



False Claims Act

Clients in sectors of the economy facing the greatest FCA activity—including pharmaceuticals and healthcare, defense, financial services and insurance, technology, construction, and consumer goods—turn to us in FCA investigations and litigation. Our veteran litigators, many of whom served in the Departments of Justice and Defense, skillfully represent companies and individuals in difficult, high-stakes FCA matters brought by *qui tam* plaintiffs and the government, including the Department of Justice (DOJ) and state attorneys general.

PRACTICE AT A GLANCE

- Our team includes lawyers who, during prior government service, oversaw the investigation, management, active litigation and resolution of major FCA cases. Therefore, we approach each matter with a deep understanding of the government’s objectives, and we have favorably resolved many matters without a formal action being filed.
- We also have an extensive record of obtaining early dismissal of suits by focusing on precedent-setting legal defenses, including innovative uses of the FCA’s public-disclosure and first-to-file bars and the US Supreme Court’s Escobar decision.
- By conducting credible internal investigations and negotiating with the DOJ and state attorneys general, we have helped clients avoid criminal prosecution and globally resolve government-facing liability.

OUR FCA GROUP INCLUDES

- Two former **US deputy attorneys general** who oversaw the DOJ’s Civil Frauds Unit and considered major interventions and settlements.
- Three **former US attorneys**: for the District of Columbia and the District of Colorado.
- Two **former DOD general counsel** who oversaw all litigation, including FCA and other procurement-related work.
- Many **former assistant US attorneys** and lawyers with **extensive jury trial experience**, as well as litigators well versed in cases involving government procurements.

\$2.2B+

Recovered by the federal government in FCA cases in FY2020

672

New federal *qui tam* suits filed in FY2020

FCA LITIGATION CAN HAVE STEEP COSTS

- Treble damages
- \$11,463–22,297 civil penalties per claim
- Potential debarment from federal programs
- Similar liability under state and local false claims laws

SELECT EXPERIENCE

Healthcare

- Secured a dismissal for a pharmaceutical company alleged to have made false marketing claims. The district court dismissed the case; the Fourth Circuit affirmed.
- Represented a pharmaceutical company in a novel suit brought under the *qui tam* provision of California's Insurance Frauds Prevention Act by the California Insurance Commissioner and whistleblowers; obtained dismissal of whistleblowers on summary judgment

Defense

- Represented a defense contractor in a suit alleging that it fraudulently concealed defects in equipment manufactured for the military. The district court dismissed the *qui tam* case and the relator declined to appeal.
- Resolved a suit without finding of FCA liability for a defense contractor in a DOJ investigation related to armored vehicles used in Iraq.

Financial Services and Insurance

- Secured a dismissal of a suite of cases brought in state courts by a *qui tam* plaintiff against a financial institution concerning fixed-rate municipal bonds.
- Won a dismissal for a major bank in *qui tam* litigation brought in district court by a former loan officer seeking damages based on allegations that the bank violated requirements for mortgages sold to Fannie Mae and Freddie Mac under the Home Affordable Refinance Program.

Technology

- Secured a dismissal for a computer company in a *qui tam* suit alleging conspiracy to violate immigration laws related to foreign national's work in the US. The district court dismissed, and the relator ultimately dismissed his appeal.
- Represented an electronic company in a *qui tam* complaint related to equipment used in military radar systems. The federal government declined to intervene after a US Attorney's Office investigation.

Consumer Goods

- Represented an office supply company in FCA litigation relating to country of origin for imported pencils in relation to US Customs and Border Protection forms. The district court completely dismissed the case with prejudice.
- Secured a victory for an entertainment client in a *qui tam* action filed under the FCA. A district court dismissed the complaint with prejudice; the Eleventh Circuit affirmed.

For more information, please contact:

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SOME LIABILITY PREVENTION AND INVESTIGATION STRATEGIES

- Hold regular company-wide fraud-prevention training
- Maintain internal whistleblower hotline
- Act deliberately when dealing with ambiguous laws, regulations and contractual provisions
- Manage employee relations thoughtfully
- Properly handle employee separations
- Incorporate FCA analysis into risk assessments
- Ensure preservation of documents
- Take care to maintain privileges
- Consider making FOIA requests as soon as possible

"They're a top notch team: They leave no stone unturned and are very strategic."

— Chambers USA
on WilmerHale's litigation team