

Wisconsin v. Bell and What's Next for FCA Enforcement

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2025 is already shaping up to be an active year for False Claims Act (FCA) litigation. With the recent announcements of executive orders that may expand the FCA as an enforcement tool, as discussed in a [recent Troutman Pepper Locke client alert](#), everyone is keeping a close eye on what is next. In the past few weeks, the U.S. Supreme Court has gotten in on the FCA action.

On February 21, the Supreme Court issued its opinion in *Wisconsin Bell v. United States ex rel. Health*, holding that requests for reimbursements submitted to the Federal Communication Commission's (FCC) Education-Rate (E-rate) program are "claims" for FCA purposes. The E-Rate program aims to ensure the availability of telecommunications services, like the internet, to everyone. The FCC advances its mission by providing subsidies for internet and other telecommunication services to low-income consumers and those in rural areas. A significant portion of the funds for the E-Rate program come from private telecommunications corporations, but some of the funds come from the U.S. Treasury. FCC regulations govern the disbursement of the funds. In *Wisconsin Bell*, the defendants argued that the funds from the program were managed by private corporations and, therefore, requests for reimbursements were not "claims" to the government under the FCA. However, the Supreme Court concluded that if even a small amount of funds from the federal government are intermingled with the private funds, then the program falls within the scope of the FCA. The court emphasized that "all the [FCA] requires is that [federal funds] provide 'any portion' — not the whole — of the sums requested."

The Supreme Court's interpretation of "claim" will be important to private companies as they brace for enforcement activity from the Trump administration's Department of Justice (DOJ). In her [February 2025 memo](#), Attorney General Pam Bondi announced that DOJ's Civil Rights Division and the Office of Legal Policy were preparing a report on how DOJ should approach "encourag[ing] the private sector to end illegal discrimination and preferences, including policies relating to DEI and DEIA." As mentioned in our [prior article](#), Bondi has indicated that she used Executive Order 14173 (EO 14173), which mandates that private companies must certify that they do not operate any programs promoting DEI that violate applicable federal anti-discrimination laws, as a guide for her enforcement strategy. EO 14173's certification requirement is an apparent signal of pending FCA enforcement efforts against private companies that receive federal funds while operating DEI programming. These enforcement priorities from DOJ should take on enhanced importance in light of the decision in *Wisconsin v. Bell*. Given the Supreme Court's holding, private companies that receive even a very small amount of their funding from the government can still be subject to FCA claims (including DOJ enforcement actions and *qui tam* lawsuits from private citizens).

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