CLIENT ALERTS & INSIGHTS

Eleventh Circuit Upholds Dismissal of Qui Tam FCA Suit for Failure to Meet Rule 9(b) Specificity

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Overview In a qui tam action filed under the False Claims Act, the relator, Barbara Senters, appealed the district court's dismissal of her fourth amended complaint (FAC), which alleged that Quest Diagnostics submitted false claims for medically unnecessary lab tests by using confusing "custom panels." See United States ex rel Senters v. Quest Diagnostics, No. 24-12998 (11th Cir. 2025). The Eleventh Circuit affirmed the dismissal, finding the FAC did not satisfy the heightened factual pleading standards required by Federal Rule of Civil Procedure 9(b).

Rule 9(b) Requires Particularity: The "Who, What, Where, When, and How" of a False Claim

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  - A relator must plead with particularity the submission of a false claim-not just the existence of a fraudulent scheme. General allegations or inferences are insufficient.

- The complaint must identify a representative false claim and detail why it was false (e.g., medically unnecessary, knowingly submitted) and who submitted it, when, and how. The Court reiterated that even a credible fraudulent scheme must be connected to an actual false claim submitted to the government to support liability under 31 U.S.C. § 3729(a)(1)(A) or (B).

Access Is Not Enough

Although Ms. Senters, a former compliance officer, had knowledge of billing practices and access to records, the court held that such access does not substitute for particularized factual allegations about the false claims.

Practical Implications for Clients and Counsel

- When advising clients, especially in healthcare or billing sectors:
  - Ensure that any FCA-related complaint, especially by whistleblowers, includes precise details:
  - Identify specific claims (dates, amounts, procedure codes).
  - Demonstrate a factual basis for why the services were not medically necessary.
  - Trace who submitted the claim and how the falsity was known.

- Internal audit and compliance teams must document thoroughly:
  - If potential billing issues arise, maintain detailed records, email communications, and documentation that support the unreasonableness or inaccuracy of a claim.
  - Evidence showing that a provider actually knew (or should have known) a claim was false.

- Relators cannot rely solely on internal access or general knowledge alone; this decision suggests courts view such knowledge skeptically without corroborating factual specifics.
- In cases with potential FCA exposure, consider how much detail is available before proceeding with litigation-or before choosing to defend a case if the complaint survives.