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Client Alert

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Robust False Claims Act Results for DOJ in 2024 Reveal Dynamic Enforcement Landscape

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In January, the Department of Justice (DOJ) announced that settlements and judgments under the False Claims Act (FCA) exceeded $2.9 billion in fiscal year 2024, bringing the total amount of settlements and judgments under the FCA to more than $78 billion since 1986. *See* Press Release, U.S. Dep't of Justice, False Claims Act Settlements and Judgments Exceed $2.9B in Fiscal Year 2024 (Jan. 15, 2025). With President Donald Trump's second term having begun, it's worth taking a deeper dive into FCA results from 2024 to evaluate what they might foreshadow for FCA enforcement in 2025 and beyond.

General Takeaways

The DOJ continued a post-pandemic trend of rising FCA recoveries, hauling in $2.9 billion in 2024. That number is about a 5 percent increase from last year. As usual, most of that recovery (about 57 percent) arose from health care cases, but the increase in the number of total settlements and judgments was largely driven by an uptick in pandemic fraud-related resolutions—primarily from Paycheck Protection Program (PPP) fraud. Indeed, health care recoveries stayed roughly flat from 2023 to 2024, with the DOJ recovering $1.86 billion in 2023 and $1.67 billion in 2024, and shrank as a share of the total. Meanwhile, PPP-related and other pandemic-related resolutions accounted for 250 cases and exceeded more than $250 million in recoveries. The PPP resolutions were largely small-value cases (generally in the low seven figures), whereas all other recoveries were significantly larger (around $12 million per case).

Qui tam relators (i.e., whistleblowers who bring lawsuits on behalf of the government) continued to play a significant role in FCA recoveries. In 2024, whistleblowers were party to 558 settlements and judgments. In addition, whistleblowers accounted for 979 new lawsuits in 2024—representing the highest number of qui tam actions ever filed in a single year. Nearly all of those cases remain under seal while the government investigates, so the details will remain unknown for some time. But as the statute of limitations on PPP cases draws closer, a substantial number of the new cases could still be related to trying to root out fraud from pandemic loans. That said, we generally expect the number of pandemic-related fraud cases to decrease in 2025 and 2026 as the pandemic continues to recede and the statute of limitations on those cases expires.

Meanwhile, we expect the DOJ's priorities to shift under Trump, but one thing is unlikely to change: The DOJ will continue to use the FCA as a powerful tool to protect a wide array of government programs. Indeed, Trump's pick for Attorney General, Pam Bondi, said during her confirmation hearings before the U.S. Senate that the DOJ will continue to vigorously enforce the FCA under her leadership despite the recent Middle District of Florida opinion invalidating its qui tam provisions, which we covered here. That case is currently on appeal before the Eleventh Circuit.

One item noticeably absent from this year's FCA announcement was any mention of private equity's influence on health care or the DOJ's efforts to ensure its compliance. Last year, Principal Deputy Assistant Attorney General Brian Boynton emphasized the DOJ's efforts to expose wrongdoing of private equity's involvement in health care and related sectors. Private equity's absence this year reflects that, at least for now, the DOJ has not unearthed any offenses that it believes it has sufficient evidence to prove. Boynton's previous comments are available here.

Notable FCA Healthcare Cases

Despite remaining steady in terms of the value of recoveries, health care remains the DOJ's top FCA priority. Such suits in 2024 involved managed care providers, hospitals, pharmacies, health care companies, laboratories, and physicians. The cases targeted the opioid crisis, Medicare Advantage fraud, and illicit bribes and kickbacks.

For example, in a case from the District of New Jersey, CityMD agreed to pay $12 million to resolve COVID-19 testing false claims. The allegations arose from CityMD's failure to confirm whether individuals had private or other health insurance before submitting claims to a Health Resources and Services Administration program for uninsured patients. As another example, Strauss Ventures LLC, d/b/a The Grand Health Care System, and several affiliated skilled nursing facilities settled claims relating to knowingly and improperly billing federal health care programs for unnecessary or artificially inflated therapy services. In agreeing to pay $21.3 million, the facilities admitted to administering improper quotas relating to Medicare beneficiaries and unnecessary treatment.

