

MEDIA MENTION

Roderick Thomas Discusses Fourth Circuit Ruling on Seal Violation in FCA Suit

Bloomberg BNA's Federal Contracts Report

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Roderick L. Thomas, chair of Wiley Rein's White Collar Defense & Government Investigations Practice, was quoted by *Bloomberg BNA's Federal Contracts Report* in an August 11 article about a federal appeals court's ruling that a False Claims Act (FCA) suit was improperly dismissed for a violation of the FCA's seal provisions.

In overturning the district court's dismissal in *Smith v. Clark/Smoot/Russell*, the U.S. Court of Appeals for the Fourth Circuit said the relator should be allowed to pursue his case despite communication between his attorney and defendants that violated the FCA's 60-day statutory waiting period, according to the article. Mr. Thomas said the court let the relator off the hook in this case despite the intentional breach of the 60-day seal requirement.

"Relators should not be able to use this decision to evade the consequences of their seal violations if they make disclosures to third parties or interfere with an ongoing investigation," Mr. Thomas told *Bloomberg BNA*. "The Fourth Circuit's decision deepens a circuit divide regarding when seal violations by an FCA relator warrant dismissal. Because of the confusion, this may be an issue that the U.S. Supreme Court takes up in order to impose some clarity among the circuits."

Related Professionals

Roderick L. Thomas
Partner
202.719.7035
rthomas@wiley.law

Practice Areas

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