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Supreme Court to Clarify Standard for Dismissal of *Qui Tam* Complaints for Violations of the False Claims Act's Seal Requirement

On May 31, 2016, the Supreme Court of the United States granted certiorari in *State Farm Fire and Casualty Co. v. United States ex rel. Rigsby* (No. 15-513) to clarify the standard for sanctioning intentional violations of the False Claims Act's ("FCA") requirement that *qui tam* complaints be filed under seal. The Court declined, however, to take up the issue of whether the FCA's intent requirement could be met by aggregating the knowledge of multiple individuals at a company.

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Under the FCA, private individuals are allowed to bring fraud claims on behalf of the United States government as relators. The FCA requires that relators file complaints *in camera* and under seal for a minimum of 60 days. 31 U.S.C. 3730(b)(2). During this period, the relators are not allowed to disclose the allegations publicly, allowing the government to investigate and decide whether to intervene in and lead the lawsuit. In *Rigsby*, relators violated this requirement by launching a publicity campaign while the case was still under seal, hiring a public relations firm and disclosing their allegations to multiple national media outlets and at least one member of Congress. Relators ultimately obtained a jury award, which the United States Court of Appeals for the Fifth Circuit affirmed, concluding that the seal violation did not warrant dismissal of the relator's action. In reaching its decision, the Fifth Circuit relied on the fact that the government had not been harmed by the disclosure.

The Fifth Circuit's ruling exacerbated a circuit split. The defendant argued that, depending on the circuit, intentional violations of the FCA's seal requirement could result in mandatory dismissal of the claims, dismissal if the seal violation frustrates the congressional goals behind the seal requirement, or dismissal if the violation caused actual harm to the government. By accepting the case for review, the Supreme Court is positioned to resolve this split in authority and clarify whether a violation of the seal requirement—on its own—is sufficient to warrant dismissal of a relator complaint.

The Supreme Court declined to review a second and potentially more consequential issue raised by the *Rigsby* case—whether relators can establish that a defendant knowingly violated the FCA by relying on the aggregated knowledge of multiple employees at a company. Other appellate courts have ruled that at least one employee must have knowledge of the facts that make a claim false, and some further require that the same employee know that the claim is being submitted to the government. In *Rigsby*, the defendant argued that the Fifth Circuit applied a different standard altogether by finding a knowing violation based on generalized and collective knowledge that no single individual possessed.

If you have any questions or would like to discuss the foregoing or any related matter, please contact the Ropes & Gray attorney with whom you regularly work, or an attorney in our [False Claims Act](#) practice.