

Reed Stephens Discusses Supreme Court's SuperValu FCA Ruling with Law360

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Winston & Strawn partner Reed Stephens spoke with Law360 about the Supreme Court's ruling in *Schutte v. SuperValu Inc.*, which stated that the False Claims Act's standard for scienter, or "knowingly" false billing, scrutinizes what someone "subjectively believed" about their compliance obligations. This ruling rejected the Seventh Circuit's conclusion that the FCA doesn't punish compliance failings that look "objectively reasonable," even if someone strongly suspected they were gaming the system.

Describing the aftermath of the ruling Reed said, "The SuperValu ruling has had a practical impact on a few cases where the lower court analysis turned on facts that now conflict with [the Supreme Court's] less lenient view of how easily defendants can show that they did not knowingly violate the FCA."

Reed also noted U.S. District Judge Holly L. Teeter's decision in another FCA case alleging excessive charges for telecommunication services by Wisconsin Bell Inc. He stated that the ruling is an illumination of how "SuperValu creates opportunities for defendants" to defend against plaintiff's summary judgment bids "even where the applicable rule seems clear-cut," assuming they possess evidence of good intentions.

"In those scenarios, the defendant ... still has the option to go to trial and perhaps use that uncertainty of the trial outcome to negotiate a better resolution with the DOJ or the relator," he said.

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