

## FCA Alert: Decision Opens Door to Challenge of Agency Guidance in False Claims Cases

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*FCA Alert*

On November 5, 2019, the United States District Court for the Eastern District of Pennsylvania ruled on a motion to dismiss a False Claims Act (FCA) qui tam suit filed by the United States Department of Justice, long after it declined to intervene in the case. The ruling is the most recent opinion to expound upon the government's ability to exercise its prerogative to dismiss a qui tam suit. But it is equally if not more noteworthy for its treatment of two other issues: whether and to what extent sub-regulatory agency guidance documents should be given the force of law; and the application of the Supreme Court's holding on the materiality of non-compliance with legal or contractual requirements. The effect of all three of these holdings could have repercussions for defendants in FCA suits.

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