

## CLIENT ALERT

### D.C. Circuit Fetters Government Discretion to Settle Qui Tam Claims Over Relator's Objection

April 24, 2012

On Friday, April 20, 2012, in *United States ex rel. Schweizer v. Océ N.V.* the D.C. Circuit unanimously reversed the district court's approval of an FCA settlement over a relator's objection when the lower court did not examine the agreement's fairness. The D.C. Circuit held that, while the government has unfettered discretion under section 3730(c)(2)(A) to dismiss a *qui tam* action outright over a relator's objections, section 3730(c)(2)(B) is applicable to dismissal of settled cases over the relator's objection and -- as in other statutory schemes and despite the government's claim it would result in an unconstitutional violation of the Separation of Powers Clause -- requires the district court to conduct a hearing to determine whether the proposed settlement is "fair, adequate, or reasonable under all circumstances."

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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