

Federal Contracting

DOJ Received Record \$6.8 Billion From False Claims Act in 2025

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- The US Justice Department recovered more than \$6.8 billion under the False Claims Act in fiscal year 2025, the highest single-year recovery since the law was enacted in 1863.
- Whistleblowers filed 1,297 suits in fiscal year 2025, the highest number in a single year, with over \$5.3 billion of the \$6.8 billion recovered coming from reported settlements and judgments from earlier-filed whistleblower suits.
- The record-breaking year has raised questions about the future of whistleblower suits under the False Claims Act, with two US appeals courts considering arguments that such suits are barred under Article II of the US Constitution.

The US Justice Department recovered more than \$6.8 billion under the False Claims Act in fiscal year 2025, the highest single-year recovery since the fraud-fighting tool became law in 1863, according to the DOJ's annual report.

The report also said whistleblowers filed 1,297 suits in the same timeframe, the highest number in a single year, up from a then-record 980 suits in fiscal year 2024. Of the \$6.8 billion recovered, more than \$5.3 billion came from reported settlements and judgments from earlier-filed whistleblower suits, the DOJ's announcement said.

"Stopping rampant fraud is a top priority," Deputy Attorney General Todd Blanche said in the Jan. 16 press release, "and this record-breaking year proves the False Claims Act remains one of the government's most powerful weapons against fraud."

Health care still “leads the lion share of recoveries,” said Denise M. Barnes of Bass Berry & Sims PLC, with over \$5.7 billion of the \$6.8 billion related to that industry. And the 32% increase in whistleblower suit filings shows FCA recoveries will likely continue an upward trend, she said.

Under the FCA, the DOJ can initiate suits on its own, or elect to join whistleblowers who sue in the government’s name. Whistleblowers receive between 15% and 30% of a recovery in a successful case.

These litigation and financial milestones came about, according to FCA attorneys, because the Trump administration clearly encouraged whistleblowers to bring potential fraud to its attention, including claims about DEI programs, and because of whistleblowers pursuing prescription drug fraud cases that yielded large awards in March and August, after trials.

The DOJ’s report also comes as litigants are wondering whether whistleblower suits under the FCA will endure. Two US appeals courts are considering arguments that whistleblower suits are barred under Article II of the US Constitution.

DEI, Pandemic

Whistleblower suit filings have generally ranged between 600 and 800 each year, said Erica B. Hitchings of Whistleblower Law Collective, with the last two years being aberrations. Covid-19 pandemic support fraud cases could help explain the increase, she said.

“It’s no surprise that these programs were subject to tremendous fraud, and whistleblowers and the government are just catching up,” Hitchings said. “So, not only are we seeing more resolutions coming out, but we are also still seeing new cases being filed,” she said.

And as those case filings begin to lessen, she said, other emerging areas like cybersecurity and tariff fraud will ensure the number of suits remains “robust.”

Sara McLean, who represents FCA defendants with Akin Gump Strauss Hauer & Feld LLP, said the record numbers are the result of the Trump administration using the FCA to go after “bread-and-butter” enforcement areas like military procurement, but also the administration’s clear encouragement of whistleblowers to bring cases involving health care fraud, customs duty/tariff evasion, and DEI programs.

The increase in case filings shows this effort “has been amazingly successful,” McLean said.

The DOJ announced in May that it would use the FCA to target federal funds recipients that it considers to be violating civil rights laws by using DEI programs. The extent to which the DOJ follows through on this initiative remains to be seen.

But the government recently showed its commitment to the issue when it cited President Donald Trump’s anti-DEI executive order in abid to revive a suit alleging Harvard made false statements to the US Department of Education about its compliance with Title VI of the Civil Rights Act in a government grant application.

A D.C. federal judge declined to reinstate the suit, stating in a Jan. 14 order that the executive order didn't constitute a change in controlling law.

'David v. Goliath'

Eva Gunasekera, who represents whistleblowers with Tycko & Zavareei LLP, said a substantial portion of the DOJ's 2025 recovery came from cases where whistleblowers pursued claims "in a 'David v. Goliath' context," with the government declining to join cases they have litigated for many years.

One such case is *United States ex rel. Penelow v. Janssen Prods. LP*, where a New Jersey district court ruled that Janssen Products LP must pay roughly \$1.6 billion for improperly billing the government for HIV drugs. In another, a Pennsylvania federal district court said CVS Caremark Corp. must pay nearly \$290 million for making drug price misrepresentations to Medicare. CVS, like Janssen, has appealed.

"The value of these matters to the taxpaying public cannot be overstated," Hitchings said, "especially as government resources continue to be strained."

But the FCA's big year may be overshadowed by appeals questioning the constitutionality of whistleblower suits. The US Court of Appeals for the Eleventh Circuit recently heard oral arguments on whether whistleblower suits violate the appointments clause.

The defendant in that case, *United States ex rel. Zafirov v. Fla. Med. Assocs. LLC*, urged the appeals court to find that whistleblowers have too much power over suits. Whistleblowers improperly self-appoint and decide which defendants to target, the defendant argued. A similar appeal in the *Penelow* case is pending at the Third Circuit.

The Sixth Circuit, however, recently ruled that it didn't need to review this issue, because it upheld the constitutionality of whistleblower suits decades ago.

Notable FY 2025 Recoveries

- Teva Pharmaceuticals USA Inc. agreed to a \$450 million settlement, which covered claims that it allegedly engaged in kickback schemes involving multiple sclerosis drug Copaxone
- Gilead Sciences Inc. agreed to pay nearly \$177 million to the federal government for paying kickbacks to induce doctors to purchase drugs to treat HIV
- Raytheon Co. agreed to pay \$428 million for allegedly providing false cost data when negotiating with the US Department of Defense for government contracts and double billed on a weapons maintenance contract

To contact the reporter on this story: Daniel Seiden in Washington at dseiden@bloombergindustry.com

To contact the editors responsible for this story: Martina Stewart at mstewart@bloombergindustry.com; Brian Flood at bflood@bloombergindustry.com

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