

Roderick Thomas Discusses False Claims Act Ruling

Bloomberg BNA's Federal Contracts Report
August 13, 2012

Roderick Thomas, chair of Wiley Rein's White Collar Defense Practice, was quoted in the *Federal Contracts Report (FCR)* after a U.S. Court of Appeals reinstated a claim that an Air Force contractor knowingly underbid on a contract, while finding the district court applied the wrong legal standard for a defendant's knowledge under the False Claims Act (FCA).

The article reported that Fifth Circuit Appeals Judge Harry Pregerson "decided in a matter of first impression that a defendant can be found liable under the FCA for knowingly making an inaccurate estimate."

Mr. Thomas told *FCR* that he disagreed with the decision and that this is an example of "relators and the government fashioning new theories of liability untethered to the statutory language of the False Claims Act or previous case law."

Mr. Thomas added that "this legal theory creates the possibility that a contractor's good faith estimates—often made based on judgmental factors, imperfect information, and changing conditions—will subject contractors to post hoc second-guessing. Such a broad reading of the False Claims Act creates additional risks for companies contracting with the federal government, which are far removed from actual claims for payment submitted to the government."

Related Professionals

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