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## Eleventh Circuit Partially Affirms Dismissal Of \$350 Million False Claims Act Verdict

(*United States ex rel. Ruckh v. Salus Rehabilitation, LLC*)

**“The Court’s opinion confirms that False Claims Act materiality hinges, not on what the government says, but on what the government does.”**

—Corbin K. Barthold, WLF Senior Litigation Counsel

WASHINGTON, DC—On June 25, 2020, in a partial win for parties supported by Washington Legal Foundation, the Eleventh Circuit affirmed in part a trial court’s dismissal of a \$350 million False Claims Act verdict against a network of nursing homes. The case is *United States ex rel. Ruckh v. Salus Rehabilitation LLC*, Case No. 18-10500.

The plaintiff—called a “relator” in False Claims Act cases—worked for a few weeks at two nursing homes in Florida. Soon after leaving, she sued the nursing homes, as well as the homes’ administrative manager, under the False Claims Act. She alleged, among other things, that the nursing homes submitted Medicaid claims for care provided without regulation-mandated care plans. A jury sided with the relator, and, after application of the False Claims Act’s treble-damages and penalty provisions, the damages amounted to nearly \$350 million.

To trigger liability under the False Claims Act, a misstatement must be material to the government’s decision to pay a claim. The Supreme Court recently elaborated on the materiality standard in *Universal Health Services, Inc. v. United States ex rel. Escobar*. Before *Escobar*, some courts treated as “material” anything the government *says* is material. *Escobar* clarifies that a misstatement can trigger liability only if it *in fact* makes the government less likely to pay a claim. Applying *Escobar*, the trial court vacated the jury’s verdict.

On appeal, WLF submitted an *amicus* brief arguing that the trial court correctly applied *Escobar* and the materiality standard. The Eleventh Circuit’s opinion reaches the same conclusion as to the Medicaid claims. Although the Court also reversed the trial court’s judgment as to Medicare claims (which composed the majority of the damages in the case), the Court affirmed the trial court’s ruling on the Medicaid claims because “there was no evidence that the state ever declines payment for” violations of care-plan rules.

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