



UNDER CONSTRUCTION

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Complaints for False Claims Against the Government Require Specificity and Allegations that the Contractor Falsely Asserted it is Entitled to Government Money or Property

By Daniel P. Wierzba

The False Claims Act, 31 U.S.C. § 3729 *et seq.*, creates liability for companies and individuals that falsely assert to the federal government that the company or individual is entitled to receive government money or property, usually in the form of payment applications on government projects, including construction projects.

The Ninth Circuit Court of Appeals recently held that a complaint that claims a contractor filed a false claim with the federal government must plead specific rather than general facts. In *Cafasso v. Gen. Dynamics C4 Sys.*, 637 F.3d 1047 (9th Cir. 2011), an employee of a government contractor filed suit as *qui tam* plaintiff, meaning she filed suit as an individual but on behalf of the government, alleging that her contractor employer submitted false claims to the government because it failed to notify the government about inventions it developed while under contract with the government. Under the contract, the government had the right to use the inventions for free while allowing other government contractors to use the inventions under a license.

The Court denied plaintiff's claim, finding that the complaint did not provide enough facts to allege the contractor submitted false claims to the government. The Court stated that

the plaintiff was required to show that the contractor in some way falsely asserted to the government that it was entitled to obtain government money or property. Although the plaintiff alleged that the contractor may have engaged in "unsavory conduct," the Court found that such conduct alone is not sufficient as a false claim. The Court also found that, even if true, the complaint only alleged that the contractor may have breached its contract with the government, not that the contractor falsely asserted that it was entitled to receive government money or property.

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