

Qui Tam/False Claims Act: He Who Sues for the King ...as Well as For Himself --- The Modern-Day Privateers

Judge Marcia Crone, E.D. Tex.

Judge Jeremy Kernodle, E.D. Tex.

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AUSA James Gillingham, E.D. Tex.

False Claims Act, 31 U.S.C. § 3729 *et seq.*

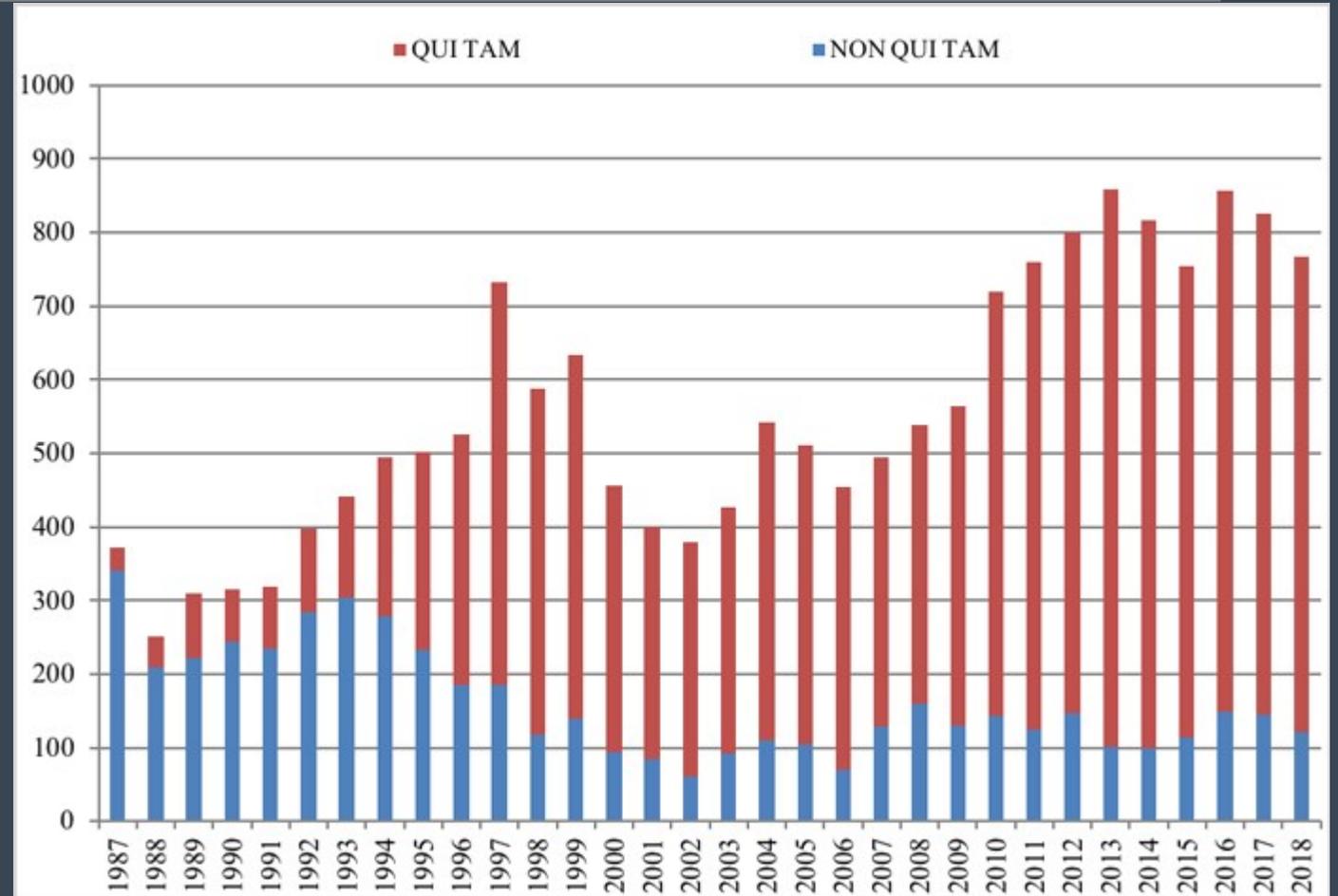
- Imposes civil liability for:
 - Submitting a false claim for payment by the government (or causing it to be submitted)
 - Making false records or statements material to a false claim submitted to the government
 - Concealing or avoiding an obligation to pay money to the government (“reverse false claim”)
 - Conspiracy to commit an FCA violation
 - Retaliation

False Claims Act, 31 U.S.C. § 3729 *et seq.*

- Unique aspects of the FCA:
 - Cases can be brought by the DOJ or by private “whistleblowers” known as “relators” pursuant to the *qui tam* provisions of the FCA.
 - DOJ can “intervene” in *qui tam* lawsuits.
 - The Relator is entitled to 15-25% of the recovery in cases where the United States intervenes and 25-50% of the recovery in cases where the United States declines intervention.
 - The FCA provides for mandatory trebling of damages.
 - The FCA imposes a civil penalty of \$11,000 - \$22,000 per false claim.
 - The FCA provides for attorney’s fees and costs.

