

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

UNITED STATES OF AMERICA *ex*
rel. CLARISSA ZAFIROV,
Plaintiff,

v.

FLORIDA MEDICAL ASSOCIATES,
LLC; PHYSICIAN PARTNERS, LLC;
PHYSICIAN PARTNERS SPECIALTY
SERVICES, LLC; SUN LABS USA,
INC.; ANION TECHNOLOGIES,
LLC; ANTHEM, INC.; FREEDOM
HEALTH, INC.; OPTIMUM
HEALTHCARE, INC.; and
SIDDHARTHA PAGIDIPATI,
Defendants.

Civil Action No.
8:19-cv-01236-KKM-SPF

**UNOPPOSED MOTION TO PARTICIPATE IN ORAL ARGUMENT AS
AMICUS CURIAE**

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The Chamber of Commerce of the United States of America*

March 15, 2024

The Chamber of Commerce of the United States of America (the “Chamber”) respectfully seeks leave to participate as *amicus curiae* in this Court’s scheduled oral argument for the above-captioned matter. Specifically, the Chamber requests that oral argument be enlarged by 10 minutes for each side and that the Chamber receive 10 minutes of argument time. Defendants have consented to the Chamber’s motion, and the Plaintiff-Relator takes no position on the request.

1. On February 16, 2024, defendants Anion Technologies, LLC, Florida Medical Associates, LLC, Freedom Health, Inc., Optimum Healthcare, Inc., and Physician Partners, LLC (“Defendants”) moved for judgment on the pleadings or to dismiss for lack of subject-matter jurisdiction. *See* ECF 180. In that motion, Defendants argued that the False Claims Act’s (“FCA”) *qui tam* provisions violate Article II of the Constitution.

2. Shortly after Defendants filed their motion, the Chamber requested leave to file an *amicus curiae* brief in support of Defendants’ position. *See* ECF 187. The Court granted that motion on February 26, 2024. *See* ECF 191.

3. The Court subsequently granted the United States leave to file a Statement of Interest and invited a motion for *amicus* participation from the Anti-Fraud Coalition in support of the Plaintiff-Relator, Clarissa Zafirov. *See* ECF 203.

4. Oral argument on the Defendants’ Motion for Judgment on the Pleadings or to Dismiss for Lack of Subject-Matter Jurisdiction is currently scheduled for Monday, April 22, 2024, with each side permitted 30 minutes. *See* ECF 191.

5. The Chamber respectfully requests that the Court enlarge argument time

by a brief period to permit *amicus* participation. Whether the FCA’s *qui tam* provisions violate Article II presents “complex questions” of first impression in this Circuit. *United States ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 452 (2023) (Thomas, J. dissenting). And the Chamber has a strong interest in addressing this issue given the nationwide impact that relator-driven FCA litigation has on its members. The prospect of bounties under the FCA has led to hundreds of *qui tam* filings per year against the Chamber’s members and other defendants. And even meritless cases can be used to extract enormous settlements. The *qui tam* device has thus harmed businesses across nearly every sector of the economy.

6. The Chamber also believes that its participation in an enlarged oral argument may be helpful to the Court in addressing these difficult questions. The Chamber’s brief drew on a wide array of historical sources from the Founding era to show that “[t]he FCA’s *qui tam* provisions conflict with the original meaning of Article II’s text.” ECF 187-1 at 17. And the Chamber and its counsel have a deep familiarity with the original understanding of Article II, the history of *qui tam* laws, and the Department of Justice’s evolving views on these matters. Although Defendants have forcefully explained why existing precedent compels a ruling in their favor, the Chamber believes that its participation may be of further assistance to the Court. As the world’s largest business federation, the Chamber is also well-positioned to explain why the FCA’s transfer of core executive power to private hands has exacted a substantial economic toll on businesses nationwide.

7. For these reasons, the Chamber respectfully requests that the Court

enlarge the time for oral argument to 40 minutes for each side to allow for *amicus* participation and to provide the Chamber with 10 minutes to present its arguments to the Court.

Respectfully submitted,

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LOCAL RULE 3.01(g) CERTIFICATION

The Chamber of Commerce of the United States of America has conferred with the parties regarding the filing of this motion. Defendants consent to both the filing of this motion and the Chamber's participation in an enlarged oral argument, and the Plaintiff-Relator takes no position on the Chamber's request.

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CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2024, I electronically filed the foregoing Motion to Participate in Oral Argument as *Amicus Curiae* with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to all attorneys of record.

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