

FCA recoveries come crashing back to Earth in the second quarter of fiscal year 2021

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The Department of Justice (DOJ) must be hoping that warmer weather brings more than just Brood X cicadas. After recovering a record \$3.23 billion in False Claims Act (FCA) cases in the first quarter of Fiscal Year 2021, DOJ recovered a mere \$186 million in the second quarter — the lowest quarterly total since Qui Notes began tracking FCA recoveries in 2016.

Never have we experienced the roller coaster ride that FY 2021 has provided.

To put that in perspective, DOJ recovered even less last quarter than it did in each of the second and third quarters of FY 2020, when the country was largely shut down as a result of the COVID-19 pandemic.

Although FCA recoveries typically fluctuate from quarter to quarter, the median for the past five years sits around \$680 million per quarter. Never have we experienced the roller coaster ride that FY 2021 has provided.

Interestingly, the number of recoveries last quarter (53) was in line with what we have seen for the past three years, where DOJ averaged about 54 recoveries per quarter. But there were no “blockbuster” recoveries in Q2 this year, which resulted in an average of only \$3.6 million per recovery.

DOJ’s largest recovery — just \$32 million — was part of a settlement with a major US airline to resolve criminal and civil allegations that the airline provided falsified parcel delivery information to the US Postal Service. DOJ reported just six other recoveries last quarter that exceeded \$10 million.

The second quarter of FY 2021 also saw a marked change in the breakdown of recoveries by industry. As our readers know, health-care related cases generally account for the overwhelming majority of recoveries.¹

But in Q2, just 34 of the 53 recoveries (or 66%) of the recoveries were healthcare-related. Recoveries that DOJ classifies as “Other” (i.e., those not involving HHS or DOD) accounted for 13 (or 25%) of the recoveries, covering a wide range of agencies from the Department of Energy to NASA.

The percentage of recoveries from qui tam² actions was also significantly down, as less than half of the reported recoveries stemmed from relator-brought cases.

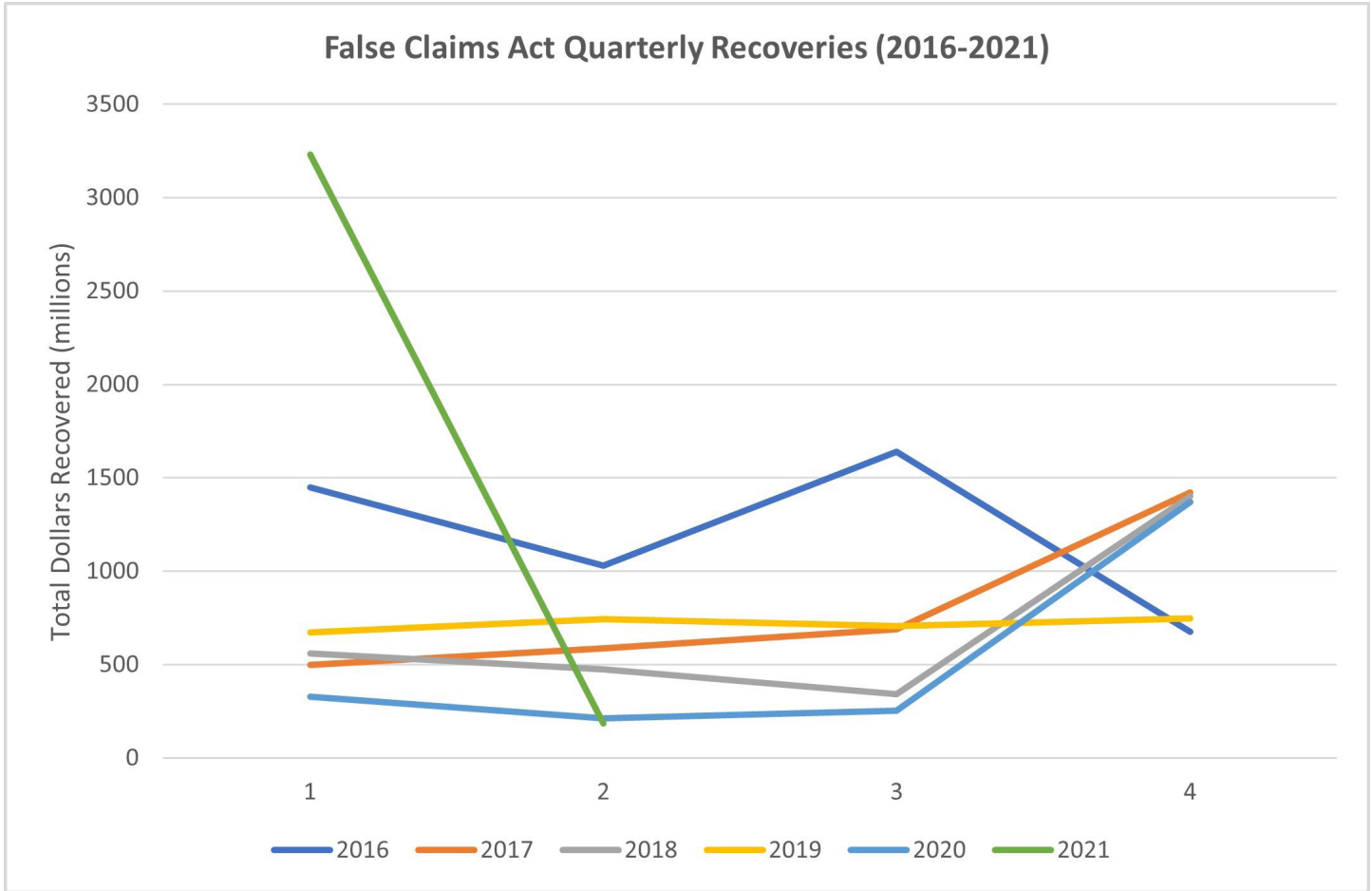
While DOJ is still on pace for a successful year given its blockbuster first quarter, the buzz about a record-breaking year has been dampened.

Halfway through Q3, DOJ has not yet bounced back, with only \$142 million in FCA recoveries through mid-May. While DOJ is still on pace for a successful year given its blockbuster first quarter, the buzz about a record-breaking year has been dampened.

Notes

¹ <https://bit.ly/3x4BLEN>

² <https://bit.ly/2HJfUyz>



About the author



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