

ALI-ABA Telephone Seminar
**The Implications of the Supreme Court's False Claims Act Decision in
*Rockwell International Corp. v. United
States ex rel. Stone***

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**Civil False Claims Act: Reflections on Rockwell
and the Future of the “Original Source” Rule**

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Civil False Claims Act: Reflections on *Rockwell* and the Future of the "Original Source" Rule

Two weeks have passed since the Supreme Court's decision in *Rockwell*, and it is time to reflect on the implications of that decision and other related events. In *United States ex rel. Stone v. Rockwell*, No. 05-1272, 2007 WL 895257 (U.S. March 27, 2007), the Supreme Court interpreted the knowledge standard in the poorly drafted original source exception to the public disclosure bar, a jurisdictional provision that for more than twenty years has resulted in far too many circuit conflicts. Resolving some of these conflicts, the Court held that the relator in *Rockwell* lacked the knowledge required under the original source exception because he had no "direct and independent knowledge" of the actual allegations in the amended complaint that went to trial and judgment. See [FraudMail Alert No. 07-03-27](#). On reflection, the points raised in that original FraudMail Alert on *Rockwell* remain valid:

- Section 3730(e)(4) is jurisdictional, an issue that may be raised and must be satisfied at any stage of the litigation.
- The relevant "information" is the information on which relator's allegations are based, not the information that was publicly disclosed.
- Relator must have "direct and independent" knowledge of the allegations in each amended complaint, including those in the final pretrial order.
- Government intervention allows the government to proceed but does not cure relator's jurisdictional defect.

But what will be the long-term impact of *Rockwell*?

Rockwell and the Knowledge Requirement of the "Original Source" Exception

The Court's rulings on the jurisdictional nature of the original source inquiry in *Rockwell* were definitive and far-reaching. To appreciate how far-reaching, it is important to parse what knowledge the relator lacked. First, the Court set forth the allegation at issue: "[a]s described by Stone and the Government in the final pretrial

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