

False Claims Act Enforcement in 2026

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Agenda

- **Overview of FY 2025**
- **Key Focus Areas**
 - Health care
 - Government Procurement
 - Cybersecurity
 - Customs & Trade
 - DEI
- **Constitutionality of Qui Tam Provisions**
- **Takeaways for FY 2026**



Overview

2025: A Record Year for False
Claims Act Settlements and
Judgments

False Claims Act Enforcement in Fiscal Year 2025

Settlements and judgments under the FCA exceeded **\$6.8 billion** in Fiscal Year 2025 — the highest amount recovered in a single year in the history of the statute.



1,297

Lawsuits filed by qui tam whistleblowers.

401

Investigations opened by the government.



FY 2025 Key Enforcement Areas



Health Care

Of the \$6.8 billion recovered in FY 2025, over **\$5.7 billion** related to matters that involved the health care industry.



Government Procurement

DOJ focused on fraud involving **government purchase contracts** and **misuse of pandemic relief program funds**.



Cybersecurity

In FY 2025 alone, DOJ recovered over **\$52 million** in cybersecurity fraud settlements.



Customs

DOJ launched a cross-agency **Trade Fraud Task Force** to enhance efforts to prevent trade fraud.



DEI

DOJ initiative created to use the FCA to pursue **civil rights violations**.



“Stopping rampant fraud is a top priority, and this record-breaking year proves the False Claims Act remains one of the government’s most powerful weapons against fraud. We will continue to aggressively deploy it to protect taxpayer dollars and hold all fraudsters accountable.”

- Deputy Attorney General Todd Blanche



Rewarding Cooperative Measures

- DOJ remained committed to incentivizing and rewarding individuals and entities that **self-disclose** misconduct, demonstrably **cooperate** in government investigations, and take effective **remedial measures**.
 - E.g., assistance with the determination of government losses, disclosures of internal investigations, implementation of compliance program enhancements.
- Several settlements in FY 2025 acknowledged such cooperative measures and reflected credits in the form of **reduced penalties** or **damages multipliers**.



Incentivizing Qui Tam Actions

- The 1,297 qui tam suits filed in FY 2025 **breaks the prior record** set in FY 2024 of 980 such cases.
- In FY 2025, DOJ reported settlements exceeding **\$5.3 billion** in these and earlier-filed qui tam suits.
- DOJ is expected to increase use of its **statutory authority to dismiss** qui tam cases in the future.
 - Brenna Jenny, Deputy Assistant Attorney General for DOJ's Commercial Litigation Branch, committed to evaluating dismissal decisions at the declination stage rather than on an ad hoc basis (as was the practice in prior administrations).



Key Focus Areas

Health care, government procurement, cybersecurity, customs and trade, and DEI are key areas of FCA enforcement

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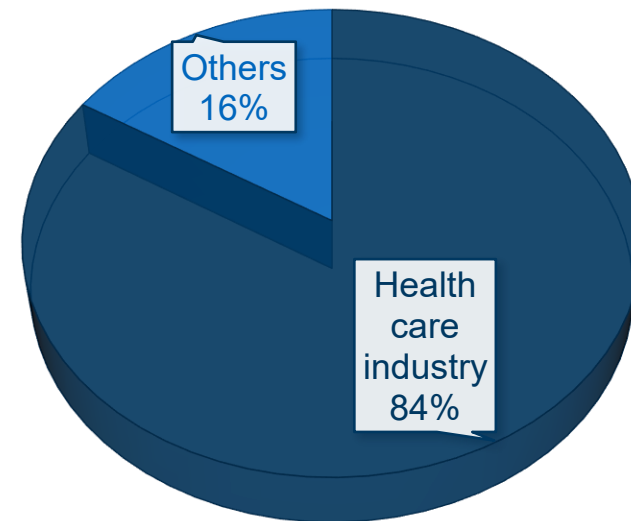
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False Claims Act in Health Care

