

## US Supreme Court to Evaluate Crucial Standard in Whistleblower Fraud Lawsuits



The U.S. Supreme Court has begun considering a case that could have major implications for whistleblower lawsuits. The case involves three whistleblowers who have accused pharmacy operators of knowingly overbilling government health insurance programs for prescription drugs, thereby pocketing millions of taxpayer dollars.

The whistleblowers filed their litigation under the False Claims Act, which allows individuals to sue on behalf of the U.S. government when they have evidence of fraud against federal programs. Seeking monetary damages, the whistleblowers accused Safeway Inc, owned by Albertsons Companies Inc, and SuperValu Inc, part of United Natural Foods Inc, of offering most customers prescription drugs at discounted prices paying out of pocket while improperly charging higher rates to the government.

Pharmacies receive reimbursement from government healthcare programs for dispensing covered drugs to beneficiaries. The whistleblowers argue that federal law requires pharmacies to bill the Medicare and Medicaid programs the same prices charged to the general public under a rate known as a pharmacy's "usual and customary" price. They also claim that both companies knew they were defrauding the government and worked to conceal their pricing practices.

The central issue in the case is whether companies can avoid liability for fraud by demonstrating that an "objectively reasonable" reading of the law supported their conduct - regardless of whether they truly believed that interpretation at the time of their alleged wrongdoing.

**Your legal career is our priority. Let BCG Attorney Search help you find your next opportunity.**

The pharmacy operators defended themselves against the whistleblower lawsuits by arguing that Medicare and Medicaid billing requirements were unclear and that a reasonable reading of the law supported their practices. The Chicago-based 7th U.S. Circuit Court of Appeals sided with the companies, ruling that they could not be held responsible for fraud given the "objectively reasonable" interpretation of the law in their favor - even if they did not actually believe that interpretation and intended to deceive the government.

However, President Joe Biden's administration has backed the whistleblowers in their appeal to the Supreme Court, arguing that the ruling undermines the False Claims Act. The administration's lawyers have urged the justices to reverse the 7th Circuit's decision.

The outcome of the case could have significant implications for future whistleblower lawsuits. If the Supreme Court sides with the whistleblowers, it could strengthen protections for individuals who come forward to expose fraud against the government. On the other hand, if the court upholds the 7th Circuit's decision, it could make it more difficult for whistleblowers to prevail in similar cases.

Overall, the case highlights the importance of whistleblowers in fighting fraud against the government and the challenges they face in doing so. As the Biden administration has noted, the False Claims Act is a critical tool for uncovering fraud and protecting taxpayer dollars. It remains to be seen how the Supreme Court will rule in this case, but its decision is sure to have far-reaching consequences for whistleblowers and the fight against fraud.