



PRESIDENT'S MESSAGE

Dear ACC Colorado Members,

It is officially Fall, and September is always a busy month - this year is no exception! We are ramping up for the ACC Annual Meeting (www.acc.com/AM) which will be held in Las Vegas, October 23-26, during which ACC's 40th anniversary will be commemorated. More locally, next year we'll be celebrating our Chapter's 40 years of service to the in-house counsel Colorado community. Did you know Colorado is THE founding and original ACC Chapter? Our Chapter has grown so much in size recently, we now have over 850 members, propelling us from a "medium" sized Chapter to a "large" one. Not only is this a sign of more people moving into our great state, but also a reflection of our increasing need as in-house counsel to cultivate an active network of fellow-legal practitioners for knowledge-sharing, advice, benchmarking, moral support, friendships, and future opportunities. We've been happy to welcome so many recent transplants to Colorado, particularly during the COVID era.



I'm proud of the opportunities our Chapter has offered these last few years for meaningful engagement of our members and sponsors, introducing innovative programming formats and topics, and providing professional development and outreach opportunities. Take a look below at some of the fun events we've got coming up - poker night and curling are some of my personal favorite events we offer on an annual basis (rivaled by the Ski & CLE event we hold every February!). We invite you to share your ideas on any content or activities you would like to see offered - we partner closely with our sponsors to develop creative programs and experiences to meet your needs. Please also use our [Speaker Interest Form](#) if you'd like to volunteer your expertise as a speaker in any particular area - you don't need to be a seasoned speaker, just someone willing to share insights with others who may be eager to learn.

As I enter the last few months of my second year as President of the ACC Colorado Chapter, I reflect upon and cherish this terrific community of professionals, and the network on which I have become increasingly reliant, particularly in light of the increasingly complex challenges and opportunities facing our companies, communities and profession. Which means that as I prepare to move, with my husband and kids, to Australia in November to be closer to family, I will seek the same opportunities within ACC Australia that I've been granted here - opportunities to advocate, learn, teach, mentor, brainstorm, socialize, and give back to our communities - inspired by my network of friends and colleagues within ACC Colorado.

Wishing you a rewarding and successful remainder of 2022, and I hope we get to cross paths virtually or in person soon.

Gemma Heckendorf
ACC Colorado President 2021-2022
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MITIGATING FALSE CLAIMS ACT RISK IN A HARROWING ENFORCEMENT CLIMATE

By Eric Whytsell

The U.S. Department of Justice (DOJ) recently announced that its civil False Claims Act (FCA) judgments and settlements for the fiscal year (FY) 2021 topped \$5.6 billion. This is the second-highest annual recovery total ever and the highest since 2014. Given the DOJ's new Civil Cyber-Fraud Initiative, its continued enforcement focus on healthcare, COVID relief, government contractors, and the massive federal spending anticipated under the Infrastructure Investment and Job Act, FY 2022 seems likely to be another banner year for the DOJ, one in which companies across the spectrum may face whistleblowers, investigations, and the risk of FCA liability.



Savvy companies can, however, mitigate their FCA risk by taking essential steps:

