No. 25-10842

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES *ex rel.* CHERYL TAYLOR,

Plaintiff-Appellee/Cross-Appellant,

and

UNITED STATES OF AMERICA,

Intervenor-Appellee/Cross-Appellant,

v.

HEALTHCARE ASSOCIATES OF TEXAS, LLC,

Defendant-Appellant/Cross-Appellee.

On Appeal from the U.S. District Court for the Northern District of Texas, No. 3:19-cv-2486 (David C. Godbey, U.S.D.J.)

BRIEF FOR PUBLIC CITIZEN AS AMICUS CURIAE IN SUPPORT OF APPELLEE AND AFFIRMANCE IN PART

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March 30, 2026

SUPPLEMENTAL CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

No. 25-10842

United States ex rel. Cheryl Taylor v. Healthcare Associates of Texas, LLC

Pursuant to this Court's Rule 29.2, the undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case, in addition to those listed in the briefs of the parties. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

Public Citizen, Inc.—amicus curiae

Public Citizen Litigation Group—law firm for Public Citizen

Public Citizen Foundation, Inc.—nonprofit organization of which Public Citizen Litigation Group is a part

Scott L. Nelson—counsel for Public Citizen

Allison M. Zieve—counsel for Public Citizen

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29(a)(4)(A), the undersigned counsel certifies that amicus curiae Public Citizen, Inc., is a nonprofit, non-stock corporation. It has no parent

corporation, and no publicly traded corporation has an ownership interest in it of any kind.

Respectfully submitted,

/s/ Scott Nelson
Scott L. Nelson

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March 30, 2026

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INTEREST OF AMICUS CURIAE[1]

Public Citizen, a consumer advocacy organization with members in all 50 states, appears on behalf of its members before Congress, administrative agencies, and the courts to advocate on issues including accountability of the government, corporations, and others for wrongdoing. Public Citizen has longstanding interests in issues involving separation of powers. It has often appeared as a party or amicus curiae in cases, like this one, that implicate separation of powers issues in general and, in particular, issues relating to the Constitution's Appointments Clause and the scope of presidential authority under Article II. In addition, Public Citizen has long supported the right of individuals to access the courts to pursue remedies made available to them by law, and has frequently submitted briefs as amicus curiae to advance that interest. This case, in which the appellants' arguments would, if accepted, foreclose individuals from asserting the claims and

[1] All parties have consented to the filing of this brief. The brief was not authored in whole or part by counsel for a party; no party or counsel for a party contributed money that was intended to fund this brief's preparation or submission; and no person other than the amicus curiae, its members, or its counsel contributed money intended to fund the brief's preparation or submission.

obtaining the accompanying remedies assigned them by the False Claims Act, implicates Public Citizen's interests both in separation-of-powers issues and in protecting access to the courts.

SUMMARY OF ARGUMENT

Following a binding, en banc precedent of this Court, *Riley v. St. Luke's Episcopal Hospital*, 252 F.3d 749 (5th Cir. 2001), the district court correctly held that the qui tam provisions of the False Claims Act violate neither the Constitution's Appointments Clause nor Article II's provisions vesting executive power in the President and requiring that the President take care that the laws be faithfully executed. Appellant Healthcare Associates of Texas does not argue that *Riley* is not binding on this panel. *See* App't Br. 69. Nonetheless, it insists that *Riley* was wrongly decided and urges that its separation-of-powers arguments be considered en banc.

As to the Appointments Clause, Healthcare Associates relies heavily on the analysis of a district court opinion, *United States ex. rel. Zafirov v. Florida Medical Associates, LLC*, 751 F. Supp. 3d 1293 (M.D. Fla. 2024), which is currently on appeal to the Eleventh Circuit (Nos. Nos. 24-13581 and 24-13583, argued Dec. 12, 2025). *Zafirov*, in turn,

rests largely on a misconstruction of the Supreme Court's decision in *Buckley v. Valeo*, 424 U.S. 1 (1976). According to the district court in *Zafirov*, *Buckley* holds that no person may bring litigation aimed at redressing losses suffered by the United States as a result of a violation of federal law unless that person has been appointed as a federal officer in compliance with the Appointments Clause, which requires that the President appoint all principal "Officers of the United States" and that "inferior Officers" be appointed by the President unless Congress by law vests their appointment "in the Courts of Law, or in the Heads of Departments." U.S. Const., art. II, § 2, cl. 2.

