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## **PSC Asks Supreme Court to Adopt Strict, Nationally-Uniform Fraud-Pleading Standard for *Qui Tam* Suits**

**Arlington, V.A. (March 9, 2018)** –The Professional Services Council (PSC) filed a “friend of the court” (amicus curiae) [brief](#) on March 7, urging the U.S. Supreme Court to require strict enforcement of a heightened pleading standard, and in so doing, to reject the view of some federal courts of appeals that a lax interpretation of “particularity” should be applied to certain types of *qui tam* suits.

The amicus requests that the Supreme Court take up a pending appeal presenting the lingering question of whether a False Claims Act relator can pursue a *qui tam* suit without alleging specific details about any particular false claim, even though Federal Rule of Civil Procedure 9(b) mandates that any plaintiff—including *qui tam* relators—alleging fraud “must *state with particularity* the circumstances constituting fraud.”

“There is a clear split of interpretation among the circuit courts on whether a strict or lax ‘particularity’ requirement should be applied to plaintiffs alleging fraud under the False Claims Act,” said Alan Chvotkin, Executive Vice President and Counsel of PSC. “This case gives the Supreme Court an important and timely opportunity to establish a nationally-uniform interpretation of Rule 9(b).

The [brief](#), in *Medical Device Business Services, Inc. v. United States ex rel. Nargol*, No. 17-1108, emphasizes that Rule 9(b) “is a crucial safeguard against vague, generalized, or speculative *qui tam* suits.” For this reason, the brief asserts, “a *qui tam* suit which fails to satisfy Rule 9(b) should be dismissed at the threshold ... Any lax interpretation of Rule 9(b) ... would frustrate the purpose of the rule. That in turn would impair the operation of the federal procurement system.”

This is not the first time that PSC has asked the Supreme Court to address Rule 9(b)’s application to *qui tam* suits. In 2015, PSC [filed](#) an amicus brief supporting a review in *AT&T, Inc. v. United States ex rel. Heath*, but the Court declined to hear the case.

PSC was joined in the *Medical Device Business Services* amicus by The Coalition for Government Procurement and the National Defense Industrial Association. [Lawrence S. Ebner](#) of Capital Appellate Advocacy PLLC authored the brief on behalf of the associations.

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