

## Services

### False Claims Act and Qui Tam

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Preventing fraud and abuse in government program expenditures remains a top law enforcement priority. Federal agencies have aggressively pursued investigations and prosecutions of government contractors and health care entities. Perhaps no vehicle for pursuing these claims presents greater challenges than the federal False Claims Act, which allows cases to be brought by “whistleblowers” suing on behalf of the government against those alleged to have submitted false claims for payment to an officer of the United States. The government views the Act as an ideal enforcement vehicle because it encourages private individuals to ferret out alleged fraud on behalf of the government, and it provides for treble damages. Likewise, whistleblowers (and the plaintiffs’ bar that specializes in these cases) aggressively pursue these claims because of the statutory entitlement to a share of the Government’s recovery and the attorney’s fees incurred in pursuing the litigation. Many states also have enacted statutes that parallel the False Claims Act.

### Who We Represent

Our firm has wide-ranging experience handling False Claims Act cases, especially in the health care and government contracts arenas. Our attorneys also have represented manufacturers, hospitals, retailers and other clients in connection with False Claims Act matters.

We have experience representing clients both large and small from all of the major industries that receive federal funds, such as the health care, pharmaceutical and financial services industries, as well as government contractors in the defense, energy and environmental sectors.

### What We Do

Our firm has wide-ranging experience handling False Claims Act cases from their inception as a subpoena or civil investigative demand (CID) through trial. Indeed, we are one of the few firms in the country that has tried, and won, defense jury verdicts for government contractors in False Claims Act cases.

Our background in this area includes the following experience:

- Conducting internal investigations
- Advising corporations on the advantages and disadvantages of voluntary disclosure
- Negotiating with and convincing the Department of Justice not to intervene in civil fraud cases brought by *qui tam* relators
- Negotiating “global” settlements with the government, requiring the concurrence of the government's civil, criminal and administrative authorities
- Preventing the suspension, debarment, or exclusion of corporate entities or individuals from government contracts or grant programs
- Responding to subpoenas and defending individuals and corporations in criminal actions which arise out of False Claims Act cases
- Representing corporations in connection with congressional investigations related to the False Claims Act
- Counseling corporations on the creation of compliance programs
- Preparing and conducting the defense at trial of False Claims Act lawsuits brought by individual relators and by the United States

In such cases, our attorneys have obtained dismissal of complaints involving the alleged failure to comply with military procurement specifications, claimed hospital overcharges of Medicare and Medicaid and purported false claims related to government-owned, contractor-operated facilities.

## News

News, 4.7.2023

Vorys Lawyers Named to 2023 *Cincy Magazine* Leading Lawyers List

10.19.2022

Mahle Quoted in *Law360* Article Titled “Lack Of Clarity On FCA Pleading May Prompt Venue Shopping”

News, 10.18.2021

Mahle Quoted in *Government Contracts Law360* Story Titled “Attys Hope For Clarity With Justices' Interest In Fraud Claims”

News, 6.17.2021

Walton Quoted in *Law360* Article Titled “Escobar 5 Years Later: How FCA Earthquake Is Reverberating”

News, 7.20.2018

Miller Quoted in Bloomberg Government *Federal Contracts Report* story titled “High Hopes, 1 Result From Justice Department False Claims Memo”

News, 6.18.2018

Walton Quoted in *Government Contracts Law360* Story Titled "Attys Reflect On Escobar's FCA Impact 2 Years Later"

News, 1.1.2018

Vorys Elevates Seven to Partner

News, 6.19.2017

Walton Quoted in *Government Contracts Law360* Article Titled "Attys Dish On Escobar's FCA Impact One Year Later"

News, 8.15.2016

More Than 100 Vorys Attorneys Named to 2017 The Best Lawyers in America® List

News, 6.17.2016

Walton Quoted in *Government Contracts Law360* Article Titled "Attys React To High Court's FCA Liability Ruling"

News, 8.17.2015

More Than 100 Vorys Attorneys Named to 2016 The Best Lawyers in America® List

News, 11.11.2014

Whitaker Quoted About the False Claims Act in *Westlaw Journal: Government Contract*

News, 8.18.2014

More Than 100 Vorys Attorneys Named to 2015 The Best Lawyers in America® List

News, 2.10.2014

Whitaker Quoted in *Columbia Daily Tribune* Story Titled "Lawsuit Over Bluebird Network's Use of Stimulus Funds May Go To Trial Soon"

News, 8.14.2013

More Than 100 Vorys Attorneys Named to 2014 *The Best Lawyers in America*® List

News, 5.7.2013

Whitaker Quoted in Cincinnati *Business Courier* Story, "A Deeper Look at What Could Happen in Chemed's Federal Lawsuit"