Buckley, however, did not consider the question posed here: whether, or with what limitations, individuals who are not government officials at all may be empowered to bring litigation to enforce federal law. *Buckley* addressed the very different question whether Congress may assign law enforcement tasks to *government officers* who lack the relationship to the President that the Appointments Clause helps to protect. *Buckley* holds that if Congress chooses to assign significant law enforcement or implementation authority to government officials, or to a body of officials constituting an agency, those officials are officers subject

to the Appointments Clause's requirements. Thus, *Buckley* established that Congress is not free to create new classes of government officials dependent on itself rather than on the President's appointment power to carry out executive governmental functions. In short, *Buckley* addressed what tasks *assigned to federal government functionaries* by Congress may be given only to "officers" appointed in accordance with Article II. It did not address what tasks may be performed only by federal government officials.

Healthcare Associates' other Article II challenges to the False Claims Act's qui tam provisions—that they are contrary to Article II's vesting of "the executive Power" in the President, U.S. Const., art. II, § 1, cl. 1, and that they prevent the President from fulfilling his constitutional obligation to "take Care that the Laws be faithfully executed," U.S. Const., art. II, § 3—are similarly unfounded. Neither the text nor the history of the Vesting Clause supports the view that it prevents Congress from authorizing nongovernmental (or nonfederal) individuals or entities to bring suits to enforce federal law. Nor do the False Claims Act's provisions interfere with the President's ability to see that the laws are faithfully executed. Rather, the President fulfills that obligation when,

under his general supervision, executive branch officers carry out their duties under the False Claims Act to prosecute cases themselves when warranted and to oversee the conduct of those cases when it chooses not to intervene in them.

ARGUMENT

I. The False Claims Act's qui tam provisions do not violate the Appointments Clause.

The False Claims Act's qui tam provisions allow private persons to initiate litigation to recover damages and penalties for frauds against the United States. Since the Supreme Court decided *Buckley v. Valeo* nearly half a century ago, litigants have repeatedly sought to invoke *Buckley*'s construction of the Appointments Clause, as well as the Supreme Court's more general observations about Article II's role in establishing separation of powers among the federal government's three branches, to support the argument that the False Claims Act's qui tam provisions are unconstitutional. This Circuit, sitting en banc, rejected those arguments in *Riley*, *see* 252 F.3d at 757–58, as has every other circuit that has addressed them.[2] And recently, in a case before the Supreme Court

[2] *See United States ex rel. Kreindler & Kreindler v. United Techs. Corp.*, 985 F.2d 1148, 1155 (2d Cir. 1993); *United States ex rel. Kelly v.*

concerning the construction of the False Claims Act's provisions governing when the United States may seek dismissal of an action brought by a qui tam relator, the qui tam defendant argued that the relator's construction of the statute would render it unconstitutional under the Appointments Clause. The Court's majority opinion, however, addressed the statutory questions presented without mentioning those constitutional concerns. *See United States ex rel. Polansky v. Exec. Health Resources, Inc.*, 599 U.S. 419 (2023).[3]

This Court and the other federal appellate courts have had good reason for declining to give credence to the argument that *Buckley*'s analysis condemns qui tam actions as unconstitutional: *Buckley*'s holding that federal officials who have substantial executive powers must be appointed consistently with the requirements of the Appointments

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Boeing Co., 9 F.3d 743, 749–59 (9th Cir. 1993); *United States ex rel. Taxpayers Against Fraud*, 41 F.3d 1032, 1040–42 (6th Cir. 1994); *United States ex rel. Stone v. Rockwell Int'l Corp.*, 282 F.3d 787, 804–07 (10th Cir. 2002).

[3] The single dissenting Justice viewed the statute as presenting "serious constitutional questions," *id.* at 443 (Thomas, J., dissenting), but only two other Justices suggested that such questions might one day merit the Supreme Court's attention, *see id.* at 442 (Kavanaugh, J., joined by Barrett, J., concurring).

Clause has no application to qui tam relators, who are private individuals holding no federal government position.