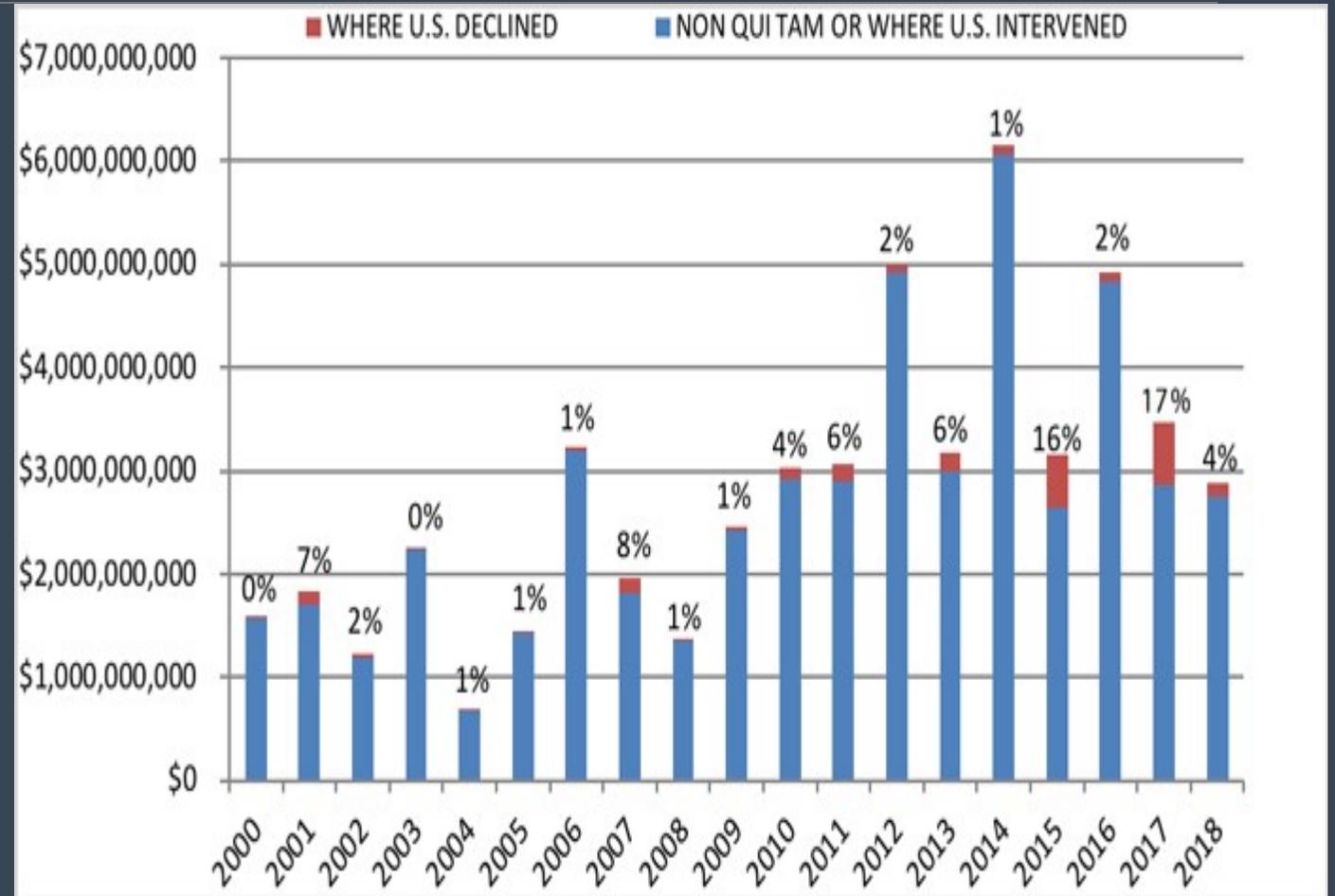
FCA by the Numbers (2018)

- 767 FCA matters
 - 122 non *qui tam*
 - 645 *qui tam*



FCA by the Numbers (2018)

- \$2.8 billion recovered
- \$2.1 billion in *qui tam* cases
- \$1.99 billion in cases where USA intervened or otherwise pursued the case
- \$118 million in declined cases



FCA by the Numbers (2018)

- Of the \$2.8 billion recovered
- \$2.5 billion from the healthcare industry
- \$100 million from the defense industry

