



## SCOTT F. ROYBAL

Partner

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### PRACTICE AREAS

- Litigation
- Government Contracts, Investigations & International Trade
- White Collar Defense and Corporate Investigations

### INDUSTRIES

- Aerospace and Defense
- Automotive
- Education
- Healthcare
- Life Sciences

### OVERVIEW

Mr. Roybal is a partner in the Government Contracts and Regulated Industries Practice Group in the firm's Los Angeles office.

#### Areas of Practice

Mr. Roybal practices business litigation in federal and state courts and before arbitration and administrative tribunals. He has extensive experience in several areas of litigation including government contract disputes and defending individuals and corporations in a wide range of civil and criminal fraud investigations. He has more than 20 years of experience litigating *qui tam* False Claims Act cases. Mr. Roybal has handled dozens of corporate internal investigations involving diverse industries such as aerospace and defense, electronics, high technologies, telecommunications, financial institutions, healthcare, among others. He provides compliance program advice and counsel and conducts investigations concerning the Foreign Corrupt Practices Act (FCPA). Mr. Roybal is the co-author of the Firm's 2009 FCPA compliance guide.

### EDUCATION

- J.D., Columbia University, 1986
- B.A., University of Utah, 1983, *cum laude*, *Phi Beta Kappa*

### ADMISSIONS

- California
- Federal District Courts for the Central, Northern and Southern Districts of California
- U.S. Court of Federal Claims in Washington, D.C.

### EXPERIENCE

#### Representative Litigation and Counseling Experience

- Federal and State False Claims Act Litigation and Trials
- Domestic and International Arbitrations
- Claims and Appeals
- Debarment, Suspension and Program Exclusion
- Bid Protests
- Government Subpoenas - Criminal, OIG, Civil
- Government Audits and Compliance Reviews
- Compliance Programs and Self-Governance
- Internal Investigations
- Voluntary or Self-Disclosure Programs
- FCPA Investigations

- National Security and Classified Programs
- Contract Claims and Termination
- Federal and State Procurement
- Foreign Sales and Purchases
- Export Compliance
- Rights in Patents, Data and Software
- Teaming Agreements and Subcontracts
- Defective Pricing
- Government Contracts Cost Accounting

## **QUI TAM FALSE CLAIMS ACT EXPERIENCE**

### General Background

Mr. Roybal graduated from Columbia Law School in 1986 and began litigation practice with Sheppard Mullin later that fall. In October 1986, Congress amended the civil False Claims Act ("FCA") making it easier for *qui tam* whistleblowers (also known as "relators") to file FCA actions.

Beginning in late 1986, several of the firm's defense contractor clients became the subject of parallel criminal, civil and congressional investigations which ultimately evolved into protracted federal FCA litigation. Mr. Roybal worked on many of these early FCA litigations as the federal law was being shaped and defined throughout the nation. For more than 20 years, Mr. Roybal has specialized in government contracts litigation, conducted dozens of internal corporate investigations, responded to numerous government criminal, civil and administrative subpoenas and litigated many *qui tam* FCA actions nationwide. The FCA investigations and litigations on which Mr. Roybal has worked have involved diverse industries such as aerospace and defense, electronics, healthcare, financial institutions, telecommunications, and high technologies, among others.

### Representative False Claims Act Litigation Experience

- **USAF Peacekeeper (MX) Ballistic Missile Guidance System** (Central District of California): From 1987 through 1996, Mr. Roybal litigated a *qui tam* FCA matter involving a ballistic missile guidance system in which the whistleblower and Department of Justice ("DOJ") alleged labor mischarging, defective parts and other claims for relief under the FCA. At one time, the DOJ demanded more than \$100 million in single damages (potentially trebled). This was the first FCA matter that was tried in which the DOJ had intervened since the FCA was amended in 1986 to make it easier for the government to prevail. After nearly 10 weeks of trial, the jury returned a verdict in favor of the defendant on 13 separate claims for relief. The verdict received national attention and was described by *The National Law Journal* as one of the biggest defense verdicts of 1996.
- **U.S. Navy F/A -18 Fighter Program** (Central District of California): From 1988 through 1995, Mr. Roybal litigated a *qui tam* FCA matter involving the F/A-18 fighter jet in which the whistleblower and DOJ claimed defective pricing, cost accounting, and other violations under the FCA. After substantial discovery and motion practice, the DOJ ultimately gave up its jury trial rights and agreed to try the matter before a two-judge panel under a baseball-styled arbitration. The DOJ demanded \$40 million while defendant offered \$4 million. At the end of the arbitration, the judges selected the amount that most closely approximated the liability, if any, of the defendant. The Court ruled in favor of the defendant.

