

DOJ: Whistleblowers Filed Highest Number of FCA Cases Ever and Settlements and Judgments Exceeded \$2.9 Billion in FY 2024

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The U.S. Department of Justice (DOJ) recently released the fiscal year (FY) 2024 (October 1, 2023 – September 30, 2024) statistics on qui tam and non-qui tam actions under the False Claims Act, 31 U.S.C. § 3729, *et seq.* (FCA). Relator whistleblowers filed the highest number of FCA actions ever, totaling 979 new qui tam actions. Settlements and judgments exceeded \$2.9 billion, of which \$2.4 billion arose from qui tam actions. And Relator shares of settlements and judgments exceeded \$400 million for the third year running.

Health care fraud settlements and judgments alone surpassed \$1.67 billion and represented approximately 58% of the total settlement and judgment recoveries—DOJ noted that total does not include recoveries for state Medicaid programs. Two settlements that arose from alleged wrongdoing contributing to the opioid epidemic accounted for approximately \$875 million of that total. But with respect to health care, DOJ pointed to several other settlements arising from allegations of substandard care or provision of unnecessary services, and affirmed its continued efforts related to Medicare Advantage fraud and unlawful kickbacks.

Although health care fraud remains the largest source of FCA recoveries, DOJ's report details several high-value settlements and judgments in military procurement fraud, PPP loans, and failures to meet cybersecurity requirements in government contracts, emphasizing the wide breadth of the FCA. In addition, pandemic relief fraud is still a significant area of enforcement for DOJ, accounting for 250 of the settlements and judgments and more than \$250 million in recoveries. DOJ reaffirmed its commitment to “fighting fraud and abuse in federal programs,” and its focus on “health care fraud, the opioid epidemic, fraud in pandemic relief programs, and violations of cyber security requirements in government contracts and grants.”

DOJ, as it does in other contexts, continues to promote cooperation of defendants in FCA investigations and litigations. According to DOJ, self-disclosure, “demonstrabl[e]” cooperation, and remedial measures, inure to defendants’ benefit through

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acknowledgement in settlement agreements, and reduced penalties or damage multiples. Organizations that discover internal fraud concerns, facing FCA Civil Investigative Demands, or defending against FCA actions must weigh and consider carefully how to approach self-disclosure and cooperation, from day one through the end of the action.

Deputy Assistant Attorney General for the Commercial Litigation Branch Michael Granston is expected to speak next month at the Federal Bar Association's Qui Tam Conference. DOJ may provide more detail on its enforcement priorities then, which may shift given the change of Administration.

FCA-enforcement actions do not appear likely to decline, though, given President Trump's nominee for Attorney General, Pam Bondi, said during her Senate confirmation hearing that DOJ would defend the constitutionality of the FCA in court and recognized the significance of the FCA as a means of "protection" from fraud and for "the money it brings back to our country."