

Landmark U.S. Supreme Court Ruling Grants Justice Department Authority to Dismiss Whistleblower Cases



The U.S. Supreme Court has upheld the power of the Justice Department to unilaterally dismiss lawsuits brought under the False Claims Act. This law enables whistleblowers to sue businesses on behalf of the government, seeking to recover taxpayer money obtained through fraudulent activities while providing them with a portion of any recovered funds. The 8-1 ruling, authored by Justice Elena Kagan, supported a lower court's decision to allow the Justice Department to dismiss a lawsuit filed against a unit of UnitedHealth Group Inc by former employee Jesse Polansky, who alleged wrongdoing.

Polansky challenged the Justice Department's ability to dismiss whistleblower lawsuits when the government initially declined to intervene. The 3rd U.S. Circuit Court of Appeals in Philadelphia had previously upheld the dismissal of Polansky's 2012 lawsuit, which accused UnitedHealth's Executive Health Resources unit of defrauding Medicare by falsely certifying medically necessary hospital admissions for the government health insurance program targeting individuals aged 65 and older.

Justice Kagan's opinion clarified that the government has the authority to seek dismissal of False Claims Act actions over a whistleblower's objection as long as it intervenes in the litigation at any point, be it from the outset or later in the process. However, Justice Clarence Thomas dissented from the majority opinion.

According to data from the Justice Department, whistleblower cases brought under the False Claims Act have resulted in substantial recoveries, amounting to \$48.2 billion from 1987 to 2021. The majority of these recoveries came from cases in which the government intervened and took over, while cases pursued solely by whistleblowers accounted for \$3.5 billion during the same period.

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Business groups, including the influential U.S. Chamber of Commerce, argue that the low success rate of cases without government intervention underscores the Justice Department's need to exercise its power to dismiss meritless lawsuits. This practice has been increasingly employed since a 2018 policy was implemented during the administration of former President Donald Trump, aimed at seeking the dismissal of lawsuits lacking merit or considered "parasitic" by the government.

In 2019, the Justice Department moved to dismiss Polansky's lawsuit, citing various concerns, such as the burdensome nature of document production requests. UnitedHealth's Executive Health Resources unit denied any wrongdoing and contended that the department possessed the right to dismiss the case despite Polansky's objections.

This ruling follows another significant decision by the Supreme Court on June 1, in which the justices unanimously supported whistleblowers in their efforts to revive lawsuits targeting pharmacy operators accused of knowingly overbilling government health insurance programs for prescription drugs at the expense of taxpayers.

The U.S. Supreme Court's recent ruling reinforces the authority of the Justice Department to dismiss whistleblower lawsuits filed under the False Claims Act. The decision carries implications for whistleblower protections and the recovery of taxpayer funds in cases involving false claims. As legal developments continue to shape the landscape, it is crucial to monitor how this ruling may impact the willingness of whistleblowers to come forward and the enforcement of government accountability in combating fraud and fraudulent activities.