving DOD contracts for research and development of aircraft surveillance technologies.

Won summary judgment for a major laboratory company in qui tam complaint alleging improper billing and marketing practices, as well as claimed violations of the federal Anti-Kickback Statute and the Stark Law.

Won dismissal of qui tam complaint alleging that a large academic medical center's methodology for compensating employed neurosurgeons violated the Stark Law.

Won summary judgment for university in qui tam complaint accusing its anesthesiologists of billing for services they didn't provide.

Represented large health benefits company in responding to a government investigation precipitated by a qui tam complaint, culminating in the government's decision not to intervene and in relator's dismissal.

Representing clients, from hospitals to clinical laboratories, in self-disclosures submitted to the OIG (under the SDP) and CMS (under the SRDP).

Won nine motions for summary judgment defeating allegations in declined qui tam that a pharmaceutical manufacturer engaged in off-label promotion and Anti-Kickback Statute violations to generate drug sales.

Negotiated settlement for consumer products company around FCA violations based on alleged failure to pay Tariff Act duties.

Defended medical device company in an FCA qui tam case, in which a manager sought damages for alleged kickbacks to

physicians.

Latest thinking and events

Published Works

9th Circ. Adds to Growing Consensus on Escobar FCA Test

Law360

Hogan Lovells Publications

FCA Alert: Medical judgment can be "false" under False Claims Act

FCA Alert

Hogan Lovells Publications

In fraud and corruption investigations, artificial intelligence and data analytics save time and reduce client costs

Hogan Lovells Publications

False Claims Act - Taking a bite of the customs duties apple?

Hogan Lovells Publications

Health care program penalties rise with Bipartisan Budget Act of 2018

Hogan Lovells Publications

False Claims Act: A review of 2017

Hogan Lovells