A. *Buckley* addressed application of the Appointments Clause to officials who held positions in the federal government.

Buckley's observations about the meaning of the Appointments Clause cannot be divorced from the context of the case and the specific issues that it presented for decision. *Buckley* addressed a host of constitutional challenges to the Federal Election Campaign Act, which created a comprehensive regulatory scheme governing the financing of congressional and presidential election campaigns. The Act assigned the task of administering its provisions to a new federal agency, the Federal Election Commission (FEC). The Act gave the FEC extensive powers, including authority to issue regulations implementing the Act's substantive provisions, to collect and make public the extensive reports the Act required candidates to make regarding campaign contributions and expenditures, to investigate and hold hearings on complaints of violations of the Act, to bring actions for declaratory and injunctive relief enforcing certain provisions of the Act, and to require the Attorney General to initiate civil proceedings in the federal courts seeking

remedies in cases where the FEC determined that a violation of other provisions had occurred. *See Buckley*, 424 U.S. at 109–10. As Justice White's concurring opinion in *Buckley* put it, "It is apparent that the FEC is charged with the enforcement of the election laws in major respects. Indeed, except for the conduct of criminal proceedings, it would appear that the FEC has the entire responsibility for enforcement of the statutes at issue." 424 U.S. at 280 (White, J. concurring in part and dissenting in part).

Unlike most government agencies granted such enforcement authority, however, the FEC as originally constituted by Congress was neither an Executive Branch Department with a principal officer appointed by the President and subject to direct Presidential oversight, nor an "independent" Executive Branch agency headed by Presidential appointees. Rather, two of the FEC's six voting Commissioners were appointed by the President pro tem of the Senate on the recommendations of the majority and minority leaders of the Senate, and two by the Speaker of the House on the recommendations of the House majority and minority leaders. Only the remaining two were appointed by the President of the United States, and all were subject to

confirmation by *both* houses of Congress. *See Buckley*, 424 U.S. at 113. Because the Appointments Clause requires Presidential appointment and Senate confirmation for principal officers, and requires appointment by the President, heads of executive departments, or courts of law for inferior officers, the Supreme Court in *Buckley* had to consider whether the FEC's functions could be assigned to government officials who were not appointed through the means specified in the Appointments Clause.

As the question came to the Court, there was no doubt that the FEC Commissioners were officials of an agency of the federal government. Indeed, even the law's defenders agreed that FEC Commissioners were "officers." But they argued that the Commissioners should be viewed as officers of the Legislative Branch and that the Appointments Clause was not intended to "deny[ ] to the Legislative Branch authority to appoint its own officers." 424 U.S. at 119. Thus, the issue addressed by the Court was whether government officials appointed by the Legislative Branch could perform the administrative and law enforcement functions bestowed on the FEC, or whether a government agency performing those tasks must be headed by officers subject to the Appointments Clause. Put

more baldly, the question was whether Congress could assign to its own officers the authority to execute the law.

Buckley answered that question in the negative. Construing the Appointments Clause as an expression of broader principles of separation of powers embedded in the Constitution's structure, the Court explained that the clause was designed to ensure a Presidential role in the selection of government officials assigned to perform executive functions, including the implementation and enforcement of the laws. Thus, while not contesting that Congress could appoint inferior Legislative Branch officers to "carry out appropriate *legislative* functions," *id*. at 128 (emphasis added), the Court held that government officials assigned "significant authority" to carry out federal law must be appointed in the manner specified in the Appointments Clause, *id*. at 126.

With respect to the FEC itself, the Court held that, to the extent its powers were purely "investigative and informative," of the kind a congressional committee could exercise, Congress could permissibly have delegated them to its own appointees. *Id*. at 137. But aside from such "functions that Congress may carry out by itself," Congress may not create government offices and assign to "the holders of those offices"

powers of "administration and enforcement of the public law" unless the offices are held by "Officers of the United States" properly appointed under the Appointments Clause. *Id.* at 139. The Court held that the power wielded by the FEC—including the power to bring litigation in the federal courts to enforce federal law as well as the authority to engage in rulemaking, issue advisory opinions, and make other determinations required in implementing the campaign finance laws—was power that could not be bestowed on government officials who had not been appointed as "Officers of the United States" in conformity with the Appointments Clause. *Id.* at 140–41.

B. *Buckley* neither holds nor implies that persons not appointed to any office or otherwise employed in any position in the federal government are subject to the Appointments Clause.

The question whether private individuals not appointed by anyone to any government position may be given a legal right to bring actions to vindicate federal law is not addressed in *Buckley*, because that question was not even remotely presented in the case. *Buckley*'s focus on the nature of the tasks assigned to the FEC Commissioners, rather than on whether they were government officials to begin with, reflects that the FEC Commissioners indisputably headed a federal agency and held

offices within the government of the United States. As the Justice Department's Office of Legal Counsel (OLC) explained nearly three decades ago, "there was no question that the officials at issue in *Buckley* held 'employment[s]' … under the federal government, and thus the question of the inapplicability of the Appointments Clause to persons not employed by the federal government was not before the Court." OLC, *The Constitutional Separation of Powers Between the President and Congress*, 20 U.S. Op. Off. Legal Counsel 124, 142 (1996). The *Buckley* decision thus neither held nor implied that a person who has *not* been appointed in any manner to any position within the federal government is subject to the Appointments Clause merely because he or she has been given a legal entitlement to take some action to enforce federal law, such as initiating a lawsuit.

