False Claims Act - 2022 Year in Review

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In 2022, the government continued to build upon the previous year's enforcement efforts to address various forms of fraud—many of which have seen unprecedented proliferation in the shadow of the COVID-19 pandemic. The False Claims Act, 31 U.S.C. §§ 3729 *et seq*. ("FCA"), remains one of the government's most important weapons in those efforts.

This Review highlights key developments from 2022 related to the FCA, including:

- The recovery by the government of more than $2.2 billion in settlements and judgments in FCA cases in fiscal year 2022—less than half the previous fiscal year's recovery.
- The government prioritizing the detection, investigation, and prosecution of fraud related to cybersecurity and COVID-19 relief programs like the Paycheck Protection Program.
- The government continuing to emphasize individual accountability and adopting policies to incentivize voluntary self-disclosure.
- Continued judicial efforts to interpret the substantive elements of an FCA claim, including what it means for a claim to be "material" after the U.S. Supreme Court's landmark 2016 decision in *Escobar*.
- Significant judicial decisions regarding the standard the government must meet to dismiss an FCA case, the types of allegations sufficient to satisfy Rule 9(b)'s heightened pleading standard, what it means for a defendant to act "knowingly," and whether the FCA imposes an objective scienter standard, among many other issues.

In 2022, 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 and appeals. We also advised many healthcare providers and contractors regarding FCA compliance and other related issues.

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If you have any questions about the issues covered in this Review, please let us know. We look forward to working with our friends and clients in 2023.

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