News, 5.3.2013

Vorys Partner Quoted in Cincinnati *Enquirer* Story on Medicaid Billing False Claims Act Case

News, 1.29.2013

Mahle Selected for CALL Class XVII

News, 12.17.2012

Vorys Attorneys Recognized as 2013 Ohio Super Lawyers and Rising Stars

News, 11.1.2012

Vorys Receives 63 Tier One Rankings on 2013 *U.S. News - Best Lawyers* "Best Law Firms" List

News, 3.16.2012

Vorys' False Claims Act Practice Featured in Cincinnati *Business Courier*

News, 1.31.2012

Vorys False Claims Practice Selected as a Government Contracts Practice Group of the Year

News, 4.24.2010

Glenn V. Whitaker featured in Cincinnati *Enquirer* article "Federal stimulus money, False Claims Act keep this attorney busy"

News, Dayton *Daily News*, 6.10.2008

"Court Makes it Tougher to Sue Subcontractors"

News, 6.9.2008

Vorys False Claims Act Trial Team Prevails in the U.S. Supreme Court

News, Cincinnati *Bar Association Report*, 4.2008

"No End in Sight: The Reach of the Federal False Claims Act"

News, Cincinnati *Enquirer*, 10.7.2007

Whitaker featured in Cincinnati *Enquirer* article "Law Firm Expands through Caseload: Whistle-Blower Statute is Catalyst for Growth"

## Publications

Client alert, 6.21.2023

Supreme Court Finds Broad Government Authority to Dismiss FCA Cases

Client alert, 6.1.2023

Supreme Court Rules FCA Scienter Is a Subjective Inquiry

Client alert, 4.3.2023

Sixth Circuit Limits False Claims Act Cases Based On Alleged Violations of the Anti-Kickback Statute

Client alert, 11.11.2019

*Whistleblower Defense Alert*: Government Uses § 3730 Dismissal Power To Dismiss Seven Year Old FCA Case

Client alert, 5.14.2019

*Whistleblower Defense Alert*: Supreme Court Extends Limitations Period in Non-Intervened FCA Cases

Client alert, 4.18.2019

*Whistleblower Defense Alert*: District Court Finds Bank Cannot Face FCA Liability Without Evidence of Explicit Claims to Fannie Mae and Freddie Mac

Client alert, 4.8.2019

*Whistleblower Defense Alert:* District Court Holds that DOJ Can Still Dismiss Qui Tam Cases After It Declines To Intervene—With No Justification Required for Dismissal

Client alert, 1.30.2018

*Whistleblower Defense Alert:* DOJ Policy Regarding Dismissal of FCA Lawsuits

Client alert, 1.12.2018

*Whistleblower Defense Alert:* Florida Court Overturns \$350 Million Judgment on *Escobar*

Client alert, 10.2.2017

*Whistleblower Defense Alert:* The Fifth Circuit Issues Strong Damages and Materiality Decision

Client alert, 5.2.2017

*Whistleblower Defense Alert:* The Third Circuit Confirms Broad Power of *Escobar*'s Materiality Requirements

Client alert, 12.19.2016

*Whistleblower Defense Alert:* The Supreme Court Rejects Mandatory Dismissal of Relator Claims For Seal Violations

Client alert, 9.29.2016

*Client Alert:* Third Circuit Reverses Denial of Preliminary Injunction in Pennsylvania Hospital Merger

Client alert, 9.19.2016

*Whistleblower Defense Alert:* Seventh Circuit's Latest Interpretation of Rule 9(b) Sets the Pleading Bar Higher for Relators

Client alert, 6.16.2016

*Whistleblower Defense Alert: Escobar:* The Supreme Court Upholds Implied Certification Theory

Client alert, 4.22.2016

*Whistleblower Defense Alert:* Supreme Court Hears Arguments on Implied Certification Theory of FCA Liability

Client alert, 2.11.2016

*Client Alert:* CMS Final Rule Clarifies and Eases Obligation to Report and Return Medicare Overpayments

Client alert, 8.12.2015

*Whistleblower Defense Alert:* D.C. Circuit Upholds Assertion of Privilege as to Internal Investigation Documents in FCA Suit

Client alert, 8.3.2015

*Whistleblower Defense Alert:* Three Questions Every FCA Defendant Should Ask To Evaluate Whether Claim Preclusion Can Fill The Gap Created By The Supreme Court's Interpretation Of The First-To-File Rule

Client alert, 7.20.2015

*Whistleblower Defense Alert:* Ninth Circuit Paves Way for More *Qui Tam* Lawsuits

