

Ryan Spiegel Provides Commentary for Law360 Article on False Claims Act Litigation

Ryan Spiegel provided commentary for an article titled: "Attys Dish On Escobar's FCA Impact One Year Later," which was published on Law360.com on June 20, 2017.

"Notwithstanding concern over heightened exposure for implied certifications, one key issue is how courts address the materiality element. In Escobar, the court noted that an omission must still be material in order to establish an FCA violation, even under the implied certification theory. So defendants can argue that even if they impliedly certified compliance with certain regulations when they did not in fact comply, an FCA claim nevertheless fails when the false certification or omission was not 'material.' The court rejected the 'extraordinarily expansive view' that the materiality element would be satisfied whenever the government could withhold payment due to some minor regulatory infraction, asking instead whether the government would withhold payment despite knowing of the noncompliance. Just recently, the Third Circuit in Petratos relied heavily on this 'heightened materiality standard,' dismissing a claim for lack of evidence that the government consistently refuses to pay in similar cases of noncompliance."

The full article, "Attys Dish On Escobar's FCA Impact One Year Later," can be found on Law360.com (subscription required).

Ryan is Chair of the firm's Government Contracts practice group, and is a member of the firm's Litigation, Corporate, and Science & Technology practice groups.