

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,
ex rel. DR. CLARISSA ZAFIROV,

Plaintiffs,

v.

Case No.: 8:19-cv-1236-T-23SPF

FLORIDA MEDICAL ASSOCIATES, LLC, *et al.*,

Defendants.

UNITED STATES' NOTICE OF SUPPLEMENTAL AUTHORITY

Pursuant to Local Rule 3.01(i), the United States of America respectfully submits as supplemental authority in support of its Statement of Interest regarding Defendants' Joint Motion for Judgment on the Pleadings or to Dismiss for Lack of Subject-Matter Jurisdiction (Doc. 217) ("Statement of Interest") the recent decisions of *United States ex rel. Butler v. Shikara*, No. 9:20-cv-80483-DMM (S.D. Fla. Sept. 6, 2024) (Doc. 182) and *United States ex rel. Resolution NJ LLC v. Riverside Medical Group, P.C.*, Case 2:22-cv-04165-SDW-LDW (D.N.J., Sept. 6, 2024) (Doc. 64).

In *Butler*, the Court noted: "[s]urprisingly, the Eleventh Circuit has yet to squarely consider the issue of an Article II challenge to 31 U.S. C. § 3730(b). However, decades—nay, centuries—of litigation through the use of the qui tam device under the FCA undercuts United's argument. Every circuit court that has considered the issue outside of the Eleventh Circuit has considered the provision constitutional." *Id.* at p. 22. This addresses an issue briefed on pages 8-10 of the Statement of Interest.

In *Resolution*, the Court noted: “Qui tam FCA actions do not run afoul the separations of powers and appointment clauses as suggested by Riverside because the Government maintains ‘sufficient control’ over such actions.” *Id.* at p. 10. This addresses an issue briefed on pages 12-17 of the Statement of Interest.

Respectfully submitted,

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Dated: September 12, 2024

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CERTIFICATE OF SERVICE

I hereby certify that on September 12, 2024, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will provide electronic service to all counsel of record.

/s/ Sean P. Keefe
SEAN P. KEEFE
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