

## CLIENT ALERT

### Reverse False Claim Requires "Established" Obligation to Pay

Dec.15.2016

On December 13, 2016, the Fifth Circuit, reversing the district court, held in *U.S. ex rel. Simoneaux v. E.I. DuPont De Nemours & Co* that the 2009 amendments to the FCA did not abrogate its prior precedent holding that reverse false claims liability did not extend to potential or contingent obligations to pay unassessed government fines or penalties. Agreeing with both the defendant and, notably, the United States, the court concluded that, while the 2009 amendments clarified that the amount of the obligation need not be "fixed," the duty to pay had to be "established" before liability could attach.

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

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