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QUI TAM CONFERENCE

February 28 – March 1

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False Claims Act Year in Review

John R. Thomas, Jr., Moderator
Healy Hafemann Magee & Thomas, LLC

Stuart Delery
Gibson, Dunn & Crutcher LLP

Claire Sylvia
Phillips & Cohen LLP



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OVERVIEW

SUBSTANTIVE LAW

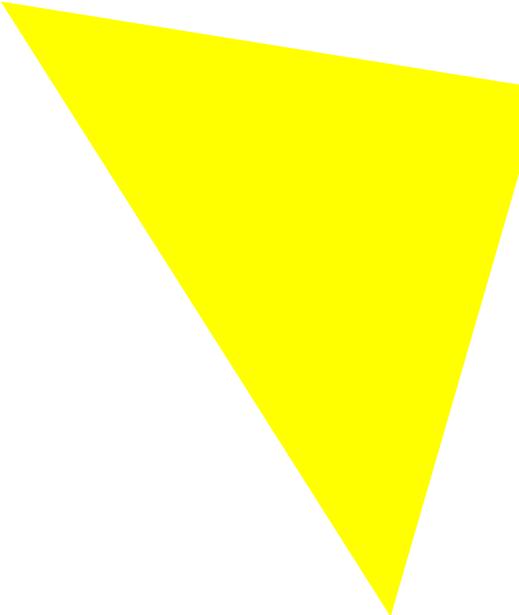
- Falsity
- Materiality
- Knowledge
- Damages

PROCEDURE

- Pleading
- Statute of Limitations
- Dismissal

POLICY DEVELOPMENTS

- Granston Memo
- Brand Memo
- Yates Memo



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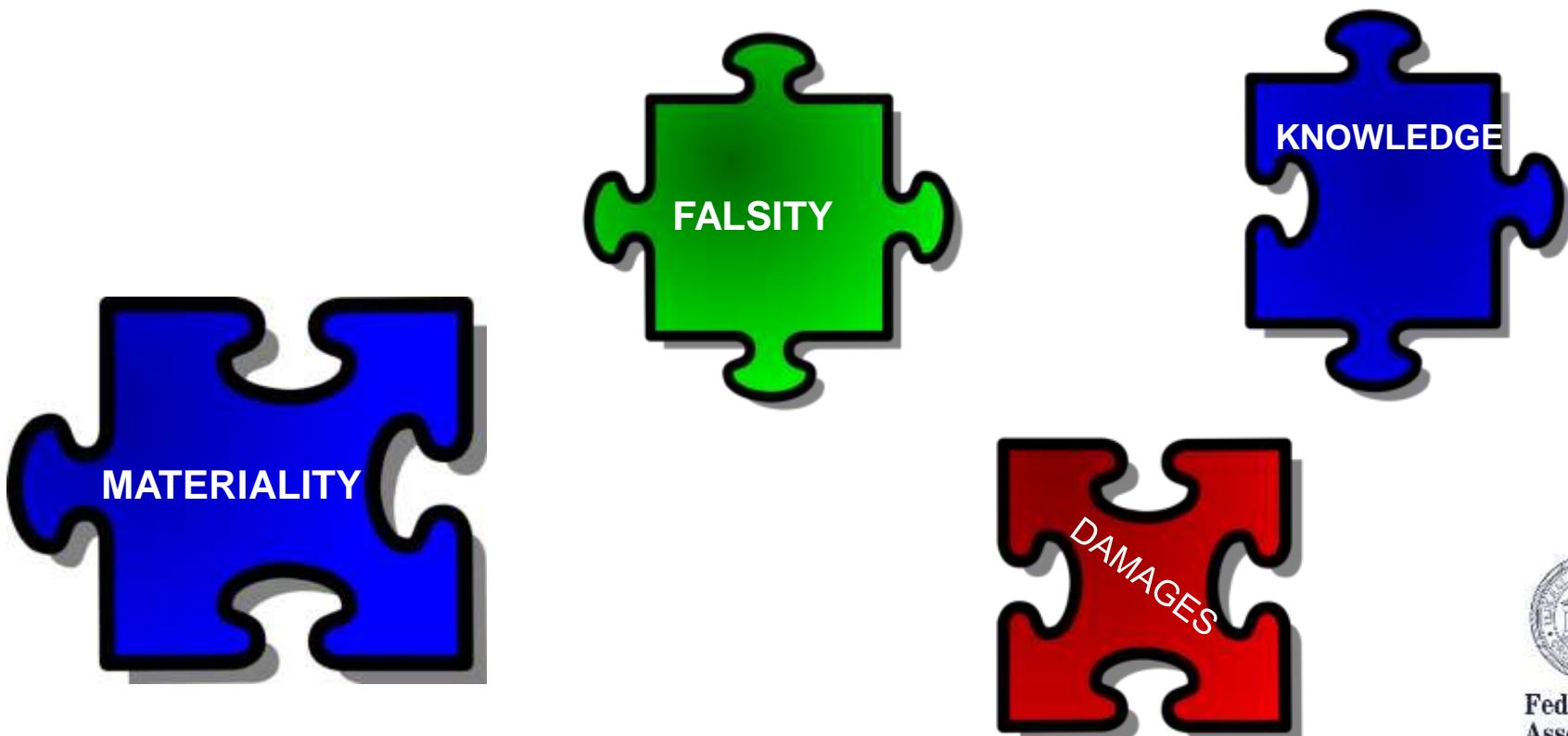
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SUBSTANTIVE LAW