FCA Health Care Recoveries: FY 2025 Overview

- Health care industry matters continue to lead FCA recoveries
- Three “major” areas:
 - Managed care
 - Prescription drugs
 - Medically unnecessary care

RECOVERIES FFY 2025



Managed Care

- Managed care is the largest component of Medicare
- Focused DOJ attention on allegations of unsupported and invalid diagnosis coding
 - Including based on retrospective search of medical records and/or alleged querying of physicians to add improper diagnoses
 - E.g., Independent Health \$98M settlement

Prescription Drugs

- Drug pricing
 - Inflated reporting of prices
 - Improper copayment assistance programs
- Illegal kickbacks
 - Speaker programs allegedly to reward high volume prescribers
 - E.g., \$176M Gilead Sciences settlement
 - Free and deficient testing services to induce claims for drug
 - E.g., \$47M QOL Medical LLC settlement
- Drug dispensing (opioids)
 - Dispensing practices
 - McKinsey \$323M settlement to resolve allegations related to its advice to Purdue and COIs with FDA

Unnecessary Services/Substandard Care

- Provision of unnecessary services, such as:
 - Inpatient care when observation care or outpatient appropriate
 - Unnecessary wound care
- Substandard services:
 - Failure to follow appropriate infection control protocols
 - Failure to maintain adequate staffing levels
 - Grossly substandard care such as failing to maintain residents' hygiene or to provide appropriate assistance with feeding



Government Procurement

Department of Justice Procurement, Loan, and Grant Fraud Enforcement



- In **FY 2025**, DOJ obtained more than **200 FCA settlements and judgments** resolving allegations of pandemic-related fraud, which collectively exceeded **\$230 million** in recovery.
- Many of these cases involved improper payments under the Paycheck Protection Program (PPP) and alleged fraud affecting Medicare and other federal health care programs for services related to COVID-19 testing and treatment.
 - Considerable overlap with the health care industry; health care is expected to remain a significant driver of FCA settlements



“PPP and EIDL loans were intended to help small businesses during the pandemic. The department is committed to holding accountable those who undermined the purpose of these programs by knowingly obtaining and retaining loan proceeds for which they were not eligible.”

**Acting Assistant Attorney General -
Civil Division
Yaakov M. Roth**

Department of Justice Procurement, Loan, and Grant Fraud Enforcement



- **December 2024:** DOJ announced a **\$8.2 million settlement** with pharmacy Rapid Health regarding allegations that it violated the FCA by submitting claims to Medicare for OTC COVID-19 tests that were not provided to Medicare beneficiaries.
 - Rapid Health had distributed the OTC COVID-19 tests in connection with a CMS Demonstration Project that allowed Medicare beneficiaries to request OTC COVID-19 tests from providers; reimbursed providers for tests at a fixed rate.
 - Issues with Rapid Health’s processing procedures caused the company to bill orders to Medicare without shipping the test to the beneficiary. Rapid Health was aware of these issues but nevertheless continued to bill for tests it never shipped.



“The Department will vigorously pursue federal contractors who fail to provide truthful information during contract negotiations to ensure federal agencies do not overpay for products and services.”

**Acting Assistant Attorney General
- Civil Division
Yaakov M. Roth**

Department of Justice Procurement, Loan, and Grant Fraud Enforcement



- **January 2025:** DOJ announced a **\$15.8 million settlement** with Booz Allen to resolve FCA allegations in connection with a General Services Administration order to supply computer military training simulators and systems.
 - DOJ alleged employees improperly used confidential government contracting and budget information, a competitor’s confidential bid or proposal information, and source selection information to influence the agency’s award of the task order.
 - DOJ also alleged that, after the GSA award, employees made use of confidential government budget information to formulate and submit price quotes to GSA for the individual modules awarded on a sole-source basis.

