

## CLIENT ALERT

### Supreme Court to Tackle Implied Certification FCA Liability

Dec.08.2015

The Supreme Court has granted review in *Universal Health Servs. v. U.S. ex rel. Escobar* to decide whether (1) the implied certification theory of legal falsity under the False Claims Act is ever viable; and (2) whether, if it is, a contractor's reimbursement claim can be legally false under that theory if the provider failed to comply with a statute, regulation, or contractual provision that does not state that it is a condition of payment. As described in a recent article by C&M attorneys ([available here](#)), eight of the thirteen circuits have accepted the implied certification theory in some form, with only the Seventh Circuit rejecting the theory outright, but the approving circuits have articulated varying tests for its application.

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

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