



November 8, 2006

## **SUPREME COURT DECLINES TO REVIEW IMPORTANT FALSE CLAIMS ACT CASE**

*(R&F Properties of Lake County, Inc. v. U.S. ex rel. Walker)*

The U.S. Supreme Court declined earlier this week to review a court of appeals decision that ruled that a company can be subject to substantial penalties under the False Claims Act (FCA), even though its billing practices were based on a reasonable interpretation of ambiguous agency regulations and contractual provisions. By leaving the lower court decision intact, companies doing business with the federal government may be subject to unfair and ruinous civil suits by so-called private "relators" and their attorneys who stand to get a substantial "bounty" for bringing the suit, even though the government does not believe the case is worth its attention.

In *R&F Properties*, a nurse employed by the medical facility brought a private "qui tam" lawsuit against the company under the FCA claiming that the company had overbilled Medicare for certain medical services provided to patients. The district court ruled in favor of the company because the complex Medicare billing regulations and contractual provisions were ambiguous and the company reasonably interpreted them. Nevertheless, the court of appeals reversed, thereby exposing the company to ruinous financial liability and debarment from further government contracting.

In its brief, WLF had urged the Court to review and reverse the decision because basing liability on complex and ambiguous regulations is not the kind of "fraud" that Congress intended to punish. Allowing such suits would encourage frivolous and costly FCA lawsuits.

Over the years, WLF has participated in major FCA cases. In addition, WLF's Legal Studies Division has produced many publications on the topic. Two weeks ago, WLF filed a brief in the Supreme Court in *Rockwell Int'l Corp v. United States*, an important FCA case that the Court agreed to review. The oral argument in *Rockwell* will be held on December 5, 2006.

WLF's brief was filed with the *pro bono* assistance of Woody N. Peterson and Andrew Jackson, partners in the Washington, D.C., office of Dickstein Shapiro LLP, and associate Justin A. Chiarodo. WLF's briefs in *R&F Properties* and *Rockwell* are posted on WLF's website at [www.wlf.org](http://www.wlf.org).

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