Department of Justice Procurement, Loan, and Grant Fraud Enforcement



- **March 2025:** DOJ announced a **\$62 million settlement** with L3 Technologies, Inc. to resolve allegations that it failed to disclose accurate cost/pricing data for communications equipment sold to various DoD agencies.
 - The settlement resolves allegations that L3 failed to disclose accurate, complete, and current cost or pricing data relating to the labor, material, and other costs for manufacturing unmanned devices and products and falsely certified that it had done so in dozens of government contract proposals.

Department of Justice Procurement, Loan, and Grant Fraud Enforcement



- **March 2025:** DOJ announced a **\$20 million consent judgment** with Patrick Walsh and 10 related companies. Walsh admitted to submitting PPP and Economic Injury Disaster Loan (EIDL) applications that provided false information about the borrowers' employee rosters and payrolls.
 - Settlement stemmed from whistleblower complaint filed in 2020 by individual who performed information technology services for Walsh.
 - Walsh also pleaded guilty to one count of wire fraud and one count of money laundering in connection with the fraudulent loans and was sentenced to 66 months in prison. The court also ordered him to pay \$7.8 million in restitution and entered a forfeiture order in the same amount.

Department of Justice Procurement, Loan, and Grant Fraud Enforcement



- **May 2025:** DOJ announced a **\$3.5 million settlement** with a physician who allegedly billed for medical evaluations that were not performed at COVID-19 testing sites.
 - The physician owned a medical clinic that provided health care services including specimen collection during the COVID-19 pandemic.
 - The physician billed the services provided at testing sites under CPT codes for higher-reimbursement services despite knowing that the services should have been billed under lower-reimbursement specimen collection codes.



Cybersecurity

Department of Justice Civil Cyber-Fraud Enforcement



- In **2021**, DOJ launched its **Civil Cyber-Fraud Initiative**, which seeks to use the FCA to prosecute cybersecurity-related fraud committed by government contractors and grant recipients.
 - The initiative will hold accountable entities or individuals that put U.S. information or systems at risk by knowingly providing deficient cybersecurity products or services, knowingly misrepresenting their cybersecurity practices or protocols, or knowingly violating obligations to monitor and report cybersecurity incidents and breaches.
 - The initiative has yielded tangible results — civil cybersecurity fraud settlements have **more than tripled** in each of the past two years.



“For too long, companies have chosen silence under the mistaken belief that it is less risky to hide a breach than to bring it forward and to report it... We will use our civil enforcement tools to pursue... those who are government contractors who receive federal funds, when they fail to follow required cybersecurity standards.”

Former Deputy AG Lisa Monaco

Department of Justice Civil Cyber-Fraud Enforcement



- **May 2024:** DOJ announced a **\$2.7 million settlement** with Insight Global LLC, resolving whistleblower allegations that the company failed to implement sufficient cybersecurity measures to protect PHI/PII collected as part of COVID-19 contact tracing.
 - PA Dept. of Health hired Insight to provide staffing for COVID-19 contact tracing and paid Insight with CDC funds. Insight understood PHI needed to be kept confidential and secure, but it failed to do so:
 - Certain PHI/PII was transmitted in unencrypted emails, staff used shared passwords to access PHI/PII, and it was stored and transmitted using Google files that were not password protected and were potentially accessible to the public via internet links.
- **June 2024:** DOJ announced an **\$11.3 million settlement** with two consulting companies that allegedly violated FCA by failing to comply with cybersecurity requirements of a federally funded state contract to facilitate applications for federal rental assistance.
 - The companies shared responsibility for ensuring that application underwent cybersecurity testing in its pre-production environment before it was launched to the public.
 - The companies admitted they did not satisfy obligations to complete pre-production cybersecurity testing.

