

ALERT

News Flash: Supreme Court Ruling Could Reshape FCA Liability Landscape for Federal Contractors

June 16, 2016

The U.S. Supreme Court released a new opinion on the False Claims Act in *Universal Health Services v. United States ex rel. Escobar* this morning, permitting a limited implied certification theory for liability under the False Claims Act, but giving defendants an important new defense for all False Claims Act cases. The Court held that submitting a claim for payment implies compliance with statutory, regulatory, or contractual requirements that are material to specific representations made in the claim for payment. The Court also found that a requirement's express designation as a condition of payment is relevant, but not dispositive, to the determination of liability, contrary to a standard utilized by many U.S. Circuit Courts of Appeals. At the same time, the court emphasized that misrepresentations or omissions about compliance with statutory, regulatory, or contractual requirements must be material. And the Court seemed to go far beyond the language of the statute (or the Government's historical position) in defining materiality, calling the standard "rigorous" and "demanding." The Court's ruling has the potential to reshape the liability landscape for contractors who do business with the United States, as well as all those in the healthcare, communications, and pharmaceutical industries who participate in government programs.

Background on this case is available [here](#) and [here](#). For more information, please read our complete alert, available [here](#).

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