

# What is a *Qui Tam* Lawsuit and How Does it Work?

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Most people know that a whistleblower is someone who calls attention to wrongdoing within a company. Not everybody knows that, in certain cases, a whistleblower can be monetarily rewarded for what they do.

## The False Claims Act

The False Claims Act was established during the Civil War in response to suppliers selling shoddy goods to the Union Army. In 1986, the law was strengthened and expanded to include all government agencies, not merely the military. The law includes a *qui tam* provision. *Qui tam* comes from a Latin phrase meaning "who sues in this matter for the king as well as for himself." It enables a whistleblower to file a lawsuit on behalf of the government against the company engaged in fraud. If the lawsuit succeeds, the person who brought the lawsuit gets a portion of the recovered funds.

## *Qui Tam* in Action

Supposing an employee of a large pharmaceutical company uncovered evidence that the company was deliberately charging VA hospitals for drugs that were never delivered. Because she has evidence that isn't publically available, she can proceed with a *qui tam* lawsuit against the company.

First, she has to be sure that nobody else has brought a suit over the same matter. She needs to be "first to file bar" to be able to qualify for a share of the settlement. If she is, she becomes what is known as the relator in the case. Once all the evidence is collected and submitted, it is sealed for 60 days while the government investigates the allegations. Once it concludes the investigation, it chooses whether or not to intervene in the action.

Even if the government declines to intervene, the relator can still go forward with her lawsuit. If the case is won, the government collects treble damages against the pharmaceutical company. How large a portion the relator collects depends on whether or not the government took part in the suit. If the government was involved, her share of the settlement runs from 15% to 20%. If it was not and the relator continued with the suit regardless, her share goes up to 25% to 30%. Settlements can run up to millions of dollars, so those percentages can be quite lucrative. If the damages from the pharmaceutical company's fraud added up to \$10 million, the money recovered by the government would total \$30 million and the relator's share could be anywhere from \$4.5 million to \$9 million.

## It Pays to Be a Whistleblower

The potential reward of *qui tam* lawsuits serves as an attractive incentive for people to blow the whistle on fraud against the government. In one case, a whistleblower called attention to overcharges by Maersk for shipments to the military in Iraq and Afghanistan. The ultimate settlement was \$26.3 million, \$3.6 million of which went to the relator. In another case, two whistleblowers filed suits against subsidiaries of Johnson & Johnson who were illegally promoting the epilepsy drug Topamax for use for psychiatric conditions. The settlement was over \$81 million and the relators' share was over \$9 million.

Whistleblowers are also protected by Federal law against retaliation from their employers; this makes it less risky to speak up. The majority of all successful false claims lawsuits have been won with help from whistleblowers. *Qui tam* lawsuits enable those who uncover fraud to be rewarded with more than just gratitude.

*Qui tam* lawsuits are complicated and shouldn't be embarked upon without professional legal advice. [Law firm] can help. We have [years] combined years of legal experience in *qui tam* and whistleblower protection suits. Call [number] for a free consultation so you can know your best options.

### Sources

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