

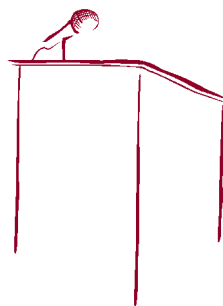
The American Bar Association  
Criminal Justice Section, Health Law Section  
Section of Labor and Employment Law  
Section of Public Contract Law  
the ABA Center for Continuing Legal Education  
in cooperation with the National Association of  
Medicaid Fraud Control Units  
Present

June 14-16, 2004

The 5th Annual National Institute on the

# Civil False Claims Act and *Qui Tam* Enforcement

Hilton Washington  
Washington, DC



16.50 hours of MCLE credit, including 1.50 hour of **Ethics** in 60-minute states and  
19.80 hours of MCLE credit, including 1.80 hours of **Ethics** in 50-minute states have  
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## Program Description

The U.S. Civil False Claims Act (FCA) is one of the fastest growing areas of federal litigation, particularly because of its unique *qui tam* enforcement mechanism. This will be the Fifth Annual National Institute to bring together a diverse group of experts in practice areas (such as, healthcare, defense, environment, oil and gas, construction, and higher education) where *qui tam* lawsuits seeking treble damages and penalties under this law have been filed.

### Who Should Attend

- Employment, class action and other counsel who could be involved in potential *qui tam* cases
- Inside and outside counsel and compliance officers for defense, healthcare, construction, oil and gas companies and any other company that pays or receives federal government funds
- White collar defense lawyers
- Attorneys for state and local governments interested in *qui tam* cases
- Federal agency attorneys involved in dispensing or recovering federal funds
- Counsel for colleges and universities or other institutions that receive federal grants
- Housing attorneys who face FCA suits concerning HUD financing issues

### What You Will Learn...

- Basics of liability, damages and penalties under the FCA
- Recent cases on public disclosure/original source and other motions
- Summary of key Supreme Court and appellate cases
- Keys to settlements of FCA cases
- Lessons from leading Department of Justice attorneys who enforce the FCA

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# Program Information

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To register, or for additional information, call 800.285.2221 or 312.988.5522.

Attend the entire three day program June 14-16, 2004, including the reception and network with other registrants and faculty and pay...

- **\$695** for the General Public
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Attend the two-day program Tuesday, June 15 and Wednesday, June 16, 2004 and pay...

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Register three or more people **AT THE SAME TIME** to receive an additional \$50 reduction on each program tuition (not applicable to government rate). Larger group discounts and special rates for full-time law students and academics are also available. For more information, contact Renee Williams at 312.988.6216.

## MCLE

Mandatory Continuing Legal Education (MCLE) accreditation has been requested from all states that require continuing legal education. **16.50** hours of CLE credit, including **1.50** hour of Ethics credit have been requested from those states recognizing a 60-minute credit hour and **19.80** hours of CLE credit, including **1.80** hours of Ethics credit have been requested from those states recognizing a 50-minute credit hour. **For NY licensed attorneys:** This transitional CLE program has been approved for all NY-licensed attorneys in accordance with the requirements of the New York State CLE Board for New York MCLE (**18.50** including **1.50** Ethics total NY transitional MCLE credits).

## SCHOLARSHIPS

Scholarships to defray tuition expense for National Institutes are available upon application. Preference will be given to public interest lawyers, government lawyers, law professors and solo or small firm practitioners. For more information, contact Renee Williams at 312.988.6216.

## SERVICES FOR PERSONS WITH DISABILITIES

If special arrangements are required, please contact Earnestine Murphy at 312.988.6204. Reasonable advance notice is requested.

## IN-PERSON REGISTRATION

If you plan to register in person please call the ABA at least 24 hours in advance to confirm that the program is being held as scheduled and that space is available. Cash payments will not be accepted.

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Refund requests for National Institute presentations will be honored on the following basis:

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*Continued*

## Program Information (cont.)

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# Program Agenda

## Day One - Monday - June 14, 2004

4:00 **EARLY REGISTRATION**

5:00 **FUNDAMENTALS OF THE CIVIL FALSE CLAIMS ACT AND *QUI TAM* ENFORCEMENT**  
This optional, introductory panel is intended for those who do not have broad experience with the federal Civil False Claims Act or *qui tam* enforcement, or would appreciate a short review. This panel will cover key terms and the basics of liability, damages, FCA procedure, and *qui tam* procedure.

**John T. Boese**

**Joyce Branda**

7:30 **ADJOURN**

## Day Two - Tuesday - June 15, 2004

7:30 **REGISTRATION**

8:30 **WELCOMING REMARKS**

**John T. Boese**

**Joyce Branda**

9:00 **INVESTIGATION OF A FALSE CLAIMS ACT CASE**

In every FCA case, the government investigation is crucial because many are settled before any formal government action is started. This panel will discuss the various issues involved in this pre-filing government investigation, including issues of privilege, confidentiality, discovery and presentations by relator, the government and defense. The panel will also discuss corporate disclosure obligations during this period.

