The DOJ's False Claims Act Memo: Its Meaning and Where We May Be Headed

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In this article, Preston Pugh and Adam Braskich* discuss the Granston Memo, which outlines seven factors Department of Justice (DOJ) attorneys should consider when deciding whether to dismiss lawsuits brought under the False Claims Act (FCA). The article examines how companies can use the memo to their advantage when seeking dismissal of an FCA lawsuit, given what appears to be the DOJ's higher scrutiny of FCA cases. "While the Granston Memo does not purport to change DOJ policy, and only crystallises factors that have historically been considered when seeking dismissal, the full context of the memo suggests that the DOJ will indeed be taking a harder look at qui tam cases and seeking dismissals more often," Pugh and Braskich wrote. "This is a positive development for companies that have long endured a barrage of often meritless FCA lawsuits. By engaging counsel early and persuading the DOJ to use its authority where appropriate, companies may be able to avoid the expense of defending against many such suits."

*Former Miller & Chevalier attorney