

CLIENT ALERT

Solicitor General Weighs in (Sort of) on Rule 9(b)

February 27, 2014

In October 2013, the Supreme Court invited the Solicitor General to express the government's views on a pending petition for certiorari in *U.S. ex rel. Nathan v. Takeda Pharmaceuticals*, whose central issue concerns the requisite level of particularity required by Rule 9(b) in FCA cases. The Solicitor General has now asked the Supreme Court to deny the relator's petition, calling the case "not a suitable vehicle" for resolving the particularity question (because the lower court reached the correct result on other grounds), while expressing the government's view that "a *qui tam* complaint satisfies Rule 9(b) if it contains detailed allegations supporting a plausible inference that false claims were submitted to the government, *even if the complaint does not identify specific requests for payment*" (emphasis added).

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