Client alert, 5.26.2015

*Whistleblower Defense Alert:* Supreme Court Holds the WSLA Does Not Apply to the Civil FCA But Limits the Scope of the First-to-File Bar

Client alert, 5.26.2015

*Whistleblower Defense Alert:* Sixth Circuit Reaffirms Fair Market Value As Proper Measure of Damages, Vacates FCA Award of \$657 Million to the Government

Client alert, 2.12.2015

*Whistleblower Defense Alert:* The Withering of The Public Disclosure Bar

Client alert, 2.5.2015

*Whistleblower Defense Alert:* Sixth Circuit Affirms Importance of Government Witnesses in Materiality Analysis

Client alert, 1.14.2015

*Whistleblower Defense Alert:* Fourth Circuit's Opinion Shows Influence of Government's Decision to Intervene on Court's Determination of Materiality

Client alert, 1.9.2015

*Whistleblower Defense Alert:* District Court Imposes \$1.6 Million Sanction Against Relators for Violating the FCA Seal

Client alert, 12.5.2014

*Whistleblower Defense Alert:* Department of Justice Announces Third Straight Year of Record-Breaking False Claims Act Recoveries

Client alert, 10.16.2014

*Whistleblower Defense Alert:* Court Finds Relator Ill-Suited To Question Federal Agency's Judgment, Tosses *Qui Tam* Suit

Client alert, 9.5.2014

*Whistleblower Defense Alert:* How To Maximize The Tax Deductible Portion Of An FCA Settlement

Client alert, 7.2.2014

*Whistleblower Defense Alert:* D.C. Circuit Grants Writ of Mandamus and Protects Privilege of Internal Corporate Investigations

Client alert, 7.1.2014

*Whistleblower Defense Alert:* The Supreme Court Will Review Fourth Circuit Decision that Weakened the False Claims Act's Statute of Limitations and First-to-File Bar

Client alert, 6.25.2014

*Whistleblower Defense Alert:* Third Circuit Decision Erodes FCA Pleading Requirements

**Client alert, 6.2.2014**

*Whistleblower Defense Alert:* Defeating a Whistleblower's Cursory Allegations of Scienter in FCA Cases Involving a Defendant's Good Faith Interpretation of a Regulation or Contract

**Client alert, 4.28.2014**

*Whistleblower Defense Client Alert:* How To Defeat An Implied Certification Claim

**Client alert, 3.27.2014**

*Whistleblower Defense Client Alert:* Using Government Witnesses to Obtain Summary Judgment on a *Qui Tam* Relator's FCA Claims

**Client alert, 2.27.2014**

*Health Care Alert:* Aggressive Federal Health Care Fraud and Abuse Actions Result in Record \$4.3 Billion Recovery in 2013

**Client alert, 2.5.2014**

*Whistleblower Defense Client Alert:* What Government Contractors Should Know About Fraud-In-The-Inducement Cases

**Client alert, 1.27.2014**

*Whistleblower Defense Client Alert - Fourth Circuit:* Amended Public Disclosure Bar No Longer Jurisdictional

**Client alert, 3.4.2013**

*Client Alert:* U.S. District Court Dismisses \$10 Million FCA Suit

**Authored article, 8.23.2012**

Measuring Damages In FCA Fraudulent Inducement Cases

**Authored article, *Law360*, May 2012**

An Unconstitutional FCA Provision Lurking In PPACA?

**Authored article, 3.20.2012**

A Guide To Preventing False Claims Act Litigation

**Client alert, 10.30.2009**

*Client Alert:* Vorys False Claims Act Trial Team Obtains Another Victory in Allison Engine

**Authored article, *Andrews Litigation Reporter*, 7.1.2009**

"New Law Targets Banks For Whistle-Blower Actions"

**Authored article, *American Banker*, 6.5.2009**

Viewpoint: FCA changes threaten federal aid recipients

**Authored article, 1.30.2008**

"A Threat Is Looming: The Proposed False Claims Act Amendments Could Prove Devastating to Government Contractors"

Authored article, *Andrews Litigation Reporter*, 1.28.2008

"Government Contractors Beware: The 'Secret Handshake' Theory of False Claims Act Liability?"

Client alert, 9.1.2007

*False Claims Alert*

### Speaking Engagements

Event, 11.16.2023

2023 Vorys Legal Education (VLE) Seminar

1.21.2016

3rd Advanced Forum on False Claims & Qui Tam Enforcement

Hosted by the American Conference Institute

11.12.2009

Current Issues in Commercial Law and Litigation

Presented by Vorys, Sater, Seymour and Pease