

THOUGHT LEADERSHIP

NEWS RELEASES

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Husch Blackwell Defeats FCA Whistleblower Litigation for Hospice

Husch Blackwell prevailed before the U.S. Court of Appeals for the Eleventh Circuit in *qui tam* litigation alleging that Bethany Hospice and Palliative Care violated the federal False Claims Act (FCA) and the Georgia False Medicaid Claims Act. The U.S. Court of Appeals affirmed an earlier district court opinion that had dismissed the matter with prejudice for failure to allege the submission of an actual false claim with particularity. Husch Blackwell attorneys had previously persuaded both the federal and state governments to decline to intervene in this lawsuit.

The case stemmed from a complaint filed by two former employees who alleged that the hospice orchestrated a kickback referral scheme with certain hospice physicians and filed Medicare and Medicaid claims in connection with patients who were referred to the hospice illegally.

The Husch Blackwell hospice team focused the court on the lack of sufficiently particularized factual allegations within the hundreds of paragraphs contained in the plaintiffs' complaint. Ultimately, the appellate court agreed, ruling that "[d]espite alleging intimate familiarity with and access to Bethany Hospice's billing practices, [the] Relators' complaint fails to identify even a single, concrete example of a false claim submitted to the government." Accordingly, the court ruled that the plaintiffs failed to meet the heightened pleading standards demanded by the FCA.

Husch Blackwell is proud to have worked toward a hospice-friendly Court of Appeals opinion that provides further case law regarding the standards involved in bringing a *qui tam* lawsuit under the FCA.

The Husch Blackwell team included Bryan Nowicki and Michael Raupp.