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Hutchins v. Wilentz Goldman

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Filed August 16, 2001

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 98-6248 & 98-6339

CHARLES T. HUTCHINS

v.

WILENTZ, GOLDMAN & SPITZER;
LOUIS DeLUCIA;
JOHN DOES "1" THROUGH JOHN DOES "3";
JOAN LAVERY

(Newark D.C. Civil No. 96-4678)

CHARLES T. HUTCHINS

v.

ABC CORP., SEALED

(Newark D.C. Civil No. 96-5988)

Charles T. Hutchins,
Appellant

On Appeal from the United States District Court
for the District of New Jersey
D.C. Civil Action Nos. 96-cv-04678 & 96-cv-05988
(Honorable Katharine S. Hayden)

Argued February 8, 2001

Before: SCIRICA, McKEE and STAPLETON, Circuit Judges

ORDER AMENDING SLIP OPINION

IT IS HEREBY ORDERED that the slip opinion in the above case, filed June 13, 2001, be amended as follows:

Page 2, lines 5-6 of the introductory paragraph, which read:

"fraudulent claims that cause economic loss to the government."

shall read:

"fraudulent claims that cause or would cause economic loss to the government."

Page 8, lines 1-6, which read:

"Claims Act a plaintiff must prove: (1) the defendant presented or caused to be presented to an agent of the United States a claim for payment; (2) the claim was false or fraudulent; (3) the defendant knew the claim was false or fraudulent; and (4) the United States suffered damages as a result of the false or fraudulent claim."

shall read:

"Claims Act a plaintiff must prove: (1) the defendant presented or caused to be presented to an agent of the United States a claim for payment; (2) the claim was false or fraudulent; and (3) the defendant knew the claim was false or fraudulent."

Page 8, lines 14-17, which read:

"The crux of the dispute is whether the submission of these fraudulent bills was a 'false claim for payment or approval' that caused damage to the United States government."

shall read:

"The crux of the dispute is whether the submission of these fraudulent bills was a 'false claim for payment or approval.' "

Page 8, lines 18-19, which read:

"Hutchins contends that even if no government money were expended from the United States Treasury in connection"

shall read:

"Hutchins contends that even if no claim were made against United States Treasury money in connection"

Page 8, line 32, which reads:

"does not cause the government economic loss"

shall read:

"would not cause the government economic loss"

Page 9, line 19. Before the sentence beginning, "As the Supreme Court recognized," insert:

"While `recovery under the [False Claims Act] is not dependent upon the government's sustaining monetary damages,' Varljen v. Cleveland Gear Co., Inc. , 250 F.3d 426, 429 (6th Cir. 2001), the Act is only intended to cover instances of fraud `that might result in financial loss to the Government.' Neifert-White, 390 U.S. at 232."

Page 10, line 20, which reads:

"which causes economic loss to the United States"

shall read:

"which attempts to or actually causes economic loss to the United States"

Page 11, lines 1-4, which read:

"For these reasons, we hold the submission of false claims to the United States government for approval which do not cause financial loss to the government are not within the purview of the False Claims Act."

shall read:

"For these reasons, we hold the submission of false claims to the United States government for approval which do not or would not cause financial loss to the

government are not within the purview of the False Claims Act."

Page 11, line 9, which reads:

"these claims result in economic loss to the United States"

shall read:

"these claims would result in economic loss to the United States"

Page 12, line 16, which reads:

"caused economic loss to the United States Treasury."

shall read:

"caused or would cause economic loss to the United States Treasury."

BY THE COURT:

/s/ Anthony J. Scirica
Circuit Judge

DATED: August 16, 2001

A True Copy:
Teste:

Clerk of the United States Court of Appeals
for the Third Circuit