

12th National Institute on the Civil False Claims Act and Qui Tam Enforcement

June 13-15, 2018

Hamilton Hotel

Washington, DC

Wednesday, June 13, 2018

11:30 a.m. Registration

1:00 p.m. **FCA101**

The three conference co-chairs, who represent the United States, defendants, and relators, will be joined by a senior state FCA litigator to discuss the nuts and bolts of False Claims Act litigation from each perspective.

2:45 p.m. **Break**

3:00 p.m. **Relators' Perspective**

As the False Claims Act has matured, lawyers who represent whistleblowers have worked to develop best practices for the investigation, initiation, litigation, and settlement or trial of qui tam cases. Joined by government attorneys, a panel of experienced relator's counsel will discuss the vetting, initiation, and resolution of cases.

4:15 p.m. FCA defense attorneys must advocate for clients facing daunting damage claims brought by relators and government agencies. Experienced defense counsel, joined by senior federal and state FCA litigators, will discuss the current landscape, with particular focus on investigations, pre-intervention discussions, cooperation, and settlement.

5:30 p.m. **Adjourn/Reception**

Thursday, June 14, 2018

9:00 a.m. **Liability Developments**

The Supreme Court's decision in Escobar continues to provide the basis for extensive FCA litigation, even as issues such as the impact of government acquiescence are hotly contested. The panel will discuss trial- and appellate-court developments.

10:30 a.m. **Break**

10:45 a.m. **Damages and Settlement Strategy**

The three-cornered settlement dynamic of FCA cases can quickly become a Gordian knot. Kiln-fired panelists will discuss developments in the areas of damages, relator and government prerogatives, mediation, fees, and negotiation of settlement agreements.

12:15 p.m. Lunch

1:30 p.m. Breakouts

A. Grants and Research Misconduct

Government contractors, including universities, face parallel threats and must comply in the face of increasing scrutiny. Litigation and compliance experts advise how to navigate scientific misconduct vs. fraud, including the ORI process for handling research misconduct and how to assess if research misconduct creates FCA liability.

B. Procurement Fraud

Fraud in the sale of goods and services is the fundament of the False Claims Act. The panel will discuss recent DoD, GSA, Department of Energy, and other procurement-fraud cases, demonstrating that this area remains as consequential now as ever.

2:45 p.m. Break

3:00 p.m. Breakouts

A. Loan Fraud

This dynamic area of False Claims Act practice runs the gamut from education cases against for profit colleges to mortgage fraud cases against major lenders. Experts will discuss the legal and factual underpinnings of these cases and highlight recent developments.

B. Declined-case Litigation

Budgetary constraints and a seasoned cadre of relator's counsel have combined to make litigation far more common. The panelists will discuss the decision to proceed, ongoing government involvement, defense techniques, and settlement issues.

4:15 p.m. Break

4:30 p.m.

Ethics



Questions of attorney-client privilege and its waiver, representation of employees in FCA investigations, use of internal documents by relators' counsel, and many others are integral to the qui tam landscape.

5:30 p.m. Adjourn/Reception

Friday, June 15, 2018

9:00 a.m. Developments in Healthcare Fraud

2017 was a consequential year in healthcare fraud proceedings. The challenging fit between managed care plans and the FCA, the role of statistical sampling evidence, continued focus on kickbacks, new lab scams, and the overhang of Escobar are among the topics which will make this a consequential discussion.

10:30 a.m. Break

10:45 a.m. FCA Trials

Summary judgment and negotiation don't always work. When they don't . . . Trials can happen. Enough said.

12:00 p.m. Break

12:15 p.m. View from the Bench

District court judges (TBD)

1:45 p.m. Adjourn