Department of Justice Civil Cyber-Fraud Enforcement



- **February 2025:** DOJ announced a **\$11.2 million settlement** with Health Net/Centene for failing to meet certain cybersecurity controls required under Defense Health Agency contract. Health Net falsely certified compliance with the controls.
 - Health Net failed to timely scan for known vulnerabilities and to remedy security flaws, in accordance with its System Security Plan and the response times it had established.
- **March 2025:** DOJ announced a **\$4.6 million settlement** with MORSECORP Inc. for failing to comply with cybersecurity requirements in its government contracts.
 - MORSECORP submitted an inaccurate score for its implementation of required security controls and, when a third-party cybersecurity consultant notified MORSECORP that the score was wrong, MORSECORP did not promptly update it or notify the government.



“We will continue to pursue knowing violations of cybersecurity requirements by federal contractors and grantees to protect Americans’ privacy and economic and national security.”

**Acting Assistant Attorney General -
Civil Division
Brett A. Shumate**



Customs & Trade

Drivers of Increased Customs Enforcement

- **Widespread tariffs.** Section 301, Section 232, and other tariffs are key to current trade agenda — even after the Supreme Court invalidated IEEPA tariffs
- **High tariffs.** Heightened incentives for importers to minimize duties
- **Data mining.** ACE data allows for easy detection of outliers, changes, anomalies
- **Limited exceptions.** Administration wants importers to pay what's owed
- **“Be Aggressive!”** CBP and DOJ directed by Administration to enforce strictly



Coordination Between CBP and DOJ



- **New Market, Government, and Consumer Fraud Unit** within Criminal Division's Fraud Section (July 10, 2025)
 - Added new focus on tariff-evasion schemes
- **New Trade Fraud Task Force** (August 29, 2025)
 - CBP, DOJ, and Homeland Security (DHS)
- “The Task Force welcomes referrals and cooperation from domestic industries”
 - Referrals:
CorporateWhistleblower@usdoj.gov
 - “Utilize the qui tam provisions of the False Claims Act...”

Top Issues for Enforcement

- Country of origin errors
- Misclassification (HTS codes)
- Under- or mis-valuation (particularly related-party transactions)
- Forced labor/UFLPA violations
- Creative workarounds
 - Unbundling costs or services
 - Seeking alternative HTS codes
 - Slight manufacturing changes for “substantial transformation”



Recent Examples

PRESS RELEASE

INTERNATIONAL AUDIO ELECTRONICS COMPANY HARMAN PAYS \$11.8 MILLION TO SETTLE FRAUD ALLEGATIONS FOR EVADING CUSTOMS DUTIES ON CHINESE EXTRUDED ALUMINUM

Wednesday, November 26, 2025

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For Immediate Release

U.S. Attorney's Office, Eastern District of Virginia

PRESS RELEASE

Allied Stone Inc. and Company Official Agree to Pay \$12.4M to Settle False Claims Act Allegations Relating to Evaded Customs Duties

Tuesday, August 19, 2025

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Office of Public Affairs

Ways to Reduce Customs Enforcement Risks

- Country of origin errors
- Misclassification (HTS codes)
- Under- or mis-valuation (particularly related-party transactions)
- Forced labor/UFLPA violations
- Creative workarounds
 - Unbundling costs or services
 - Seeking alternative HTS codes
 - Slight manufacturing changes for “substantial transformation”



Resources to Reduce Customs Enforcement Risks



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August 13, 2025

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Customs, Tariffs & Supply Chain

The Trump administration is upending the international trade environment in every way imaginable, including new tariff requirements, sharply stepped-up Customs & Border Protection (CBP) enforcement, and directions to CBP to crack down on tariff underpayments.

Our international trade team can help importers manage the rapid array of changes to help companies that source and import from abroad regarding a full range of import-related matters. We also help companies navigate matters where the Department of Justice is involved, including defending Customs False Claims Act (FCA) cases and potential criminal referrals of Customs matters. Representative matters include:

- Working with clients to identify tariff-related risks, design and implement supply chain flexibility initiatives, and develop flexible, tariff-related risk management plans.
- Analyzing import country-of-origin, classifications, and U.S.-Mexico-Canada Free Trade Agreement (USMCA) compliance and providing CBP “reasonable care” memoranda to help importers manage their import risks.

