

What Standard Governs the Dismissal of a Relator's Claim for Violation of the False Claims Act's Seal Requirement in an Action Over Hurricane Katrina-Related Insurance Payments?

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Pullman & Comley attorney Michael A. Kurs, member of the Litigation practice, authored the case study "What Standard Governs the Dismissal of a Relator's Claim for Violation of the False Claims Act's Seal Requirement in an Action Over Hurricane Katrina-Related Insurance Payments?" for the American Bar Association's 2016 publication *PREVIEW of United States Supreme Court Cases*.

Michael's legal analysis discusses the following court case issue: *In the aftermath of the destruction caused by Hurricane Katrina in 2005, Cori and Kerri Rigsby accused State Farm Fire and Casualty Company of falsely misclassifying wind damage as flood damage, among other misdeeds, leaving a federal government-backed flood insurance policy to unnecessarily pay wind damage as flood damage out of United States Government funds. In 2006, the Rigsbys brought suit against State Farm under the federal False Claims Act (FCA). The FCA imposes civil liability on any person who submits false or fraudulent claims to the federal government for payment or approval. "Relators," like the Rigsbys, may bring actions under the FCA for themselves and for the government. If a lawsuit initiated by a relator under the FCA results in civil penalties or the recovery of damages, the award is typically divided between the government and the relator. In 2011, a federal district court in Mississippi awarded the Rigsbys the maximum possible share under the FCA for proving a false claim upon the federal government of \$250,000. The court also awarded the Rigsbys over \$2.9 million in attorneys fees and expenses. State Farm's appeal from the award seeks to undermine the result based on disclosure violations that the company attributes to the Rigsbys, including violations by the attorneys who initially represented the Rigsbys, of an FCA requirement that claims first be filed "under seal," and not disclosed until allowed under the FCA. This case calls upon the Supreme Court to address how a relator's seal violation affects a relator's right to prosecute and recover for FCA claims and what discretion judges have to police such violations. Relators play a significant role in the instigation of FCA cases. Relator cases are reported to have led to \$2.9 billion in FCA recoveries in 2015.*

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To read the entire case study, please click on the attached PDF.

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