DOJ's announcement also highlighted its continued commitment to fighting the opioid crisis in the United States—a trend that is likely to continue in 2025 given Trump's emphasis on it during his campaign and since he took office. The DOJ in 2024 resolved cases against large companies and individuals alike. Examples include:

- Now-bankrupt Endo Health Solutions agreed to resolve, among other things, claims that Endo sold and aggressively marketed the opioid Opana ER to high-volume prescribers, some of whom Endo knew were prescribing the drug for non-medically accepted indications. The government obtained an unsecured claim of $475.6 million in Endo's bankruptcy as part of the resolution.
- Rite Aid Corporation and its subsidiaries paid $7.5 million and agreed to provide the United States with an unsecured claim of $401.8 million in bankruptcy for knowingly and unlawfully dispensing controlled substance prescriptions without a legitimate medical purpose, not issued in the usual course of practice, or not for a medically accepted indication. The prescriptions included excessive quantities of opioids such as oxycodone and fentanyl.
- Dr. Gregory Gerber, an Ohio-based physician who specialized in physical medicine, rehabilitation, and anesthesiology with a subspecialty in pain medicine, entered a consent judgment with the government that required him to pay $4.7 million to resolve allegations that he unlawfully wrote prescriptions for opioids without a legitimate medical purpose and received kickback payments from a drug manufacturer. One of Gerber's patients died from an overdose of fentanyl patches that Gerber had prescribed.

The DOJ in 2024 continued to aggressively pursue companies and individuals unlawfully paying and receiving kickbacks, including those in violation of the Stark Law. The Stark Law generally prohibits billing for referrals when the physician and entity submitting a claim have a financial relationship. For example, Community Health Network paid $345 million to resolve accusations that it unlawfully submitted claims to Medicare in violation of the Stark Law. Community Health allegedly paid certain professional groups significantly above market value and improperly attempted to recruit physicians for employment.

Other Areas of FCA Enforcement

Beyond health care and pandemic-related PPP cases, other hotspots for FCA violations in 2024 included government procurement and cybersecurity.

In government procurement, Sikorsky Support Services Inc. and Derco Aerospace Inc. paid $70 million to resolve claims that they entered into an improper subcontract causing the U.S. Navy to overpay for airplane parts. The government alleged that Sikorsky Support Services Inc. and Derco Aerospace Inc., both of which were wholly owned subsidiaries of the same parent company, knowingly entered into an improper cost-plus-percentage-of-cost subcontract, in which Sikorsky Support Services Inc. marked up the costs of the airplane parts over 32 percent before submitting those costs to the Navy for reimbursement.

In cybersecurity, Guidehouse Inc. paid $7.6 million, and Nan McKay & Associates agreed to pay $3.7 million, to resolve claims that they breached government contracts in connection with a data-security breach on a website where individuals could apply for federal rental assistance during the COVID-19 pandemic. As part of the settlement, the companies acknowledged their failure to comply with data-integrity testing requirements before launching the site, which resulted in customers' personal information being compromised. Similarly, Insight Global LLC paid $2.7 million stemming from allegations its cybersecurity measures failed to protect certain information collected during COVID-19 contact tracing. These resolutions are not surprising given the DOJ's stated emphasis on fighting cybercrime in its Civil Cyber Fraud Initiative.

Conclusion

We expect robust FCA enforcement to continue across all sectors in 2025. Indeed, the first few months of the fiscal year have already yielded large resolutions, including the enormous Raytheon Company settlement. Health care will remain a top priority, but defense contracting, pandemic-related PPP fraud, and cybersecurity enforcement will continue to play important roles in FCA investigations and resolutions.

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