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Florida Federal Court: Escobar Requires Reversal of \$348 Million False Claims Act Jury Verdict

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The United States District Court for the Middle District of Florida vacated a large jury verdict in a False Claims Act case against the owners and operators of nursing homes because the evidence did not satisfy the materiality standards articulated in the U.S Supreme Court's 2016 opinion in *Universal Health Services v. Escobar*.

The court's thorough and well-written opinion in *United States ex rel. Ruckh v. Salus Rehabilitation Services, LLC* concluded the nearly \$350 million verdict could not survive because the relator failed to present evidence that the federal and state governments would not have paid the claims if they were aware of the alleged violations. Indeed, as the court noted, both governments were aware of the disputed practices and the litigation, but both continued to pay the claims despite this knowledge.

In *Salus*, the relator alleged the defendants' bills were fraudulent because of "a handful of paperwork defects" and defendants' failure to submit a Medicaid comprehensive care plan. After the jury entered its verdict, the defendants moved for judgment as a matter of law and for a new trial because they claimed, among other things, the relator failed to offer evidence of materiality, which *Escobar* "defined unambiguously and required emphatically." Finding the defendants' arguments persuasive, the court

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concluded the “relator offered no meaningful and competent proof” that, had the governments known of the disputed practices, the governments would have regarded those practices as material and refused to pay the defendants’ bills.

Of particular importance to the court’s materiality determination was the governments’ continued payment of the defendants’ invoices. Where the government continues to pay for a service despite knowledge of some non-compliance, the government “works itself into a steadily tightening bind . . . of proving that the government would not do exactly what history demonstrates the government in fact did (and continues to do until this day).” Because the relator’s claims were “fatally ensnared in that intractable bind,” the court granted judgment as a matter of law for the defendants.

Materiality under the False Claims Act is a complicated issue, which the landmark *Escobar* decision helped simplify, and this opinion does an excellent job presenting the complexities in a straightforward manner. Those who wish to know more about the federal or Florida False Claims Act can contact us for more information.

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