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FALSITY



- *United States ex rel. Polukoff v. St. Mark's Hospital*, 895 F.3d 730 (10th Cir. 2018)
- *United States ex rel. Berg v. Honeywell International, Inc.*, 740 Fed. App'x 535 (9th Cir. 2018)
- *United States ex rel. Rose v. Stephens Institute*, 909 F.3d 1012 (9th Cir. 2018), amending and superseding 901 F.3d 1124 (9th Cir. 2018)



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KNOWLEDGE



- *United States ex rel. Streck v. Allergan*,
746 Fed.Appx.101 (3d Cir. 2018)
- *United States ex rel. Harper v. Muskingum Watershed Conservancy District*, 739 Fed.Appx.330 (6th Cir. 2018)
- *United States ex rel. Berkowitz v. Automation Aids, Inc.*,
896 F.3d 834 (7th Cir. 2018)



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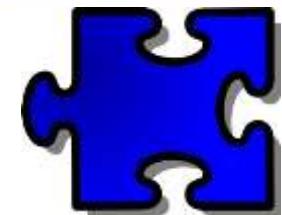
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MATERIALITY



- *United States ex rel. Rose v. Stephens Institute*, 909 F.3d 1012 (9th Cir. 2018), amending and superseding 901 F.3d 1124 (9th Cir. 2018)
- *United States ex rel. Prather v. Brookdale Senior Living Communities, Inc.*, 892 F.3d 822 (6th Cir. 2018) (*Prather II*)
- *United States ex rel. Ruckh v. Salus Rehabilitation*, 304 F.Supp.3d 1258 (M.D. Fla. 2018)



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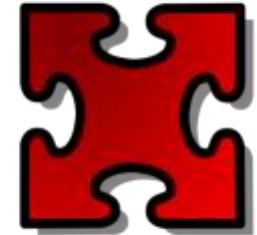
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DAMAGES



- *United States v. Novak*, 2018 WL 4205540 (N.D. Ill. 2018)
- *United States ex rel. Landis v. Tailwind Sports Corp.*,
324 F.Supp.3d 67 (D.D.C. 2018)



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PROCEDURE



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PLEADING



- *United States ex rel. Silingo v. WellPoint, Inc.*, 904 F.3d 667 (9th Cir. 2018)
- *United States ex rel. Grant v. United Airlines, Inc.*, 912 F.3d 190 (4th Cir. 2019)
- *Carrell v. AIDS Healthcare Foundation, Inc.*, 898 F.3d 1267 (11th Cir. 2018)



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STATUTE OF LIMITATIONS



- *United States ex rel. Hunt v. Cochise Consultancy, Inc.*, 887 F.3d 1081 (11th Cir.), cert. granted, *Cochise Consultancy Inc. v. United States ex rel. Hunt*, 2018 WL 4385694 (U.S. 2018).



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DISMISSAL



- *United States ex rel. Vaughn v. United Biologics, LLC*, 907 F.3d 187 (11th Cir. 2018)
- *United States ex rel. Thrower v. Academy Mortgage Corp.*, 2018 WL 3208157 (N.D. Cal. 2018)
- *United States ex. rel. Toomer v. TerraPower LLC*, 2018 WL 4934070 (D. Idaho 2018)



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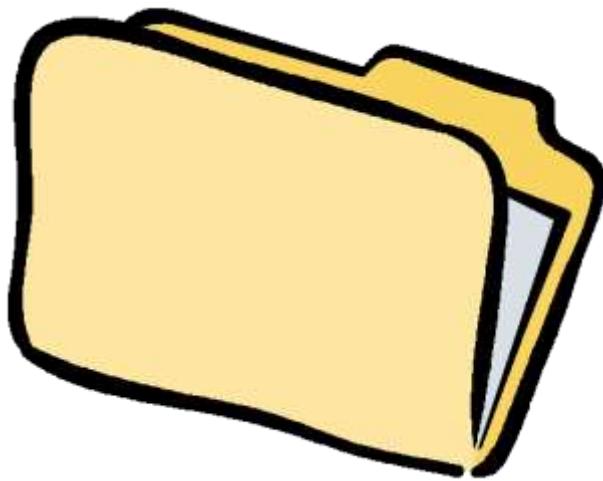
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POLICY DEVELOPMENTS



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GRANSTON MEMO



DOJ Justice Manual

<https://www.justice.gov/jm/jm-4-4000-commercial-litigation#4-4.111>

- Amicus Brief of the United States in *Gilead Sciences, Inc. v. United States ex rel. Campie*, No. 17-936 (S.Ct)
- *United States ex rel. Thrower v. Academy Mortgage Corp.*, 2018 WL 4053484 (N.D. Cal. 2018)
- *United States ex. rel. Toomer v. TerraPower LLC*, 2018 WL 4934070 (D. Idaho 2018)



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BRAND MEMO



- DOJ has issued guidance on implementing the policy:
<https://www.justice.gov/jm/1-20000-limitation-use-guidance-documents-litigation>



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YATES MEMO



DOJ Revisions to Justice Manual 2018

<https://www.justice.gov/jm/jm-4-3000-compromising-and-closing#4-3.100>



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