

## Publications

**Client Alert: U.S. District Court Dismisses \$10 Million FCA Suit****Related Attorneys**[Victor A. Walton, Jr.](#)[Jeffrey A. Miller](#)[Jacob D. Mahle](#)[Jessica K. Baverman](#)**Related Services**[False Claims Act and Qui Tam](#)**CLIENT ALERT** | 3.4.2013

U.S. District Court for the Northern District of Georgia Judge Thomas W. Thrash, Jr. recently granted a motion to dismiss *qui tam* claims from two relators who alleged that Lockheed Martin violated the False Claims Act (FCA) by inflating the reported number of hours its employees worked on government contracts. The relators, both former employees, alleged that the company overbilled the government more than \$10 million in employee work-hours.

This triumph is significant for FCA defendants for several reasons. In addition to re-establishing the rule that a FCA plaintiff in the Eleventh Circuit must plead the existence of a false claim to proceed to discovery, the decision also makes clear that it is not enough for a relator to bombard a court with alleged details and that, even on a motion to dismiss, courts can be persuaded that there was simply no misconduct by the defendant.

Judge Thrash's opinion adopted many of the arguments for dismissal and for denying sanctions presented by Lockheed Martin, which was represented by Vorys attorneys [Glenn V. Whitaker](#), [Michael J. Bronson](#) and [Joseph W. Harper](#). Despite a 194-paragraph complaint attaching a 522-page appendix that purported to detail the relators' allegations, the Vorys trial team was able to convince the court that "[t]here is nothing to suggest that Lockheed systematically bills the government for work it has not done or for employee hours that it has not authorized and paid for," and that there was "no indication that the United States would consider the [alleged] billing practices to be fraud." Quoting a prior decision, Judge Thrash concluded that: "Relators may suspect fraudulent activity, 'but they currently have little, and maybe no, basis to believe that wrongful acts occurred.'" With no evidence of wrongful acts, there was no basis for the *qui tam* claims to go forward.

The relators had also claimed that the company retaliated by terminating one worker and reassigning the other. In his decision, Judge Thrash granted Lockheed's motion to dismiss the claim that the company retaliated by reassigning work duties. The other retaliation claim is still pending.

The entire opinion is [available here](#). To read a *Law360* article on this matter, [click here](#). (Subscription is required).