To be sure, *Buckley* at various points refers to the circumstances under which "persons" must be viewed as "Officers of the United States." But although the circumstances of the case did not require extensive discussion of the issue, at other points in the opinion the Court made clear that the "persons" who must be viewed as officers of the United States if they hold significant law enforcement responsibilities are those

"persons who can be said to hold an office under the government." 424 U.S. at 126 (quoting *United States v. Germaine*, 99 U.S 508, 510 (1879)). *Buckley*'s core holding is that "any *appointee* exercising significant authority pursuant to the laws of the United States is an 'Officer of the United States,' and must, therefore, be appointed in the manner prescribed by § 2, cl. 2, of … Article [II]," *id.* (emphasis added). That holding does not apply to a private individual who was not appointed to a government position.

Buckley's reliance on the Supreme Court's previous opinions in *Germaine* and *Auffmordt v. Hedden*, 137 U.S. 310 (1890), reinforce the point. *Germaine* and *Auffmordt* held that individuals who contracted to perform specific tasks to assist the government were not officers subject to the Appointments Clause. Both opinions relied in turn on the definition of a "public officer" in the Supreme Court's seminal decision in *United States v. Hartwell*, 73 U.S. 385 (1868). There the Court equated an "officer" with one who holds an "office," and went on to say: "An office is a public station, or employment, conferred by the appointment of government. The term embraces the ideas of tenure, duration, emolument, and duties." *Id.* at 393. Applying that understanding of the

term, *Germaine* and *Auffmordt* held the Appointments Clause inapplicable to persons who were involved in the execution of federal law but were not appointed to employment as holders of public offices with the characteristics of continuing tenure, duration, emoluments, or duties.

Buckley's favorable citation of *Germaine* and *Auffmordt* is inconsistent with the notion that the Court intended to dispense with the core concept that a government officer is someone appointed to a government office—that is, someone employed in a position within the government. *Buckley* cannot reasonably be read as having "overruled, *sub silentio*, *Germaine* and *Auffmordt*—cases upon which it expressly relies in its analysis." 20 U.S. Op. Off. Legal Counsel at 142. Rather, the opinion is best read as taking that criterion for granted, as the FEC Commissioners undisputedly met it, and focusing on the question before the Court: whether the responsibilities of the officials at issue were such as to subject them to the Appointments Clause's requirements.

As a result, *Buckley* may support the proposition that, if Congress creates a federal office or agency tasked with bringing litigation to recover damages and penalties for frauds committed against the government, that office or agency must be headed by an "Officer of the

United States" appointed in the manner specified by the Appointments Clause. But the opinion does not address whether a private individual *not* employed in any office of the government may bring such litigation. *Buckley* does not suggest that the Appointments Clause ever applies to an individual who is not appointed to a federal governmental position, or that it limits what entitlements may be conferred on such an individual.

C. Qui tam relators are not subject to *Buckley*'s Appointments Clause analysis.

The district court's analysis in *Zafirov* did not entirely disregard the point, established by the Supreme Court's cases in *Hartwell*, *Germaine*, and *Auffmordt*, that an officer, in addition to having significant responsibility for carrying out federal law, must be appointed to an office with the attributes of tenure, duration, emoluments, and duties. And Healthcare Associates in this case similarly asserts that its Appointments Clause argument is consistent with these requirements. Both *Zafirov* and Healthcare Associates, however, treat those requirements as secondary to and derivative of their understanding of significant law enforcement responsibilities. Indeed, they give the requirements of tenure, duration, and duties such broad and abstract application that they would likely be satisfied in any case where federal

law gave an individual any role in the vindication of federal law that could not be carried out through one action at a singular point in time. Similarly, the district court opinion in *Zafirov* read the idea of emoluments so broadly as to encompass any benefit a private individual would receive by playing a role in the enforcement of federal law. Such expansive views of tenure, duration, emoluments, and duties, if correct, would have led the Supreme Court to holdings in *Germaine* and *Auffmordt* opposite to the ones it reached, because the work of the individuals held not to be officers in those cases, like those of a qui tam relator, involved some degree of ongoing activity, as well as payments that the district court's analysis in *Zafirov* would treat as emoluments.

