

INFORMATION

DATE AND TIME: Thursdays, March 24 and 31, 2011, 4-7:30 p.m.

LOCATION: Suffolk University Law School, 120 Tremont Street, Boston.

TUITION: \$230.00, \$200.00 for Suffolk Alumni, attorneys admitted to the bar after 2009 and members of the Federal Bar Association.

CREDIT: Approved for CLE Credit in RI, NH, VT and ME.

WALK-INS: Space is limited. Registrations at the door are welcome, but please register in advance to reserve a seat and your written course materials or call to confirm space availability.

REFUNDS: If for some reason you are not able to attend, you may send a substitute or call no later than the business day before to receive a refund less a \$15.00 cancellation fee. Otherwise, you will receive the course materials.

SPECIAL NEEDS: If you have special needs addressed by the Americans with Disabilities Act, please notify us as soon as possible.

BOOK ORDERS: If you're unable to attend, you may order the course materials for \$79.00. They will ship after March 31, 2011.

Year admitted to the Bar _____ Suffolk Alumni? _____

Name(s) _____

Firm/Agency _____

Address _____

City _____ State _____ Zip _____

Phone _____

Email _____

(For program confirmation purposes only)

CLE Credit? (State) _____

(New Hampshire Attorneys, please include your Bar Number)

Register for Recent Developments in False Claims Act Litigation

Ordering Course Materials Only

PAYMENT METHOD

Check Payable to *Suffolk University*

American Express Discover MasterCard Visa

Account Number _____

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Please return form with payment to:
Advanced Legal Studies/Suffolk University Law School
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RECENT DEVELOPMENTS IN FALSE CLAIMS ACT LITIGATION

*Sponsored with
Macaronis Institute for Trial & Appellate Advocacy
Federal Bar Association*



*Thursdays, March 24 and 31, 2011
Suffolk University Law School*



Advanced Legal Studies
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ABOUT THE PROGRAM

The False Claims Act and its state counterparts are the principal legal tools used to combat fraud on the government. Recent developments in case law and amendments to several statutes have opened new frontiers in whistleblower litigation. These changes affect who may be eligible for substantial rewards for reporting fraudulent conduct and who may face multi-million dollar liabilities for failing to comply with the requirements of government programs. *Qui tam* lawsuits are increasingly common and settlements and recoveries have been growing just as fast. The U.S. recently reported more than \$5 billion in settlements since the beginning of 2009, and much of that litigation was commenced, prosecuted and defended by attorneys in New England.

Recent Developments in False Claims Act Litigation aims to explain many of the recent changes and provide new insights into this complex type of litigation. Leading practitioners representing all of the participants in False Claims Act litigation—*qui tam* relators, defendants, federal and state governments—will be present. Persons attending the program will benefit from the expertise of a distinguished faculty, experienced in local and national litigation.

ATTEND AND LEARN:

- The basics of federal and state False Claims Acts, which provide individuals with knowledge of fraud to sue on behalf of the United States and/or several other states
- How recent developments in case law and legislation affect False Claims Act practice
- Practical insights from attorneys in the U.S. Attorney's office and the Medicaid Fraud Control Unit of the Massachusetts Attorney General's office
- How to recognize and evaluate whether your client has a viable False Claims Act claim
- How to protect your client's interests if they are investigated by the government or becomes the subject of a *qui tam* complaint

DAY ONE, THURSDAY, MARCH 24, 2011

4:00 Welcome and Introductions

Honorable John M. Greaney, Director

Macaronis Institute for Trial & Appellate Advocacy

4:10 Introduction to False Claims Act

Thomas M. Greene, Esq., Greene LLP, Chair, Moderator

4:20 Current Topics in False Claims Act Litigation Part I:

- How the Fraud Enforcement and Recovery Act of 2009 changed the scienter requirement, overruled *Allison Engine* and expanded the scope of "reverse false claims"
- Rule 9(b): stating fraud in FCA cases with particularity
- How the Patient Protection & Affordable Care Act of 2010 lowers the "public disclosure" jurisdictional bar and broadens the "original source exception"
- Effect of the amendments to the Anti-Kickback Statute on the viability of FCA claims
- Good Manufacturing Process violations as a basis for FCA liability

Shannon T. Kelley, Esq., U.S. Attorney's Office

Kirsten V. Mayer, Esq., Ropes & Gray

Michael A. Tabb, Esq., Greene LLP

6:00 Current Topics in False Claims Act Litigation Part II: The Role of the Government

- Intervention/non-intervention: How does the decision affect the parties?
- Earlier unsealing by the District Courts: What are the implications on all parties?
- Expanded use of Civil Investigative Demands under FERA; the implications for targeted companies
- State investigations: the pros and cons of the state becoming active in nationwide FCA investigations and coordinating investigations with the U.S. government
- False claims and the MA Attorney General: When, why and how does the AG get involved? What happens when states intervene but the U.S. does not?

Shannon T. Kelley, Esq., U.S. Attorney's Office

Royston H. Delaney, Esq., Boston, MA

Joseph F. Savage, Jr., Esq., Goodwin Procter LLP

Christopher J. Walsh, Esq., Office of the Attorney General, Chief, Medicaid Fraud Division

7:30 Conclude

DAY TWO, THURSDAY, MARCH 31, 2011

4:00 Recap and Overview

Thomas M. Greene, Esq., Greene LLP, Chair, Moderator

4:10 New Frontiers in Whistleblower Litigation

- The effects of the Dodd-Frank Act and the SEC's whistleblower rewards provisions on Wall Street and State Street
- Overpayments and PPACA: retention of overpayments now results in False Claims Act exposure
- Enhanced liability to come for defrauding "health exchanges," including the Massachusetts Connector
- Deterring corporate recidivism and the problem of "Too Big to Nail"
- Expanded criminal enforcement against corporate executives

Thomas E. Dwyer, Jr., Esq., Dwyer/Partners LLP

Suzanne E. Durrell, Esq., Milton, MA

Paul G. Levenson, Esq., U.S. Attorney's Office

Martin F. Murphy, Esq., Foley Hoag LLP

Susan G. Winkler, Esq., U.S. Attorney's Office

5:45 Causation, Damages & Settlement Negotiations

- Causation, claims analysis and aggregate damages issues
- Complexities of preparing an FCA case for trial
- Parallel investigations: When civil and criminal cases are pursued simultaneously, how is a *qui tam* case impacted?
- Invoking the 5th Amendment: What effect on an FCA civil trial?
- Settlement strategies and issues for all parties
- Settlement of an FCA case and the impact on subsequent litigation.
- The relator's perspective: What is the psychological toll on the relator and is it worth it?

Zachary A. Cunha, Esq., U.S. Attorney's Office

Brien T. O'Connor, Esq., Ropes & Gray

Robert Patten, Esq., Office of the Attorney General, Medicaid Fraud Division

Ilyas J. Rona, Esq., Greene LLP

7:30 Conclude

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