- U.S. Navy F/A-18 Fighter and Aerial Target Drone Programs (Central District of California): From 1995 through 2003, Mr. Roybal litigated a *qui tam* FCA matter involving the F/A-18 fighter jet and Navy Target Drone programs in which the whistleblower and DOJ alleged defective or substandard goods were sold to the U.S. Navy. Early in the action, defense counsel convinced the DOJ to virtually abandon its allegations involving the F/A-18 fighter jet. The DOJ vigorously pursued its allegations involving the Target Drone program and took over 125 depositions. The DOJ alleged more than \$200 million in single damages (potentially trebled). One month before trial was scheduled to commence in August 2003, the DOJ and whistleblower accepted a fraction of their prior demands and settled the matter for \$17 million.
- USAF Joint Surveillance and Target Attack Radar System (J-STARS) Program (Western District of Louisiana): From 2001 through 2005, Mr. Roybal defended a criminal and civil Government investigation into alleged defective parts and labor mischarging involving the USAF's J-STARS program. The DOJ served Grand Jury subpoenas, Office of Inspector General ("OIG") subpoenas and interviewed dozens of witnesses. In 2004, Mr. Roybal prepared a comprehensive report to the DOJ rebutting their allegations of violations of the FCA. Mr. Roybal met with the DOJ and local Assistant United States Attorneys and answered questions for more than four (4) hours defending the written report and related exhibits. Within six (6) months, the DOJ dropped all criminal and civil FCA allegations and the client paid no settlement.
- DoD Carbon Fiber and Composite Materials Programs (Central District of California): From 2004 through 2008, Mr. Roybal litigated a *qui tam* FCA matter involving more than 1,000 defense contracts in which the whistleblower alleged price fixing of carbon fiber materials which caused the U.S. Government to overpay for end items containing composite parts. The whistleblowers initially alleged single damages exceeding \$1 billion (potentially trebled). After substantial discovery and filing of motions for summary judgment, the whistleblowers and DOJ accepted a fraction of their original demand and settled the matter for \$15.2 million.
- Federal and State Telecommunications Billings & Collections Operations (Central District of California; Multiple Attorneys General) Mr. Roybal represents a Fortune 500 financial institution and is defending against federal and state Attorney General allegations of FCA violations involving excessive billings and collections on rentals and sales type leases of telecommunications equipment. Mr. Roybal is currently responding to multiple federal and state subpoenas and is coordinating the multi-jurisdiction defense of alleged *qui tam* FCA violations.
- Federal Government FCA Investigation of Skilled Nursing Facility Chain: Mr. Roybal represented a large skilled nursing facility chain and counseled the client regarding parallel criminal, civil and administrative allegations of fraudulent practices involving the Medicare program. The Government's investigation commenced in 2005.
- Federal Government FCA Investigations of Classified Government Programs: Mr. Roybal represents a Fortune 100 defense contractor and is defending multiple allegations of engineering fraud and abuse in high technologies areas under the FCA on a variety of classified programs. The Government's two separate investigations commenced in 2002 and 2003, respectively.
- Additional FCA Advice and Counsel Leading to Favorable Results: Mr. Roybal has counseled many other clients involving Government investigations and FCA allegations which have lead to favorable results. These diverse matters have included alleged: (1) Medicare fraud regarding Durable Medical Equipment ("DME"); (2) Medicare and Medicaid fraud regarding physician kickbacks; (3) reverse false claims regarding improper withholding of royalty payments to the federal and California state governments; (4) failure to pay New Mexico gross receipts taxes; (5) failure of credit unions to escheat dormant deposits to the state of California under the escheatment laws; (6) labor and material overcharging for materials and supplies involving the Iraq war; (7) improper use of federal research and development funds; and (8) failure to warn of health hazards caused by selling products to the government containing excessive amounts of lead, among others.

- California Healthcare Association *Compliance Manual*: Based on Mr. Roybal's extensive experience regarding FCA matters and Government investigations, in 1998 he was asked to write the California Healthcare Association's *Compliance Manual* which was distributed to over 400 hospitals and other healthcare providers located in California. Mr. Roybal has lectured throughout California regarding Medicare and other healthcare fraud and abuse subjects including defending *qui tam* FCA actions. Mr. Roybal has conducted a number of internal investigations and compliance assessments for healthcare providers.

## MEMBERSHIPS

- Member, State Bar of California
- Member, Los Angeles County Bar Association
- Member, California Association of Business Trial Lawyers
- Member, American Bar Association
- Member, National Defense Industrial Association
- Member, American Health Lawyers Association