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False Claims Act Settlements and Judgments Near $3 Billion in 2023

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The U.S. Department of Justice (DOJ) announced recently that settlements and judgments under the False Claims Act, 31 U.S.C. § 3729, *et seq.* (FCA) totaled approximately $2.7 billion in FY 2023 (October 1, 2022 – September 30, 2023). DOJ and whistleblowers were party to 543 settlements and judgments, a record high, and a fifty-percent increase from the 351 settlements and judgments obtained in FY 2022. Healthcare fraud schemes continue to make up the lion's share of settlement and judgment totals. In FY 2023, nearly $1.9 billion of total recoveries related to healthcare fraud.

The FCA fraud recovery statistics reveal important trends—and insight into what the future holds for industries subject to the FCA. There is a rise in FCA litigation across the board, with DOJ-initiated cases increasing. DOJ brought 500 FCA cases in FY 2023, more than any year ever. DOJ-initiated cases are on a years-long ramp up from 305 cases brought in FY 2022 and 212 brought in FY 2021. The surge relates at least in part to DOJ's pursuit of pandemic-relief program fraud, including improper payments under the Paycheck Protection Program (PPP). In FY 2023 alone, DOJ resolved 270 FCA cases involving PPP loans. By comparison, Relator's filed 712 qui tam actions in FY 2023, still a significant margin over DOJ (and representing the third highest in history), but representing a modest increase over the 658 FCA cases Relators brought in FY 2022.

Relatedly, DOJ is pursuing more investigations of potential frauds. Speaking at the 2024 Federal Bar Associations Qui Tam Conference, Principal Deputy Assistant Attorney General Brian M. Boynton said that, in FY 2023, DOJ issued a record 1,504 Civil Investigative Demands, an investigative tool to obtain documents, interrogatory responses, and testimony.

DOJ indicated its commitment to increased investigation and enforcement actions in the coming year, highlighting the following priorities:

Related People

- Chris DeLong
- Alex Hontos
- Kirk Schuler

Related Capabilities

- Healthcare Enforcement & Compliance
- Government Enforcement & Corporate Investigations

- **Cybersecurity**. In 2021, the DOJ announced a Civil Cyber-Fraud Initiative, which is focused on using the FCA to bring enforcement actions when government contractors fail to follow federal cybersecurity requirements.
- **Pandemic-relief fraud**. DOJ and its COVID-19 Fraud Enforcement Task Force have pursued a variety of pandemic related fraud schemes, including fraud related to PPP loans and the Economic Injury Disaster Loan Program.
- **Healthcare fraud**. DOJ continues its focus on healthcare fraud, including financial inducements for referrals—"kickbacks"—nursing-home related fraud schemes, and Medicare Advantage Program fraud.
- **Third-Party Liability**. DOJ is focused on third parties that cause the submission of false claims. These third parties can include private equity firms, consultants, or even electronic medical record software providers. The central focus is whether conduct by the third party played a significant and foreseeable role in advancing the scheme.

Whether the focus on these priorities in the upcoming year will lead to new records in FCA statistics for FY 2024 is of course yet to be seen, but based on the recent trends and the extended statute of limitations period afforded to DOJ to investigate pandemic relief fraud, it seems likely that this year will be a continuation of the record-setting FY 2023.