- 1. Know Your Contracts and Grants** – Minimizing potential FCA exposure begins with knowing the rules that apply to your company. There's nothing worse than the management team finding out that your company is an "accidental" government contractor because its zealous sales team signed up to a raft of federal requirements without consulting with anyone—except perhaps learning after the fact that your work is being funded with federal grant or financial assistance money that comes with strings attached. However, even a company operating squarely in government contracting or another highly regulated space (e.g., healthcare, energy, communications) needs to watch the changing government requirements that apply to its business.
- 2. Assess Your Risk** – Armed with an understanding of the applicable rules, you should conduct a gap analysis to identify areas in which the company's existing policies and procedures don't do enough to ensure that all the relevant requirements are met under your contracts and regulatory requirements. This analysis will require bringing together business people who are most familiar with relevant aspects of company operations, and experts who understand both the legal requirements at issue and the practical aspects of complying with them. Together, these individuals can prioritize any problems found and address them appropriately.
- 3. Establish and Maintain a Robust Compliance Program** – Whether a company already has a well-established compliance program or is creating (or recreating) one from scratch, it should be comprehensive, user-friendly, and tailored to your business and identified risk. The best compliance programs go well beyond sound written policies and pro forma training sessions. To foster an effective and lasting culture of compliance, you must inform company personnel about the program to ensure they understand and take ownership of the role they play within the company's overall compliance solution. Almost no one should be expected to be a compliance expert. Still, everyone needs to be proficient at spotting red flags and escalating issues to personnel with the expertise and authority for appropriate handling. The nature of the FCA makes this especially important, as FCA liability can arise not only from intentional—and clearly fraudulent — activities such as bribery, kickbacks, and the like but also from less problematic sources that amount to "recklessly" asking the government to pay for work where material requirements were not met or performed as required by the contract. To properly mitigate FCA risk, everyone must do their part—and help others do the same.
- 4. Assess and Improve Your Program** – Setting up a compliance program designed to do all the right things does not mean your compliance work is done. Instead, you should treat the program as a living organism that must evolve to succeed. No matter how good its program, a company will never know how effective it is unless you audit and review the results (how many problems of what type, with what causes, and what follow up?). And you'll never ensure that it works well over time unless you use lessons learned, based on consideration of real-life experience and outcomes to improve the program (how do you minimize the likelihood of a recurrence going forward?).
- 5. Investigate and Disclose Problems as Appropriate** – An effective compliance program will help your company identify problems, ideally in time to address them before they could expose you to FCA liability. What the company does next is vital. It may seem counterintuitive, but you need to consider disclosing the problem to the government. Indeed, doing so can be critical toward demonstrating the company can be a responsible actor that takes compliance seriously. The best practice is to investigate the issue or allegation to ascertain to the extent possible what happened, who was involved, when it occurred, and why. Only then can the company determine whether there is credible evidence of a violation of relevant statutes that must be disclosed to the government (in the procurement context this is known as a "FAR Mandatory Disclosure") or decide what to do where concerns arise that do not require a disclosure. In either event and no matter the decision, the root causes should be addressed, and commensurate improvements to the program implemented to avoid these types of concerns moving forward.

Depending on where your company is in the compliance process, it may need to take one or more of the above actions immediately. But it would be best if you considered integrating each of these elements into your company's approach to ensuring compliance and mitigating FCA risk to minimize the chance of issues arising and maximize your opportunity to identify and address them before they become more significant problems.

Eric Whytsell is a partner at Stinson LLP, and he is located in the Denver office. He may be reached at eric.whytsell@stinson.com

ACC COLORADO BOARD OF DIRECTORS



WELCOME NEW & RENEWING MEMBERS

Please help us welcome the following Members who joined within the last few months

David Richards	Bryan Dunn Woodward, Inc.	Brian Waters HEI Civil	Julie Taggart Sundyne, LLC	Danielle Kitson Keysight Technologies	Crystal Williams DaVita, Inc.
Carolyn Nguyen GM Cruise LLC	Anthony Martinez Amkor Technology, Inc.	David Siever Charter Communications, Inc.	Erin Jensen Parasanti	Tyer Brochstein Comunale Properties	Philip Smith GE Aviation
Quincy Stott Lockheed Martin Space	Kensi Mays Vail Resorts Management Company	Lauren Kole Vail Resorts Management Company	Casady Pickar Vail Resorts Management Company	Philippe Johnson Vail Resorts Management Company	Allison Turbiville Vail Resorts Management Company
Brenda Heinicke Terumo BCT, Inc.	Caitlin Fagan DCP Midstream	Elizabeth Genter DCP Midstream	Paul Tourangeau DCP Midstream	Stephen Van Hooser DCP Midstream	C. Lippitt DCP Midstream
Geroge Green DCP Midstream	Greg Smith DCP Midstream	Joseph Phillips DCP Midstream	Claude Tate DaVita, Inc.	Sean Nakamoto Google LLC	Daniel Jones Wharton Mountain Seed
Brett Mull Cochlear Americas	Amit Sharma The Simply Good Foods Company	Jessica Wagner Uplight, Inc.	Kim Stollar The Boeing Company	Matt Senko Arrow Electronics	Mallory Briggs Vail Resorts Management Company
Donnie Emmi Safe Harbor Financial	David Rogers Datadog, Inc.	Wallis Finger Origin Financial	Kevin Aiken Gates Corporation	George Ebert Lockheed Martin Corporation	Melanie Margolin Thumbtack, Inc.
Brian Morrison Google LLC	Alex Wilde Mercer Advisors	Maria Spiridonova DISH Network, LLC	Urenna Nnenna Lekwauwa Vantage Data Centers	Nicholas Contarino DISH Network, LLC	Chris Bosch DISH Wireless
	Geji Loether DISH Network, LLC	Christian Walters DISH Wireless	Daniel Auerbach DISH Wireless	Jessica Johnson DISH Network, LLC	

UPCOMING EVENTS

Come Break the Ice at the 3rd Annual Denver “Learn to Curl” Clinic & Reception



September 28, 2022 | 5:30 PM - 8:30 PM MDT

[Denver Curling Club](#)

14100 West 7th Avenue
Golden, CO 80401

Registration Fee

ACC Members: \$20.00 | Non-Members: \$30.00
Bring a friend or colleague!

