

Supreme Court Upholds Implied Certification Liability, While Emphasizing Materiality Requirement

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Authors Jonathan G. Cedarbaum, Karen F. Green and David W. Ogden explain the US Supreme Court's recent unanimous decision to uphold the "implied certification" theory of liability under the False Claims Act and discuss the implications for future False Claims Act cases; published in the August 2016 edition of *Pratt's Government Contracting Law Report*, Vol. 2, No. 8.

In *Universal Health Services v. United States ex rel. Escobar*, the US Supreme Court unanimously upheld the "implied certification" theory of liability under the False Claims Act (FCA), while emphasizing that only material misrepresentations are actionable. In particular, the Court held that liability can attach if the defendant submits a claim for payment that makes "specific representations about the goods or services provided, but knowingly fails to disclose the defendant's noncompliance with a statutory, regulatory, or contractual requirement," which the defendant "knows is material to the Government's payment decision." [Read the full article](#)

Authors



David W. Ogden

PARTNER

Chair, Government and
Regulatory Litigation Practice
Group

 david.ogden@wilmerhale.com

 +1 202 663 6440