

THE WORK

McKool Hires Day Pitney Partners to Launch Whistle-blower Practice

Posted by Sara Randazzo

Tuesday was an appropriate day for McKool Smith to announce that it is launching a new whistle-blower practice with the addition of two former Day Pitney partners in Washington, D.C.

That's because Tuesday was also the twenty-fifth anniversary of the amended False Claims Act, which has helped the government recover \$30 billion via fraud cases initiated by whistle-blowers. As it happens, McKool's newest hires played their part in contributing to that recovery.

Brent Rushforth says that he and Stuart Rennert have become go-to trial counsel for cases originated by Phillips & Cohen, a firm that exclusively represents whistle-blowers and claims to be responsible for \$7 billion in recovered funds. Most of the whistle-blower cases the two lawyers have worked are either relate to the health care or defense industries, which Rushforth describes as "fertile areas for fraud." (Rushforth was unaware that Tuesday marked the FCA's anniversary.)

Notable matters Rushforth and Rennert have worked on include a \$700 million Medicare fraud case in Florida against hospital chain HCA, which was led at the time by the Sunshine State's current governor, Rick Scott. The pair also played a hand in a federal fraud case brought against Northrop Gruman involving a satellite program that resulted in a \$325 million recovery.

Rushforth and Rennert have worked together for two decades, first at Jenner & Block, then at Heller Ehrman, and finally at Day Pitney before moving over to McKool Smith (Both have also spent time in the government; Rushforth as deputy general counsel of the Defense Department, and Rennert as a lawyer at the Justice Department). Rushforth says he and Rennert joined McKool at the suggestion of Robert Palmer and

Kirk Dillman, longtime colleagues who were partners at Hennigan Dorman, a Los Angeles boutique that merged with McKool last September.

McKool's reputation as a trial firm for bet-the-company cases and its reliance on contingency fee work made it especially attractive, Rushforth says. "In law firms more oriented toward a standard fee for servicing cases, a big contingency fee can make people nervous," he says. "It doesn't make McKool nervous as far as we can tell."

The duo's arrival formalizes what has until now been only an occasional involvement in whistle-blower, or qui tam, cases at McKool.

Senior counsel Doreen Klein and associate David Schiefelbein are also jumping over from Day Pitney. Rushforth says the firm will be looking to add more qui tam lawyers in the future.

In a Justice Department press release issued Tuesday that touted the False Claims Act's anniversary, assistant attorney general for the civil division Tony West thanked the lawyers who have helped the government recoup money.

"That framework was put in place in 1986, but our successes would not have been possible without the ongoing efforts and collaboration of career civil servants, private counsel, and, of course, the whistleblowers who come forward to report fraud," said West, who joined the Justice Department from Morrison & Foerster in mid-2009.

The Act was originally passed by Congress during Abraham Lincoln's presidency. Amendments made in 1986 permitted the government to seek treble damages and increased incentives for whistle-blowers, who can now earn a reward of between 15 percent and 30 percent of any recoveries.