

With Data And AI, Whistleblowers Set Off An FCA Tidal Wave

By **Phillip Bantz**

Law360 (June 24, 2026, 3:54 PM EDT) -- Whistleblowers are increasingly using artificial intelligence to comb through public data in search of potential False Claims Act cases, unleashing a flood of new complaints that are shaking up white collar defense and government enforcement efforts while subjecting more companies to potentially false allegations, experts say.

The number of new qui tam complaints filed last year reached 1,297 — topping the record 980 complaints filed in 2024, which at that time had represented a big jump over the filings in prior years — and the trend shows no signs of slowing down.

"We're seeing AI-assisted whistleblower or relator reports creating a new influx of False Claims Act cases across all industries in the government contracting spectrum," Scott Marrah, a partner at Reed Smith LLP, told Law360.

Private whistleblowers or relators known as data miners are driving the wave of new complaints. They have been behind nearly half of all qui tam filings since 2024, according to the U.S. Department of Justice.

Unlike typical whistleblowers, who tend to be company insiders calling out potential wrongdoing based on inside information, data miners are on the outside searching for anomalies in publicly available corporate and government data that could point to fraud. They are incentivized by the potential to collect portions of monetary settlements, which can be sizable.

Settlements and judgments under the False Claims Act totaled more than \$6.8 billion for fiscal year 2025, according to a DOJ report in January.

The rise of data miners is a double-edged sword, experts said. The miners are helping the government detect potential fraud while also creating more work for white collar lawyers, but their complaints could be based on bad or misinterpreted data and the sheer volume of reports they're generating threatens to swamp the DOJ.

"Civil fraud prosecutors, both at Main Justice and U.S. attorney's offices, are being deluged by these suits," Gejaa T. Gobena, a partner at Hogan Lovells and former federal fraud prosecutor, told Law360.

"It's led to a lot of work on the plates of my former colleagues," he said. "I think the government is getting overwhelmed."

Looking to keep pace with what Gobena described as an "explosion" of qui tam complaints, the DOJ has ramped up its efforts to partner with data miner whistleblowers — but has stressed that it only wants to roll out the welcome mat for those able to show that their fraud detection methods are sophisticated and reliable.

The DOJ launched an initiative in late April called FOCUS, or "fraud oversight through careful use of statistics," to encourage data miners to come forward and tell the government how they're identifying "high-quality, actionable False Claims Act matters."

"You can't just data mine then file a complaint and hope to collect a check at the end," said Justin Lugar, who served as a civil fraud federal prosecutor before joining Woods Rogers in 2024.

"You have to present good data and analytical work that is a substitute, if you will, for having an insider talking about the fraud," he added.

Around the same time that the government rolled out the FOCUS initiative, the DOJ announced it was offering \$300 million in funding through a Special Attorneys Program to support state and other nonfederal agencies working to "prevent and prosecute fraud and other crimes nationwide."

State prosecutors are "looking at these [False Claims Act-related] issues to bring enforcement where they can" and could step in and fill potential gaps in federal enforcement efforts, Marrah said.

On the defense side, the burgeoning business of qui tam complaints is prompting lawyers and law firms to shift their practices to focus more on FCA-related matters.

"We are seeing a significant uptick in FCA work," said Agustin D. Orozco, partner at Crowell & Moring LLP. "Historically, I have been 50-50 False Claims Act and criminal work, and now it's majority FCA, maybe like 80%."

Leaders at Womble Bond Dickinson recently launched an FCA working group. Joe Whitley, who chairs the firm's white collar defense and investigations practice, told Law360 the firm made the move "so we don't miss opportunities in the government contracting space and FCA space."

"Sometimes those two worlds have been kind of separated," he added.

FCA defense work also is getting more complicated, particularly on the front end, as a result of the proliferation of data miner-filed complaints, the bulk of which appear to be generated through the use of AI, experts say.

"We've been seeing these really long, in-depth complaints that in the not-too-distant past would have been a paragraph and are now 10 to 20 pages with citations — it's pretty clear that they're AI-assisted," Marrah said.

The use of AI in data mining for qui tam complaints "creates a more complex document that is harder to go through and there is more time involved in rebutting the allegations," Whitley said. "That's definitely going to create a time lag in getting these cases handled."

Defense lawyers also are growing increasingly wary of FCA whistleblower complaints that might be

based on miners, erroneous AI-generated results or the government misinterpreting what they've collected through data analytics.

"We have had a couple recent investigations where our clients received government subpoenas, and we later came to realize that it was based on AI analytics that didn't have the proper context," Marrah said.

In one of the cases, the government, rather than a private data miner, had misinterpreted data showing that one of Marrah's clients was an outlier, he said. The government was receptive to his client's explanation of the data and the investigation appears to have ended, he said, but the client "still had to deal with the subpoena."

White collar lawyers told Law360 that the DOJ has, historically, been willing to engage with them and their clients on qui tam complaints and is generally receptive to explanations about why red-flagged data might not point to wrongdoing.

"There's a mutual understanding between DOJ attorneys and the defense bar that the end goal is the administration of justice," Orozco said.

But he and other experts worried that data miners might not be as willing to listen or back down and could continue to pursue cases based on bad or misinterpreted data after the government declines to join or intervene in the matter.

"I am concerned that well-funded relators will tell the Justice Department, 'Let the case go forward. We'll take it from here,'" said Douglas Baruch, a partner at Morgan Lewis & Bockius LLP.

He added, "Allowing a relator to run with a case just based on data is enormously expensive for companies to respond to — the litigation costs can be prohibitively expensive for some companies."

Data miners' willingness to forge ahead with potentially weak or flawed qui tam complaints will likely depend on the overall fate of the initial wave of cases, according to Orozco.

"If these data mining cases are seeing success and surviving motions to dismiss or the DOJ is intervening in these types of cases, that can only encourage a continuation," he said.

--Editing by Daniel King.