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FCA Recoveries Hit $6.8 Billion as Courts Question the Future of the Qui Tam Authority

Key Takeaways

- The Department of Justice reported record-breaking recoveries in False Claims Act cases in FY2025, more than doubling total recoveries from the prior year.
- As usual, the bulk of that amount resulted from health care cases, although DOJ emphasized its continued focus on other areas, including military procurement, cybersecurity fraud, fraud in pandemic program and enforcement of tariffs.
- With a record-breaking number of *new* whistleblower suits filed in 2025, the industry can expect the upward trend in False Claims Act investigations and settlements to continue for years to come.
- Meanwhile, courts increasingly are confronting arguments challenging the constitutionality of the False Claims Act's whistleblower provisions.

According to DOJ, in FY2025, False Claims Act settlements and judgments totaled an astounding and record-breaking $6.8 billion, more than doubling the $3.1 billion recovered the prior year. As in the past, the bulk of these recoveries—$5.7 billion—were in the health care industry. DOJ's press release highlighted that the government "continued and expanded its success" in three key health care enforcement areas: managed care, prescription drugs and medically unnecessary care. In addition to these federal recoveries, DOJ noted that many health care cases also resulted in significant recoveries for state Medicaid programs, reflecting the FCA's joint federal-state impact in the health care arena.

Why the big year-over-year jump? Recoveries in cases filed and prosecuted by relators as well as those filed by the federal government increased – signaling a rise in enforcement activity regardless of who initiated the lawsuit. Non-*qui tam* cases more than tripled, reflecting a major increase in homegrown government-initiated cases. The data also show a huge jump in recoveries in *qui tam* cases where the U.S. declined to intervene, from $311M in FY24 to more than $2.2B in FY25. This partially reflects a handful of major non-intervened cases that were tried to jury verdict, including the $1.64 billion judgment against Janssen relating to promotion of its HIV drugs following a 2024 trial in New Jersey,

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- Kevin M. Coffey
- Dayna C. Staron
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which Janssen is currently appealing before the Third Circuit.

This year's recoveries present an unusual and telling juxtaposition in FCA enforcement: the record number of *qui tam* filings and historically high recoveries come at a time when courts are giving renewed, non-trivial attention to constitutional challenges to the *qui tam* mechanism itself. In *U.S. ex rel. Zafirov*, the Eleventh Circuit is considering whether relators exercise significant authority under Article II without proper appointment — an argument that, until recently, had been largely academic. The tension is striking: the federal government continues to reap enormous financial and enforcement benefits from private relators, while elements of the judiciary are openly questioning the structural legitimacy of that delegation. That dynamic likely cuts against predictions of a wholesale dismantling of *qui tam* enforcement. Even if *Zafirov* were affirmed or similar arguments gain traction, the scale of recoveries and DOJ's reliance on whistleblowers make it far more likely that any constitutional disruption would prompt targeted judicial narrowing or legislative repair, rather than elimination, of the FCA's *qui tam* provisions.

Beyond health care, DOJ emphasized a range of enforcement priorities, including fraud in military procurement, cybersecurity fraud, fraud in pandemic programs and tariff and customs fraud. The breadth of these focus areas reflects DOJ's continued effort to apply the FCA across a wide swath of government programs and spending initiatives. Interestingly, the DOJ's Press Release did not mention its prior-stated intent to deploy the FCA in a number of non-traditional contexts, including civil-rights compliance. Through initiatives such as the Civil Rights Fraud Initiative, DOJ previously stated that alleged violations of nondiscrimination or related statutory obligations could serve as the predicate for FCA liability under false-certification theories. To date, however, DOJ has not reported any FCA settlements or judgments arising from these novel applications. As with DEI-related theories, these efforts remain largely at the investigative and policy-signaling stage, and it remains to be seen whether courts will ultimately endorse this expanded use of the FCA or whether these theories will translate into meaningful recoveries.

DOJ also underscored its emphasis on cooperation by enforcement targets, including self-disclosures, cooperating with investigations and other remedial measures such as implementing compliance program enhancements or terminating culpable individuals. Per the press release, those "cooperative measures" resulted in reduced penalties or damage multipliers in those cases and signal to regulated entities that proactive compliance and meaningful cooperation can materially affect outcomes in FCA investigations.

Looking ahead, the number of FCA settlements and judgements likely will continue to rise in the coming years, as there are many investigations and filed cases in the pipeline. In FY2025, whistleblowers filed a record 1,297 new *qui tams* and DOJ opened 401 new investigations, most of which have probably not yet been resolved.

Although some predicted a slowdown in health care fraud enforcement amid the change of administrations and associated shuffling of priorities, these data show that the government's commitment to health care enforcement is strong, and the industry needs to stay vigilant in its compliance efforts.