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L-3 Prevails In FCA Trial Over Bills To Army

By **Brandon Lowrey**

Law360, Los Angeles (January 12, 2016, 11:25 PM EST) -- A Texas federal jury on Tuesday returned a verdict in favor of an L-3 Communications unit that had been accused in a whistleblower suit of billing the U.S. Army for helicopter maintenance while its employees did no work, the defense counsel's firm said.

L-3 unit Vertex Aerospace LLC beat the False Claims Act suit following a five-day jury trial in the Northern District of Texas, after contending that the Army **signed off** on the allegedly overbilled hours and had complete control over which hours were considered billable, according to McKool Smith PC.

The verdict came after less than an hour of deliberation, according to a statement from defense firm McKool Smith PC. Last week, Vertex told the federal judge overseeing the case that the trial **should be halted** because testimony supported its argument that its mechanics had to remain on site and ready work 12 hours a day, seven days a week, even if there were no maintenance tasks.

Vertex said that in presenting his case, Karol failed to back up his two allegations under the FCA: that the company made fraudulent claims for payment and submitted false records to the Army for its employees' work in such places as Afghanistan, Iraq, Kuwait and Egypt.

Instead, Vertex said, the witnesses agreed that Army requirements called for the maintenance employees to be at their work sites at least 48 hours a week, and sometimes nearly twice as long. The company cited the testimony of former site supervisor James Wiebener, who said the Army made him keep his crew on the clock for 84 hours a week regardless of whether there was helicopter maintenance work to be done.

Karol **sued Vertex in 2010**, accusing the company of cheating its way through personnel proficiency evaluations and claiming Vertex administered examinations for certification and proficiency either by providing mechanics with advance copies of the tests or giving them the answers during the administration of exams. In the past Vertex has argued that Karol's complaint failed to allege that the company ever sent bogus testing records to the government.

"As we have maintained before and throughout trial, our client did not commit any violations under the FCA and operated honestly, openly, and completely within the requirements set forth by the U.S. Army," Vertex attorney Sam Baxter of McKool Smith said in a written statement Tuesday. "We are pleased with the jury's decision."

Attorneys from the plaintiffs did not immediately respond to requests for comment late Tuesday.

Vertex is represented by W. Jay DeVecchio and Michael B. DeSanctis of Jenner & Block LLP and Sam F. Baxter Jennifer Leigh Truelove of McKool Smith PC.

Karol is represented by Bill E. Davidoff of Figari & Davenport LLP, and James M. Shaughnessy, Alastair J.M. Findeis and Gregory Stamatopoulos of Milberg LLP.

The government is represented by J. Scott Hogan, Joyce R. Branda and Michael G. Granston of the U.S. Department of Justice.

The case is Steve Karol et al. v. L-3 Communications Vertex Aerospace LLC, case number 3:10-cv-00339, in the U.S. District Court for the Northern District of Texas.

— Additional reporting by Patrick Boyle. Editing by Ben Guilfoy.

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