

CLIENT ALERT

Wartime Suspension of Limitations Act Available to Qui Tam Relators Even When the U.S. Does Not Intervene

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In *U.S. ex rel. Carter v. Halliburton Co.* (Mar. 18, 2013), the Fourth Circuit held that (1) dismissals of a *qui tam* plaintiff's FCA complaint under the first-to-file bar should be *without* prejudice, thereby allowing a relator to refile her complaint after the original action has been dismissed and is no longer "pending"; and (2) the Wartime Suspension of Limitations Act (WSLA), which tolls "any statute of limitations applicable to any offense[] involving fraud or attempted fraud against the United States" "[w]hen the United States is at war," applies (i) to both civil and criminal fraud against the United States, (ii) even without a formal declaration of war, and (iii) regardless of whether the U.S. intervenes. In a partial dissent, Judge Agee argued that allowing relators to benefit from the WSLA when the government has not intervened provides a "strong financial incentive for relators to allow false claims to build up over time before they filed, thereby increasing their own potential recovery."

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

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