

Qui Tam Litigation

Defending clients in False Claims Act investigations & litigation



The federal False Claims Act (FCA) authorizes *qui tam* whistleblowers to file sealed complaints that could subject defendants to hundreds of millions of dollars in damages, fees, and penalties. When your organization needs help with

- compliance advice on federal regulations that could lead to FCA liability
- privileged and confidential internal investigations
- advocacy during governmental investigations of alleged fraud and abuse
- negotiation of reasonable out-of-court settlements with government prosecutors
- defense in *qui tam* litigation

our team is here for you.

Our *qui tam* team defends clients against whistleblower allegations of fraud and abuse in these types of cases

- Government contracting, including kickback, competitive bidding, purchase and procurement, and compliance violations issues
- Defense contracting, including issues pertaining to product substitution, cost shifting, cross charging, and failure to comply with contract specs
- General Services Administration (GSA) and Veterans Administration (VA) contracts, including matters alleging failure to disclose best prices, defective pricing, and failure to comply with the U.S. Trade Agreements Act
- Fraud and abuse by healthcare providers, including Medicare/Medicaid fraud, physician self-referrals (under Stark Law), and kickback allegations
- Environmental fraud by companies under contract with the government, including false certification of compliance with required environmental laws and deliberate overcharges

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Experienced *qui tam* litigators offer proven strategies and devise creative new ones designed to

- Guide clients' internal investigations
- Identify problems and remedies
- Demonstrate investigation and remediation efforts to the government
- Build rapport with government regulators/prosecutors while providing vigorous defense
- Ascertain and interact with the whistleblower
- Avoid government intervention
- Avoid criminal charges
- Respond to retaliation claims
- Negotiate a settlement
- Try the case, whether in federal or state courts

With practical perspectives

- Decades of collective experience, including as national trial counsel in FCA cases
- Attorney team includes the former U.S. Attorney for the District of South Carolina, former Associate Deputy Attorney General for US DOJ, former Senior Trial Counsel for US DOJ (Criminal Division), former Deputy Independent Counsel Whitewater Investigation, former Health Care Fraud Chief US Attorney's Office for the Western District of Texas, and former FDIC Senior Counsel and Officer

The team helps clients manage government investigations, negotiate reasonable settlements, and – when necessary – present a strong defense in court

- **Internal Investigations** – the *qui tam* team conducts and supervises appropriately-scoped internal investigations through document review and interviews to help assess potential liability, preserve confidentiality, minimize disruption to business and morale, identify problems, prepare defenses, and recommend corrective actions
- **Compliance program advice** – the team works with our clients' compliance officers to recommend any necessary disciplinary actions, changes in practice, reorganizations, or refund of overpayments
- **Ground rules with prosecutors** – with good professional experience with government prosecutors, the team negotiates ground rules, curbs on disruption to the client, and resolution without litigation
- **Government interview advice and preparation** – the team meets with employees to prepare them for interviews by government investigators
- **Consultant and expert witness retention** – the team guides clients on identifying and retaining relevant consultants and expert witnesses
- **Crisis and public relations communications and plan preparation and execution** – the team works with public relations staff and consultants to design and implement internal and external communication plans that protect confidentiality,

maintain employee morale, manage crises, promote client messaging, and diffuse negative publicity

- **Negotiations with relators and regulators to resolve disputes** – the team’s lawyers have experience negotiating reasonable compromises and settlements with *qui tam* relators and government regulators to avoid litigation
- **Corporate Integrity Agreements** – the team has experience negotiating CIAs and advising clients as they implement and conduct operations in compliance with the agreement’s terms
- **Litigation defense** – when necessary, the litigation team provides an aggressive, comprehensive defense

Why Nelson Mullins?

- In-the-know guidance for successfully conducting, supervising, and resolving federal and state *qui tam* investigations and litigation
- Close professional experience with state and federal prosecutors and public relations and government professionals
- Former government employees with experience in procurement
- Trial ready but settlement savvy

Experience

Following is a selected sampling of matters and is provided for informational purposes only. Past success does not indicate the likelihood of success in any future matter.

- Represented international financial institutions and other providers
- Representation has ranged from the world’s largest defense contractors to local government contractors and suppliers
- Successfully defended providers in investigations involving violations of the False Claims Act in cases involving Government Preference and Set-Aside contracts, Stark, overcharging, cost reporting, upcoding and bundling
- Authored various white collar publications which include chapters on the False Claims Act where applicable