



## Joe W. Harper

Partner  
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Joe's practice focuses on complex civil litigation, with particular emphasis on defending corporations in lawsuits brought under the federal False Claims Act throughout the United States. His experience includes leading internal investigations in response to Civil Investigative Demands and government agency subpoenas; persuading the Department of Justice to decline intervention in cases seeking billions of dollars in False Claims Act damages; defeating claims brought by the United States in government-intervened cases; and obtaining dismissals of *qui tam* suits prior to discovery. Joe has experience representing defense contractors, health care entities and pharmaceutical companies, and has handled litigation involving environmental regulations. He is a member of the firm's Recruiting Committee and is active in the community.

### **Dinsmore on FCA: News and Insights on the False Claims Act**

#### **Services**

- Litigation
- False Claims Act

#### **Education**

- Northwestern University School of Law (J.D., 2005)
- University of Cincinnati (B.S., 2001)

#### **Bar Admissions**

- Ohio

#### **Court Admissions**

- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court for the Southern District of Ohio
- U.S. District Court for the Eastern District of Wisconsin

- U.S. District Court for the Northern District of Texas

## **Affiliations/Memberships**

- Sycamore Advisory Commission
- Cincinnati United
- United Way Emerging Leader

## **Distinctions**

- Ohio *Rising Stars*® for Business Litigation

## **Experience**

### **Obtained Dismissal of False Claims Act Case Alleging Fraudulent Inducement of Department of Energy Contract**

Our attorneys represented a Department of Energy contractor in a qui tam lawsuit alleging fraudulent inducement of a contract to refurbish the spin rocket motor in the B61 thermonuclear bomb. The district court dismissed the relator's claims after limited discovery.

### **Obtained Dismissal of False Claims Act Case Regarding Employee Overtime**

Our attorneys represented a defense contractor in a qui tam suit alleging fraudulent government billings relating to unearned employee overtime. The district court granted our motion to dismiss the relator's FCA claims prior to discovery.

### **Subpoena and Internal Investigation in False Claims Act case Involving Medicaid Drug Rebates**

Our attorneys represented a major pharmaceutical distributor in a qui tam case involving the alleged failure to pay Medicaid rebates for repackaged drugs. All of the relator's claims were dismissed.

### **Obtained Favorable Settlement in Intervened False Claims Act Case Alleging Violation of Environmental Laws**

Our attorneys represented a Department of Energy contractor in an intervened FCA lawsuit alleging the submission of false claims and statements associated with the contractor's compliance with environmental statutes and regulations. After more than a decade of litigation, the government agreed to settle the case for less than one percent of its initial damages calculation.

### **Successfully Resolved Intervened False Claims Act Case Against Department of Defense Contractor Involving Multiple Relators**

Our attorneys represented a federal contractor in an intervened FCA lawsuit arising out of multiple *qui tam* suits alleging that the contractor acted recklessly by failing to oversee and discover the fraudulent activities of one of its suppliers. The attorneys obtained dismissal of one relator under the FCA's first-to-file rule at both the district court level and in the Fifth Circuit. They also successfully defeated an early motion for summary judgment brought by the Department of Justice on its common law claim premised on an alleged violation of the cost-plus-percentage-

of-cost prohibition. After Court denied the Government's motion for summary judgment, the case settled for a fraction of the Government's alleged single damages.

## **Assistance with Internal Investigations, Government Investigations and Subpoenas**

We regularly assist and advise companies with internal investigations in response to whistleblower complaints, internal reports of wrongdoing, and inquiries from federal agencies. We also routinely represent companies that have received a DOJ or IG subpoena, working quickly to respond to the subpoena and investigate the likely allegations. We have persuaded the Government to decline intervention in numerous sealed *qui tam* actions.

## **Publications**

December 7, 2017

### **Sixth Circuit Affirms Dismissal for Failure to Meet Demanding FCA Pleading Requirements**

Dinsmore on FCA

September 26, 2017

### **District Court Rejects "Holistic" Approach to Escobar's FCA Materiality Standard**

Dinsmore on FCA

September 18, 2017

### **Second Circuit Will Decide Whether Relators Can Avoid Dismissal Under The First-to-File-Rule by Amending Their Complaints**

Dinsmore on FCA

August 25, 2017

### **FCA Defendant Strikes Back Against DOJ for Seeking Unreasonable Recovery**

Dinsmore on FCA

August 25, 2017

### **D.C. Circuit: First-To-File Bar's Applicability Is Determined When the Relator Files the Second Complaint**

Dinsmore on FCA

August 1, 2017

### **When Are False Claims Act Releases in Separation Agreements Enforced?**

July 28, 2017

### **District Court of New Jersey Highlights Importance of Materiality Requirement at Pleading Stage**

July 25, 2017

### **Ninth Circuit Holds Escobar's Two Part Test Is Mandatory**

May 11, 2017

### **Second Circuit: The First-To-File Rule Is Not Jurisdictional**

April 18, 2017

## **Virginia District Court Applies McDonnell Douglas Framework to FCA Retaliation Claim**

April 18, 2017

### **Duke Gains Home Court Advantage in Relator's Qui Tam Action**

March 7, 2017

### **District of Colorado Affirms Government's Broad Discretion to Settle Qui Tam Case Over Relators' Objections**

March 1, 2017

### **Fourth Circuit Upholds Government's Right to Veto Qui Tam Settlement and Withholds Judgment on FCA Statistical-Sampling Issue**

February 9, 2017

### **The Devil is in the Details: Sixth Circuit Rejects Casual Allegations of Fraud in Affirming Dismissal of Qui Tam Action**

January 24, 2017

### **Ninth Circuit Applies Escobar to Affirm Summary Judgment: Three Helpful Arguments for FCA Defendants**

January 4, 2017

### **A \$4.7 Billion Year: An Analysis of DOJ's False Claims Act Recoveries in FY 2016, Recent Trends and Predictions for the Future**