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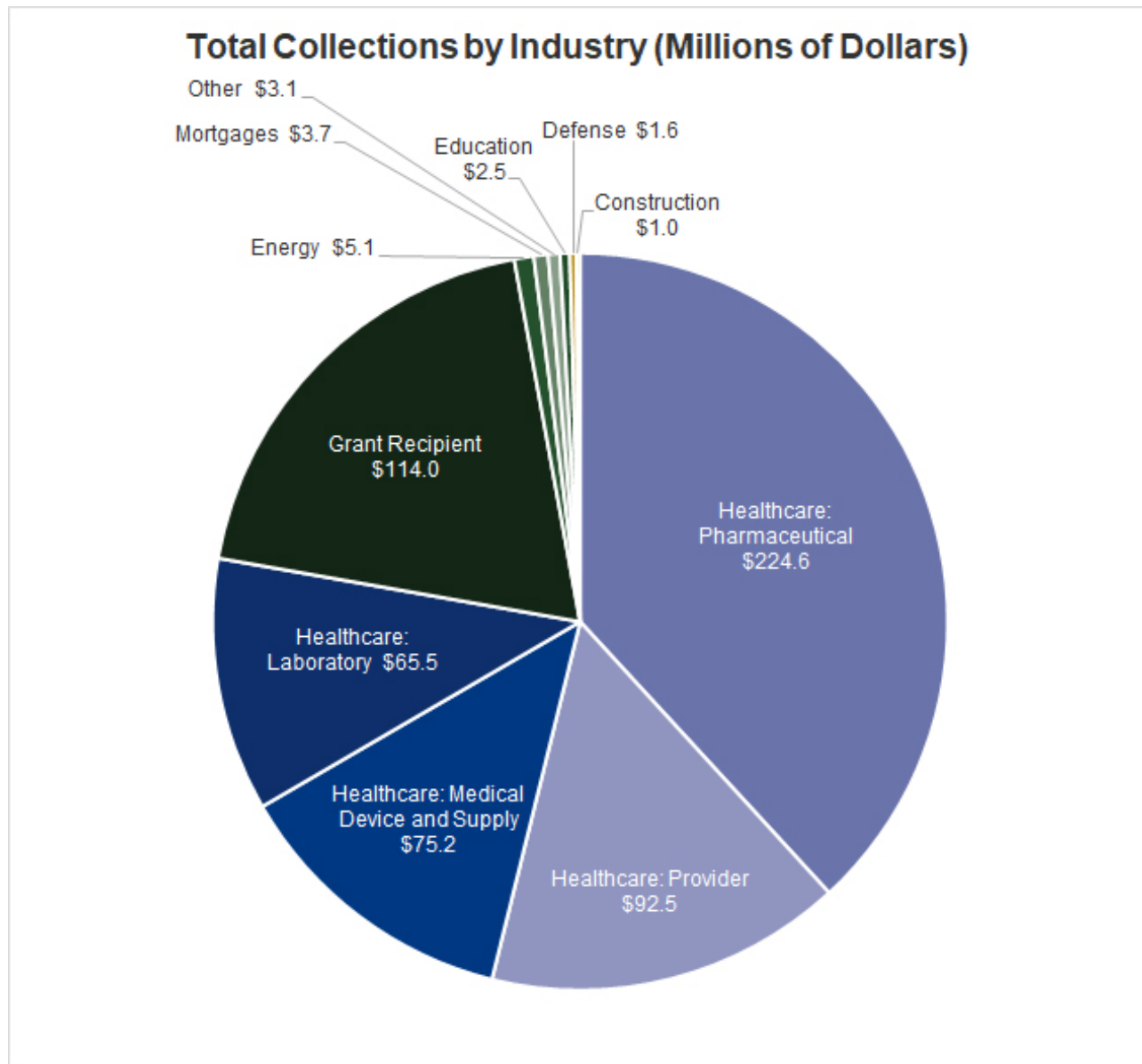
Don't Take It for Granted: Settlements With Grant Recipients Spike as FCA Recoveries Continue Uptick From FY2018

Qui Notes: Unlocking the False Claims Act
By Matthew J. Oster, Christian D. Sheehan

The second quarter of FY2019 continued the Department of Justice's bounce-back (at least somewhat) from its down year in FY2018. Based on our count, DOJ recovered nearly \$589 million from 43 settlements and one judgment. While that is down from \$665 million last quarter, it is up more than \$100 million compared to the same period in FY2018. Interestingly, at the same time we are seeing this increase in total dollars recovered, we are seeing a consistent decrease in the number of recoveries.

Two recoveries account for nearly half of the total dollars recovered this quarter. The first was a healthcare industry joint settlement in the Southern District of New York, with \$200 million going to the United States and another \$70 million to state governments. The second was a \$112.5 million settlement in the Middle District of North Carolina in late March involving grant recipient Duke University (making this the second most devastating loss Duke suffered in March).

Consistent with historic trends, healthcare-related recoveries represented by far the largest proportion of recoveries. The \$457.8 million in recoveries from the healthcare industry in Q2 of FY2019 is down slightly from Q1 (\$463 million), but represents a higher proportion of recoveries overall (78% vs. 69.5%). Coming in second were grant recipient-related recoveries, with \$114 million—resulting mostly from the Duke University matter—which represented 19% of all recoveries this quarter. The remaining 3% of recoveries consisted of Construction, Defense, Energy, Mortgage, and "Other" cases.



The second quarter of FY2019 also brings a return to normal in terms of the percentage of recoveries from *qui tam* actions, as opposed to suits brought directly by DOJ. Although, similar to last quarter, the majority of recoveries (23 of 44) were from actions not initiated by relators, the vast majority of dollars recovered (81%) were from *qui tam* actions.

This quarter was noteworthy in two other ways. DOJ recovered more money from grant recipients this quarter than in *any complete fiscal year* since 2016 (which is when we began tracking recoveries data). And nearly 45% of the total dollars recovered last quarter were from cases brought in the Second Circuit. This total is largely driven by the joint recoveries mentioned above, but the Second Circuit also saw one other 8-figure settlement. Nearly all of those cases were healthcare-related matters.

We at *Qui Notes* will continue to monitor recoveries as they pour in. Stay tuned for updates.

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