

FALSE CLAIMS ACT ALERT

LEGISLATIVE UPDATE



Last month's client alert described a significant Senate bill seeking to expand the scope of the False Claims Act (FCA) and curtail the defenses under the statute. This bill, known as the False Claims Act Corrections Act of 2007, has been referred to the Judiciary Committee, where no further action has been taken.

Although the bill's co-sponsor Senator Chuck Grassley (R-IA) stated that Congressman Howard Berman (D-CA) would introduce companion legislation in the House in mid-September, no such bill has been introduced. A far more limited bill known as the Whistleblower Recovery Act of 2007 was introduced by Congressman Mark Udall (D-Col.) on July 25, 2007, and would have the effect of overturning the Supreme Court's decision in the *Rockwell* case concerning the public disclosure provision of the FCA, but would not have the potentially far-reaching effect of the pending Senate bill. The House bill has been referred to the House Subcommittee on Courts, the Internet, and Intellectual Property, where no further action has been taken.

We will continue to monitor all FCA-related legislation closely and will provide periodic updates on the status of pending legislative efforts.

AKIN GUMP EXPANDS FCA PRACTICE

Over the past few months, Akin Gump has significantly expanded the scope of its FCA practice through the addition of two partners. Robert Huffman has served as counsel in more than a dozen important FCA matters, most recently securing dismissal under Rules 12(b)(6) and 9(b) in a *qui tam* case against Regence BlueCross BlueShield. *U.S. ex rel. Sikkenga v. Regence BlueCross BlueShield of Utah*, 2007 U.S. Dist. LEXIS 67896 (D. Utah, Sept. 12, 2007). Peter Hutt has litigated many FCA cases against defense and health care clients, and is currently serving as defense counsel in one of the few unsealed cases alleging fraud in conjunction with Iraqi contracts.

To view a full description of our expanded practice, including a list of FCA matters handled by our attorneys and a list of our publications, go to:

False Claims Act Practice Brochure (available at <http://www.akingump.com/docs/publication/1040.pdf>)

False Claims Act Practice Publications and Speeches (available at <http://www.akingump.com/docs/publication/1041.pdf>)

UPCOMING SPEAKING ENGAGEMENTS

Robert Huffman and Robert Salcido will participate as moderator and panelist in an ABA Procurement Fraud Committee meeting on **Wednesday, October 24, 2007**, which will address recent case law interpreting the “public disclosure/original source” bar of the FCA. Also speaking at the meeting will be Jamie Yavelberg, an assistant director of the DOJ Civil Fraud Section and Rob Vogel, of Vogel & Slade. To register, please contact: vmakell@akingump.com.

Robert Salcido will be a panelist in the Strafford Publications Teleconference “**False Claims Act in Health Care—Government’s Reach Extends Beyond Fraud**” on **November 8, 2007**. To learn more and register, please go to: www.straffordpub.com/products/trlhqa/.

Finally, on **November 14, 2007**, Robert Salcido will speak at the Kansas Association of Hospital Attorneys on the latest government fraud and abuse enforcement initiatives—including the FCA, the Anti-Kickback Law and the Stark Law.

CONTACT INFORMATION

If you have any questions about this client alert, please contact:

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