Hosted by Faegre Drinker and ACC Colorado!



Faegre Drinker's Denver office is delighted to once again co-sponsor this "Learn to Curl" social event with ACC Colorado!

WHAT IS CURLING?

Curling is a team sport, played on ice, where two teams take it in turns to slide stones made of granite towards a target – known as a House. It is an Olympic and Paralympic winter sport with medal disciplines for Women's, Men's, and Mixed Doubles. Join us an evening of game play and conversation with friends and colleagues. Work in small groups and learn the basic skill of delivery, sweeping and shot making.

REGISTER/WHEN YOU ARRIVE

Space is limited, so registration early. Upon arrival, each participant will sign a Release of Liability form. Please plan to arrive at 5:30pm and be ready to go at 6pm. The session begins with a short off ice introduction, then demo on the ice and break into teams of four for learning and game play.

PARKING

Complimentary

ATTIRE

Guests should wear clean, rubber-soled shoes and warm, comfortable clothing (athletic/stretchy pants, no jeans). Participants will be fitted for grippers to wear on the ice and brooms will be distributed. Locker rooms are available on-site.

REFRESHMENTS

Enjoy hosted wine and beer and a light buffet available at 5:30 pm.

[CLICK HERE TO REGISTER](#)

Questions?

Michelle Martin
Chapter Administrator
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Email: coloradoevents@accglobal.com

ACC Colorado and Fisher Phillips invite you to a Poker Party!

RSVP today for you and a guest for a fun night out!

[CLICK HERE to RSVP!](#)



TEXAS HOLD'EM POKER PARTY

**Please join Fisher Phillips for a night of
poker at The Crawford Hotel**

Saturday, October 1st at 6:00 p.m.

Tournament Starts Promptly at 7:00 p.m.

The Crawford Hotel, Union Station, Denver

Don't worry, you don't need
to know how to play - we will
teach you!

This will be a couples
tournament style game with
professional dealers. You
and your significant other
will be playing as a team to
earn points that will
determine the winners
(singles welcome too!).

No \$\$\$ needed - we will be
playing for prizes.



ACC Colorado Presents

**Empowering Women:
Effective Strategies for Affecting Change**

Sponsored by [Crowell & Moring LLP](#)

October 13, 2022
12:00 Noon to 1:30pm



[The Rally Hotel](#)

1600 20th Street, Denver

The Pandemic forever changed the workplace settings of many organizations including culture, work and communication styles, and objectives. Join us for this informative panel discussion of women leaders regarding new perspectives on post-pandemic labor and employment issues including leading hybrid workforces, cultivating employee culture, rebuilding and maintaining essential networks, and new wellness and well-being strategies. Lunch will be served.

<p>11:45 am Registration & Luncheon Seating</p> <p>Noon Introductions & Opening Remarks Moderator: Meshach Y. Rhoades, Partner, Crowell & Moring LLP</p> <p>12:30pm Panel Topic Discussions Leading a Hybrid Workforce Cultivating a Strong Employee Culture, Serving Internal Clients Building a Network that Works Resilience and Well-Being Strategies</p> <p>Panelists: Gina Casias, Associate General Counsel, Danone Penelope Dixon, Counsel, Lenovo Kimberly Pryor, General Counsel, JBS USA Foods Robin Ricketts, Vice President & General Counsel, Lockheed Martin Space</p> <p>1 :30 pm Closing Remarks & Conclusion</p>

Registration Fee:
Members: \$20 | Non-Members \$40

One (1) General CLE Credit Approved

[CLICK HERE](#) to Register

ACC Colorado Chapter - P O Box 929, Indian Hills, CO 80454 - (303) 757-1847 - coloradoevents@accglobal.com

Email Proof Link: https://associationthrive.com/db1//public/email/emailjobproofext.php?emailjob_id=4718