Reject The Mistaken *Qui Tam* FCA Resealing Doctrine

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In this article published by *Law360*, Jonathan Cedarbaum and Matthew Benedetto highlight why it's imperative for courts to reconsider the resealing doctrine, the increasingly common view that a relator's amended complaint, particularly one that includes substantial additions, should be filed under seal, even after the initial complaint was unsealed and the government has declined to intervene. As authors explain, this resealing doctrine is contrary to legislative intent and fails to serve the original purpose for sealing such complaints: 1) to give the government time to determine if the complaint overlaps with an existing investigation and 2) to avoid tipping off the defendant. Resealing further hampers the ability of defendants to mount an effective defense as it delays their ability to know the precise charges and evidence against them.

Excerpt: In recent years, a number of courts, with the approval of the US Department of Justice, have embraced the view that, when a relator files an amended complaint in a *qui tam* False Claims Act case after the government has declined to intervene and the case has been unsealed, the amended complaint should nonetheless be filed under seal, at least if it contains substantial amendments. This interpretation of the FCA is contrary to the statute's plain terms and purposes and should be rejected. Read the article.

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