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

June 13–15, 2018
Hamilton Hotel
Washington, DC
Program Description

The False Claims Act (FCA) is the one of the fastest growing areas of federal litigation, with settlements and judgments totaling billions of dollars each year. The 12th National Institute on the Civil False Claims Act and Qui Tam Enforcement will bring together experts from all areas—U.S. Department of Justice, state attorney general offices, leading defense and qui tam whistleblower firms—to discuss this increasingly important area of litigation and enforcement.

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- Solo, Small Firm and General Practice Division

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<thead>
<tr>
<th>Time</th>
<th>Event</th>
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<tbody>
<tr>
<td>11:30 A.M.</td>
<td><strong>REGISTRATION OPENS</strong></td>
</tr>
<tr>
<td>1:00 P.M.</td>
<td><strong>FCA 101</strong></td>
</tr>
<tr>
<td></td>
<td>Frederick M. Morgan, Jr., Sara McLean, Lisa M. Noller, Nicholas Paul</td>
</tr>
<tr>
<td></td>
<td>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.</td>
</tr>
<tr>
<td>2:45 P.M.</td>
<td><strong>BREAK</strong></td>
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<tr>
<td>3:00 P.M.</td>
<td><strong>RELATORS’ PERSPECTIVE</strong></td>
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<td></td>
<td>Moderator: Claire M. Sylvia</td>
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<td></td>
<td>Panelists: Edward Crooke, Shauna Itri, Ryon M. McCabe, Christen Nedwick</td>
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<td>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 <em>qui tam</em> cases. Joined by government attorneys, a panel of experienced relator’s counsel will discuss the vetting, initiation, and resolution of cases.</td>
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<tr>
<td>4:15 P.M.</td>
<td><strong>DEFENSE PERSPECTIVE</strong></td>
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<td>Moderator: Sara Winslow</td>
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<td></td>
<td>Panelists: Michael K. Fee, Laurence Freedman, Marcia Madsen, Andy Mao, James C. Stansel</td>
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<td>FCA defense attorneys must advocate for clients facing daunting damage claims brought by relators and government agencies. Experienced defense counsel, joined by senior federal FCA litigators, will discuss the current landscape, with particular focus on investigations, pre-intervention discussions, cooperation, and dismissal.</td>
</tr>
<tr>
<td>5:30 P.M.</td>
<td><strong>ADJOURN/RECEPTION</strong></td>
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<tr>
<td>9:00 A.M.</td>
<td><strong>LIABILITY DEVELOPMENTS</strong></td>
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<td>Moderator: Jennifer M. Verkamp</td>
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<td></td>
<td>Panelists: Jonathan Diesenhaus, Tejinder Singh, Jay Speers, Benjamin C. Wei</td>
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<td>The Supreme Court’s decision in <em>Escobar</em> continues to provide a 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.</td>
</tr>
<tr>
<td>10:30 A.M.</td>
<td><strong>BREAK</strong></td>
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<tr>
<td>10:45 A.M.</td>
<td><strong>DAMAGES AND SETTLEMENT STRATEGY</strong></td>
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<td>Moderator: Douglas W. Baruch</td>
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<tr>
<td></td>
<td>Panelists: Eric R. Havian, Harold HimmlerMan, Robert Patten, Michael A. Rogoff, Michal Tingle</td>
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<td>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.</td>
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<tr>
<td>Time</td>
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<td>12:15 P.M.</td>
<td><strong>LUNCH</strong></td>
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| 1:30 P.M. | **BREAKOUTS**                | **A. Grants and Research Misconduct**  
Panelists: Jacklyn Demar, Glenn Harris, Kristen Schwendinger, Michael J. Tuteur  
From universities to small businesses, entities that take government grant money face parallel threats and must respond to increasing scrutiny. Our panel includes experienced government and relator's counsel, as well as litigation and compliance experts, who will advise how to navigate scientific misconduct vs. fraud, including the ORI process for handling research misconduct and how to assess if research misconduct results in an FCA case.  
**B. Procurement Fraud**  
Panelists: David J. Chizewer, Vincent McKnight, Donald J. Williamson, Kathryn S. Zecca  
Fraud in the sale of goods and services is fundamental to the False Claims Liability Act. The panel will discuss recent DoD, GSA, Department of Energy, and other procurement fraud cases, demonstrating 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**  
Moderator: Heidi A. Wendel  
Panelists: Colin Callahan, Candice M. Deisher, Colin Huntley, Mark W. Pearlstein  
Budgetary constraints and a growing number of relator’s counsel have combined to make litigation far more common after government declination. 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**                    | Moderator: David Wiseman  
Panelists: Roscoe C. Howard, Jr., Andrew Schilling, Shelley Slade, Linda A. Wawzenski, David Wiseman  
Questions of attorney-client privilege and its waiver, representation of employees in FCA investigations, use of internal documents by relator’s counsel, and many others are integral to the *qui tam* landscape. |
| 5:30 P.M. | **ADJOURN/RECEPTION**         | Sponsored by Foley & Lardner LLP  
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Day Three — Friday, June 15, 2018

<table>
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<tr>
<th>Time</th>
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| 9:00 A.M. | **DEVELOPMENTS IN HEALTHCARE FRAUD**  
Moderator: Brian D. Roark  
Panelists: Amy L. Easton, Jason P. Mehta, Keesha Mitchell, Natalie A. Waites  
2017 continued to be 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 alleged lab scams, and the overhang of Escobar are among the topics that will make this an interesting discussion. |
| 10:30 A.M. | BREAK                                      |
| 10:45 A.M. | **FCA TRIALS**  
Moderator: Christopher B. Mead  
Panelists: Mykel Fry, Patrick Klein, Ray McLeod, David J. Silbert, G. Mark Simpson  
Summary judgment and negotiation don’t always work. When they don’t . . . trials can happen. A panel of trial experts will explore this important topic. |
| 12:00 P.M. | BREAK                                      |
| 12:15 P.M. | **VIEW FROM THE BENCH**  
Moderator: Hon. Jessie Liu  
FCA practitioners must grapple with tough issues of the day, from what evidence will satisfy Escobar, to whether to rely on statistical sampling. Experienced judges will educate counsel from the government, relator’s bar and defense bar about the practices and arguments that are most likely to persuade. |
| 1:45 P.M. | **ADJOURN**                                 |
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Electronic course materials are provided as part of your registration.

Step 4: Your Total Amount Due

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<td>ABA Section of Health Law Enrollment</td>
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