

CLIENT ALERT

Public Disclosure Of "Industry-Wide" Overbilling Practice Bars Qui Tam Suit Based Upon Similar But Undisclosed Fraudulent Transactions

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In *United States ex rel. Gear v. Emergency Medical Assocs. of Ill.*, the Seventh Circuit took an expansive view of the False Claims Act's ["FCA"] "public disclosure" bar, concluding that media and governmental reports concerning the general type of unlawful scheme alleged in a qui tam complaint sufficed to defeat the court's jurisdiction, even though such reports did not identify the particular defendant or any specific instances of its alleged misconduct. Specifically, the Seventh Circuit held that medical journal articles and a series of Department of Health and Human Services Office of Inspector General audits concerning "industry-wide" Medicare billing abuses in which hospitals sought reimbursement for services provided by residents as if they were licensed attending physicians, were "public disclosures" that barred the relator's complaint involving alleged similar overbilling schemes, despite the fact that the disclosures did not identify the two defendants or their specific fraudulent transactions.

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