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The Shumate Memo: Faster FCA Enforcement, Fewer DOJ Interventions

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On May 27, 2026, the Department of Justice's (DOJ) Assistant Attorney General for the Civil Division, Brett Shumate, issued a memorandum to all fraud enforcement attorneys titled "Accelerating Review and Enhancing Enforcement in Benefits Fraud Matters" (the Shumate Memo). The Memo sets forth new procedures and priorities for the review and enforcement of False Claims Act (FCA) cases involving federally funded benefits programs.

Whereas prior memos in this area focused on how DOJ enforcement attorneys themselves should further administration priorities, the Shumate Memo emphasizes the *qui tam* provision of the FCA, which allows private counsel to bring claims of relators (*i.e.*, whistleblowers) on behalf of the United States. By "accelerating" the DOJ's decisions on *qui tam* FCA cases, the Shumate Memo now signals a significant shift in DOJ's approach to FCA enforcement, with implications for companies and individuals accused of violating the FCA.

Background and Key Provisions

The Shumate Memo implements the March 2026 Executive Order establishing a Task Force to Eliminate Fraud in federally funded benefits programs. The Memo directs DOJ attorneys to:

- Prioritize and, to the maximum extent practicable, complete review of new benefits fraud *qui tam* actions within 60 days (and no later than 120 days).
- At the conclusion of the review, make one of three determinations:
 - (1) permit the relator to proceed and assume primary responsibility for litigating the case (subject to DOJ oversight);
 - (2) conduct further government investigation; or
 - (3) dismiss the *qui tam* if the allegations lack specificity or are legally deficient.
- Focus DOJ resources on cases involving higher-dollar frauds (over \$10 million) and those with aggravating factors such as beneficiary harm or ongoing misuse of federal funds.
- Expedite investigations and leverage a holistic approach, including referrals to the Criminal Division and affected agencies for potential



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Key takeaways:

- **Increased Reliance on Relators' Counsel:** Due to increasingly constrained DOJ resources, the Department will rely more heavily on relators' counsel to shoulder the costs and burdens of pursuing FCA cases. It appears that DOJ will permit more relators to proceed with FCA litigation, while reserving its own resources for the most significant matters. As a result, we expect DOJ to intervene in fewer cases, leaving relators' counsel to litigate the majority of new FCA actions. In turn, DOJ's more hands-off approach may not just accelerate the pace of FCA litigation, it may increase the volume of these cases.
- **Accelerated Intervention Decisions:** DOJ will make quicker decisions about whether to intervene in a relator's case, aiming to complete its review within 60 days (and no later than 120 days). This expedited timeline means that cases will move forward more rapidly, often without DOJ intervention, and relators' counsel should be prepared to litigate promptly. Defendants also will have to adjust to the new pace of FCA intervention decisions and be prepared to litigate cases more quickly than in the past.
- **Focus on Higher-Dollar Frauds:** DOJ will prioritize cases involving potential damages over \$10 million, focusing its resources on dismantling the largest and most complex fraud schemes. For clients with potential exposure below this threshold, there is an increased likelihood that cases will proceed without DOJ intervention, making them more attractive targets for the plaintiffs' bar. Relators' counsel are likely to invest less in individual cases and seek to move them more quickly past the DOJ intervention decision. We expect an uptick in FCA cases—many not well-founded—as emboldened plaintiffs' counsel believe they can extract quick settlement from defendants that want to avoid the cost and potential reputational harm of litigation.

Conclusion

While the Shumate Memo applies to benefits fraud matters, it marks a clear shift toward faster, more streamlined FCA enforcement in general. With DOJ reserving its resources for the most significant cases and opening the gates for relators' counsel to litigate the majority of new matters, companies are likely to face an increase in FCA cases. Companies and individuals with potential FCA exposure—particularly those involving alleged damages below \$10 million—should prepare to face more aggressive and rapid litigation from the plaintiffs' bar. Early assessment and preparation for potential FCA claims is more important than ever under this new enforcement regime.

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