

THE NATIONAL LAW REVIEW

FCA Defendant Abandons Petition Before the Supreme Court

Wednesday, May 22, 2019

This latest installment in our ongoing coverage of the *Polukoff* False Claims Act (FCA) *qui tam* case might be one of our last posts about the case. Last week, Intermountain Health Care, Inc. and IHC Health Services, Inc. d/b/a Intermountain Medical Center (Intermountain), one of the hospital defendants in this matter, which had previously filed a Petition for a Writ of Certiorari with the U.S. Supreme Court on issues relevant to this case (as we [reported in February](#)), [filed an Unopposed Motion to Dismiss](#) before the high court.

We understand from industry press that Intermountain and the relator in this case (Dr. Gerald Polukoff, a cardiologist who alleged that one of his cardiologist colleagues was performing medically unnecessary cardiac procedures and that defendant hospitals were billing for those services) have reached a settlement. The remaining defendants continue to litigate the case in federal district court.

One of the questions Intermountain raised in its petition to the Supreme Court was whether a court may create an exception to Federal Rule of Civil Procedure 9(b)'s particularity requirement when the plaintiff claims that only the defendant possesses the information needed to satisfy that requirement. Many in the FCA defense bar were interested to see whether – and how – the Supreme Court might address this question, but it appears we will have to continue waiting for an answer.

In the meantime, we will continue to monitor the case pending before the federal district court, particularly with respect to issues related to medical necessity under the FCA. As always, stay tuned for further updates.

© 1994-2019 Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. All Rights Reserved.

Source URL: <https://www.natlawreview.com/article/fca-defendant-abandons-petition-supreme-court>



Article By [Brian P. Dunphy](#)
[Samantha P. Kingsbury](#) [MintzHealth Law](#)

[Health Law & Managed Care](#)
[All Federal](#)