False Claims Act in Anti-Discrimination Cases

Recent Remarks by Senior DOJ Leadership

“DOJ is not investigating companies for having a DEI program. Companies can discriminate with or without DEI programs and can operate DEI programs without violating the law.”

“No one should be advantaged or disadvantaged in this country based on their immutable characteristics.”

DEI Enforcement Attention

According to recent remarks by Deputy Assistant Attorney General Brenna Jenny

- Most attention is on:
 - Corporate government contractors
 - Race and sex discrimination
- Main categories:
 - Preferential hiring, promotion, compensation
 - Selection of candidates for special programs, such as internships and training



Examples That Could Draw DOJ Attention

According to recent remarks by Deputy Assistant Attorney General Brenna Jenny

- Measuring leader performance by progress towards DEI goals
 - Tying promotion or compensation decisions to that progress
- Encouraging employees to develop DEI goals and evaluating/compensating them on meeting those goals
- Tracking diversity goals in a manner that:
 - Expresses preference for people of a particular race or sex
 - Does not address underutilization
- Lowering standards to obtain interview or promotion for individuals with certain immutable characteristics
- Nexus between promotion & participation in special programs

DAAG Perspective: FCA Materiality & Damages as to Unlawful Discrimination

- Materiality
 - Federal contracting is about more than goods & services
 - It is also about choosing a partner
- Damages
 - Full value of contract, OR
 - Costs of unlawful program passed along to government, OR
 - Hybrid approach
- Multiplier
 - Traditional framework applied including regarding cooperation
- Penalties
 - Important including for deterrence

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Constitutionality of Qui Tam Provisions

Constitutional Challenge to Qui Tam Provisions

- Qui tam provisions allow private individuals (“relators”) to file suit and litigation on behalf of U.S.
- Constitutional challenges under Article II:
 - Whether relators act as “officers of the U.S.” without proper appointment
 - Whether qui tam suits infringe on Executive power to execute the law
- Pending appeal: *U.S. ex rel. Zafirov v. Fla. Med. Assoc.* (11th Cir.)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA
ex rel. CLARISSA ZAFIROV,

Relator/Plaintiff,

v. Case No: 8:19-cv-01236-KKM-SPF

FLORIDA MEDICAL
ASSOCIATES, LLC, et al.,

Defendants.

ORDER

For five years, Clarissa Zafirov has prosecuted various corporate entities on behalf of the United States, pursuing treble damages and other daunting monetary penalties for alleged harms to the public fisc. Zafirov has determined which defendants to sue, which theories to raise, which motions to file, and which evidence to obtain. If the action proceeds to an appeal, Zafirov will decide which arguments to preserve, further binding the federal government. Yet no one—not the President, not a department head, and not a court of law—appointed Zafirov to the office of relator. Instead, relying on an idiosyncratic provision of the False Claims Act, Zafirov appointed herself. This she may not do.



Looking Forward: Takeaways for FY2026

What to Look Out For in FY 2026

- FY 2025 was a record-setting year for FCA enforcement, indicating DOJ will continue extensive enforcement measures in FY 2026.
- Qui tam relators will likely remain critical to DOJ enforcement efforts, but DOJ is also increasing affirmative enforcement.
- Although health care remains a primary focus of DOJ FCA enforcement, enforcement efforts are expanding into emerging areas like cybersecurity and trade-related programs.

What to Look Out For in FY 2026

- Companies should review existing compliance programs with a focus on generating contemporaneous records reflecting compliant intent and creating a culture that facilitates internal reporting.
- Focus on strengthening cybersecurity and AI controls through compliance measures such as aligning with NIST / ISO standards and implementation of human-in-the-loop (HITL) safeguards.
- When problems arise, proactively investigate and remediate
 - Evaluate the risks and benefits of self-disclosure

Questions?



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