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Bird Marella Wins Ninth Circuit Appeal in False Claims Act Suit for TruConnect

On December 22, 2023, the U.S. Court of Appeals for the Ninth Circuit affirmed an order dismissing a False Claims Act ("FCA") lawsuit brought against mobile virtual network provider TruConnect, one of the largest and fastest growing wireless Lifeline companies in the United States. In both the district court and on appeal, Bird Marella argued that the plaintiff failed to satisfy the heightened pleading standard for FCA claims, which require a *qui tam* plaintiff to identify either representative examples of false claims being made to the government or particular details of a scheme to submit false claims paired with "reliable indicia" that lead to "a string inference" that such claims were actually submitted. In affirming, the Ninth Circuit agreed that the complaint failed to do either. Partners Paul Chan, Benjamin Gluck, and Julia Cherlow previously won dismissal of the FCA claims in the Central District of California. Prior to this victory, partner Tom Freeman won a unanimous decision in the California Court of Appeal, successfully reversing a state trial court ruling against TruConnect.