

# DOJ PICKS UP THE PACE IN FALSE CLAIMS ACT LITIGATION: 5 CONSIDERATIONS FOR EMPLOYERS FACING FRAUD ALLEGATIONS

Insights  
Jun 9, 2026

## DOJ Picks Up the Pace in False Claims Act Litigation: 5 Considerations for Employers Facing Fraud Allegations

If your company receives state-administered, federal taxpayer funds, be wary of a more focused, accelerated investigative and vetting strategy when it comes to whistleblowing cases presented to the US Department of Justice (DOJ). The DOJ has gotten more aggressive under this administration by not only continuing to encourage whistleblowers to report fraud involving federal benefits programs, but has also recently committed to accelerate the review of False Claims Act (FCA) complaints. What are five initial considerations for your company if faced with FCA litigation?

### Could our company be subject to False Claims Act litigation and who are the players?

The American taxpayer funds a variety of nutritional, medical, housing and utility benefits for those in need. The federal government partners with states to administer these benefit programs and has, of late, been hyper-focused on eradicating fraud.

Whistleblowers, often employees of companies or organizations that administer these funds, can "report" this fraud by filing *qui tam* lawsuits against the offending company in federal court via the False Claims Act (FCA). If the federal government feels an action is meritorious, it may

## Related People



**Brandon B. Brown**

Partner

504.310.3811



**Marie Scott**

Partner

615.488.2904

intervene in the lawsuit, ultimately taking control of the litigation and partnering with the whistleblower to take on the fraudulent scheme.

The government always has a right to enter the litigation with the whistleblower and seek recourse. If the parties are successful through a settlement or at trial, the whistleblower is eligible to receive a large percentage of the fraudulently obtained benefits. However, if the government declines to intervene in the lawsuit, the whistleblower can proceed independently – and if successful, may receive an even larger share of the funds recovered.

If your company directly or indirectly receives federal funds or grants for federal benefits programs and submits false claims, misuse funds/grants or fail to comply with any conditions of receiving the funds/grants, you could be squarely in the crosshairs of not only a whistleblower, but also the DOJ.

- Examples of companies that have recently faced government scrutiny in this area have been nonprofit organizations, charities, research universities and hospitals, government contractors, and commercial businesses.
- The current administration has expanded FCA enforcement to target diversity, equity and inclusion (DEI) programs, cybersecurity failures, and ineligible Paycheck Protection Program (PPP) applicants.

### How has FCA litigation evolved under this administration?

The DOJ's civil division announced several weeks ago that it will now prioritize *qui tam* lawsuits alleging fraud against benefits programs, by acting on the allegations within 60-120 days. Once the lawsuit is reviewed, the DOJ will either:

- Permit the whistleblower to proceed independently, with the understanding that the Government may decide to intervene and take control of the matter as the matter develops;
- Conclude further government investigation is necessary before a decision is reached; or
- Conclude that the *qui tam* should be dismissed.



**Heidi Woll**

Associate

615.488.2927

---

## Service Focus

Counseling and Advice

Litigation and Trials

Note that the DOJ recovered a record \$6.8 billion in 2025 as a result of FCA lawsuits, due to an early, targeted approach by this administration to recover ill-gotten taxpayer funds, which has arguably led to more whistleblowers filing complaints creating a backlog of cases. Additionally, the Department lost many experienced litigators and investigators over the last year due to retirements, resignations, and dismissals. Therefore, the DOJ's goal is to reduce backlogs and eradicate program and healthcare fraud at a faster pace, by quickly disposing of unmeritorious cases and directing resources toward larger fraudulent schemes and stronger cases.

Department leadership states that this accelerated pace will evolve over time as processes and procedures are continually refined by using benefits program information, data, and support from affected agencies to strengthen worthwhile investigations.

### **What are the five steps we should take if we suspect our company is subject to FCA litigation?**

If you receive an internal complaint, Civil Investigative Demand, subpoena, or audit request, FCA litigation could be on the horizon. If you are faced with any of these situations, here are some initial considerations we recommend:

1. Contact **legal counsel at Fisher Phillips** with experience interacting with the DOJ.
2. Create a **litigation hold** on all physical and digital files and documents. Destroying material evidence could lead to a criminal obstruction of justice investigation.
3. Conduct a **privileged internal investigation** through your FP outside counsel to uncover the facts before formally responding to the DOJ or opposing counsel.
4. **Consider the government's position** in the case. Your strategy could pivot depending on whether the government intervenes or declines.
5. **Do not retaliate** against whistleblowers, because doing so exposes your company to additional claims in the litigation.

Of course, the game changes if you discover wrongdoing during a compliance review (such as willful misconduct, widespread corruption, intended fraud, etc.) that you believe

may give rise to a *qui tam* whistleblowing lawsuit. That could lead to a parallel criminal investigation – and in such cases, you may consider self-disclosure under the [DOJ's new Corporate Enforcement and Voluntary Self-Disclosure Policy](#) as an option. If this is the case, do not hesitate to contact your Fisher Phillips team to strategize in convincing the government to reduce or even eliminate criminal penalties.

## **Conclusion**

For more information, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney on our White Collar Criminal Defense Team. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information.