

U.S. EX REL THOMAS V. STARKEY LABORATORIES, INC. (D.MINN. 2004)

MEMORANDUM OPINION AND ORDER

DONOVAN FRANK, District Judge

The Court recognizes that courts across the country are split on whether the FCA's statute of limitations begins to run when a claim is made by a business entity to the government or when it is paid by the government. However, the Court believes the better rule is that the statute of limitations "begins to run on the date the claim is made, or, if the claim is paid, on the date of payment." *United States ex rel. Kreindler Kreindler v. United Technologies Corp.*, 985 F.2d 1148, 1157 (2nd Cir. 1993) (quoting *Blusal Meats, Inc. v. United States*, 638 F. Supp. 824, 829 (S.D.N.Y. 1986)).

Consistent with that reasoning, the Court rejects the rule set forth in *TS Infosystems, Inc.* that the FCA's statute of limitations does not begin to run until all of the payments are made by the government pursuant to a contract. The Court finds that each allegedly fraudulent claim paid by the government to Starkey constitutes a separate claim with its own six-year statute of limitations period. *See Kreindler*, 985 F.2d at 1157. Therefore, the Court finds that Plaintiffs' claims based on payments made by the VA to Starkey prior to April 24, 1995, are barred by the FCA's six-year statute of limitations.