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# Unanimous Supreme Court Decision Restores 'Common Sense' to Interpreting FCA, Lawyer Says

By Nina Youngstrom

In a highly anticipated opinion, the Supreme Court on June 1 killed off the idea that defendants in False Claims Act (FCA) cases could argue that even though they may have believed they were violating a regulation, they didn't submit false claims "knowingly" as defined by the statute.[1]

The unanimous ruling, which was written by Justice Clarence Thomas, centers on whistleblower cases filed against Safeway and Supervalu pharmacies over their "usual and customary" charges for drugs on claims submitted to Medicare and Medicaid. "What matters for an FCA case is whether the defendant knew the claim was false," Thomas wrote in *United States Et Al. Ex Rel. Schutte Et Al. v. Supervalu Inc. Et Al*. "Thus, if respondents correctly interpreted the relevant phrase and believed their claims were false, then they could have known their claims were false."

The decision "is a fantastic win restoring common sense to interpreting the False Claims Act," said Colette Matzzie, an attorney with Philips & Cohen, which represents whistleblowers. "This preserves the understanding that a defendant who acts in accordance with its subjective good-faith belief that they are following the law will generally be protected from False Claims Act liability."

FCA liability only attaches to knowing violations, which are defined as actual knowledge the claims are false, deliberate indifference to the truth or falsity of the claims and recklessness, Matzzie said. The Supreme Court ruled if the pharmacies believed they were breaking the law, that's sufficient to say they knowingly presented false claims, she explained. Providers won't escape liability because of ambiguity in Medicare and Medicaid regulations they themselves understood.