

False Claims Act - 2020 Year in Review

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In 2020, the COVID-19 pandemic caused dramatic shifts in the nation's economic landscape. One thing that did not change was the government's focus on fraud and violations of the False Claims Act, 31 U.S.C. §§ 3729 et seq. ("FCA"). In fact, that focus only increased with the enactment of several new laws providing trillions of dollars in government funding to affected business and individuals.

This Review highlights those and several other key developments from 2020, including:

- The recovery by the government of more than \$2.2 billion in settlements and judgments in FCA cases in 2020.
- The government prioritizing the detection, investigation, and prosecution of fraud related to or arising from the COVID-19 pandemic.
- Judicial efforts to determine the correct standard of review when the government moves to dismiss FCA cases brought by relators.
- Continued judicial efforts to interpret the elements of an FCA claim, including "materiality," after the Supreme Court's landmark decision in *Escobar*.
- Significant judicial decisions regarding the meaning of falsity (including whether subjective differences in clinical judgments can render a claim false), the public disclosure bar and its original source exception, and pleading requirements for FCA cases, among other issues.

In 2020, Haynes Boone represented healthcare providers, defense contractors, and individuals in FCA investigations and lawsuits. We successfully resolved matters before lawsuits were filed, negotiated favorable settlements at all stages, and defended our clients in active litigation. We also advised many healthcare providers and contractors regarding FCA compliance and other related issues.

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