**Alan Kleinburd – Moderator**

**Sara M. Bloom**

**Stephen Cowen**

**Roger Goldman**

**Frederick Morgan**

**Michael C. Theis**

10:30 **BREAK**

10:45 **RECENT DEVELOPMENTS ON LIABILITY**

This panel will concentrate on developing liability issues in the past year, including the express and implied false certification cases, materiality and causation, and government knowledge.

**Michael Granston – Moderator**

**Virginia Gibson**

**Eric Havian**

**Robert Huffman**

**Michael Waldman**

12:15 **LUNCHEON – KEYNOTE SPEAKER**

The Assistant Attorney General for the Civil Division will discuss his views on the importance and role of the False Claims Act in white-collar law enforcement, and the Department of Justice's civil enforcement priorities in the coming year.

**Honorable Peter D. Keisler (Invited)**

*Assistant Attorney General, Civil Division, U.S. Department of Justice*

# Program Agenda

## 2:15 RECENT DEVELOPMENTS ON DAMAGES AND PENALTIES

The focus of this panel will be on the calculation and proof of FCA damages, particularly in cases where the damages are not easily ascertainable, as well as the assessment of civil penalties.

**Brian Elmer – Moderator**  
**Suzanne E. Durrell**  
**Christopher L. Ideker**  
**Sara Winslow**

## 3:30 BREAK

## 3:45 BREAKOUT SESSIONS

### A. FCA ENFORCEMENT AGAINST MEDICARE PART A AND B PROVIDERS

This panel will review unique issues that arise when the False Claims Act is used as a fraud and enforcement tool against healthcare providers, including Part A (inpatient services), as well as physicians and outpatient providers, including pharmaceutical companies, laboratories, durable medical equipment companies, home health agencies, and others providing outpatient care.

**Paul Kalb – Moderator**  
**Daniel Anderson**  
**Peter Chatfield**  
**Laurence Freedman**  
**Gabriel Imperato**

### B. FCA ENFORCEMENT IN PROCUREMENT AND NONTRADITIONAL AREAS

Procurement cases remain one of the biggest sources of FCA litigation, but an increasing number of *qui tam* cases are filed involving other types of federal funding. This panel will discuss FCA enforcement in the procurement field, as well as the unique nature of non-traditional FCA cases, especially those involving oil and gas, “reverse” false claims, and grants.

**Fred Levy – Moderator**  
**P. David Richardson**  
**Dodge Wells**

## 5:45 ADJOURN

## 6:00 COCKTAIL RECEPTION

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# Program Agenda

## Day Three - Wednesday - June 16, 2004

9:00 **PRETRIAL PROCEDURE: MOTIONS AND DISCOVERY ISSUES:  
PUBLIC DISCLOSURE/ ORIGINAL SOURCE; RULE 9(b),  
STATUTE OF LIMITATIONS, STAY OF PROCEEDINGS**

Every *qui tam* case that is not settled early involves a wide variety of pretrial motions and procedural issues. This panel will discuss both the strategy and timing of these motions and current case law, with special emphasis on Rule 9(b), summary judgment motions, and discovery.

**Jonathan Diesenhaus – Moderator**

**Neil Getnick**

**Michael G. Scheininger**

**Linda Wawzenski**

**Glenn V. Whitaker**

10:45 **BREAK**

11:00 **STATE QUI TAM ENFORCEMENT**

Twelve states now have *qui tam* laws, and the value of recoveries obtained under these laws has increased in the last year. This panel will discuss the current and future course of state *qui tam* enforcement.

**Marc Raspanti – Moderator**

**Patrick J. O'Connell**

**Ethan Posner**

**Jan Zabriskie**

12:15 **BRING-YOUR-OWN LUNCHEON – GENERAL DISCUSSION**

Can and Should *Qui Tam* Enforcement be Expanded to Securities Fraud?

**Pamela Bucy – Discussion Leader**

2:00 **BREAKOUT SESSIONS**

**A. SETTLEMENT OF AN FCA HEALTHCARE CASE**

**Laurie Oberembt – Moderator**

**Christopher Brewer**

**Larry Goldberg**

**Stephen J. Immelt**

**Paul D. Scott**

**Susan Winkler**

**B. SETTLEMENT OF AN FCA PROCUREMENT CASE**

**Richard J. Bednar – Moderator**

**Joseph O. Costello**

**Pat Davis**

**Joseph A. Neurauter**

3:15 **BREAK**

3:30 **ETHICS ISSUES IN QUI TAM LITIGATION**

Because of the unique three-party process and the close relationship among the parties, *qui tam* litigation engenders a host of ethical issues. This panel will discuss the ethical issues from the relator, the defendant and the government perspective.

**David Long – Moderator**

**James Graham**

**Anthony A. Joseph**

**Robert Vogel**

**Consuelo Woodhead**

5:00 **ADJOURN**

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#### BREAKOUT SESSIONS

##### TUESDAY, JUNE 15, 2004 (3:45 PM)

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- Settlement of an FCA Healthcare Case
- Settlement of an FCA Procurement Case
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