Moreover, Healthcare Associates' arguments, like the district court's analysis in *Zafirov*, effectively eliminate the most basic element of the definition of "officer" from the Supreme Court's opinions in *Hartwell*, *Germaine*, and *Auffmordt*: the requirement that an officer occupy an office, a "public station, or employment, conferred by the appointment of government." *Hartwell*, 73 U.S. at 393. Focusing only on whether the role of a qui tam relator could be described in some sense as having attributes of tenure, duration, emoluments, and duties fails to

establish that those attributes attach to appointment to and employment in a governmental position.

Indeed, the district court in *Zafirov* acknowledged that its view that a private qui tam relator is an "Officer of the United States" resulted in the application of that term to a person who, as the Supreme Court has expressly recognized, "is not an 'official of the United States' in the ordinary sense of that phrase"—one who "is neither appointed as an officer of the United States … nor employed by the United States," and is not "anything other than a private person." *Cochise Consultancy, Inc. v. United States ex rel. Hunt*, 587 U.S. 262, 272 (2019). The district court brushed this point aside on the ground that *Cochise Consultancy* involved a statutory question, not application of the Appointments Clause. But that distinction begs the question whether there is any basis for reading the Appointments Clause to apply the term "Officer of the United States" to one who does not, in any ordinary sense of the words, hold an office in the government of the United States.

Such a reading would run counter to the principle that the Constitution's "words and phrases were used in their normal and ordinary as distinguished from technical meaning." *District of Columbia*

v. Heller, 554 U.S. 570, 576 (2008) (quoting *United States v. Sprague*, 282 U.S. 716, 731 (1931)). The Supreme Court's decisions in *Hartwell*, *Germaine*, and *Auffmordt* also support giving the Appointments Clause's use of the term "Officer" its common meaning, as does *Buckley* itself, which quotes *Germaine*'s statement that the term encompasses "all persons who can be said to hold an office under the government." 424 U.S. at 126. Moreover, the demonstration in the briefs of the qui tam relator in this case, the United States, and the legal historians who have appeared as amici curiae that qui tam actions were a widely known and accepted practice at the time of the Founding negates any suggestion that the Constitution was intended to embody some special meaning of the term "Officers of the United States" that would foreclose the use of qui tam actions to remedy violations of federal laws. Reliance on that history does not suggest advocacy of a history-based "exception" to otherwise applicable Appointments Clause principles to allow qui tam actions. Rather, the historical record strongly supports the conclusion that qui tam relators do not fall within the Appointments Clause's language to begin with, and that the Clause's words and the precedents construing them should not be extended to foreclose qui tam actions.

In sum, what *Buckley* and the Supreme Court precedents on which it was based hold is that the Appointments Clause determines whether a government official who exercises particular functions must be appointed in the manner set forth in the Clause. That holding does not apply to non-governmental actors at all, and hence it does not have any bearing on whether they may exercise legal entitlements or roles bestowed on them by law. This Court was fully correct when it held in *Riley* that the qui tam relators are not subject to the Appointments Clause because they have no "continuing and formalized relationship of employment with the United States Government" and hence are not officers of any kind. 252 F.3d at 757.

II. Article II does not require that litigation to enforce federal law be brought only by government officials.

By its terms, the Appointments Clause specifies only the means of appointment of government officers. As the Supreme Court recently put it, the Clause "cares not a whit" about anything other than who appoints a functionary with a continuing government position and significant government authority. *Lucia v. SEC*, 585 U.S. 237, 245 (2018). The Clause does not say anything about what actions may be performed only by public officials as opposed to private individuals. The answer to that

question must instead be sought and found in more general separation-of-powers and structural constitutional principles, including Article II's vesting of the "executive Power" in the President, U.S. Const., art. II, § 1, cl. 1, and its imposition on the President of the duty to "take Care that the Laws be faithfully executed," U.S. Const., art. II, § 3. Those general principles, read in light of the historical record that conclusively establishes the acceptance of qui tam actions at the time of the Constitution's framing, *see* Legal History Scholars' Br. 6–25, are fully consistent with the False Claims Act's qui tam provisions.

The Vesting Clause says nothing to call into question the constitutionality of a law that allows private individuals to sue to recover for fraud against the United States pursuant to a partial and conditional assignment of the government's claim against the alleged defrauder. The Clause, by its terms, determines the allocation of governmental authority—"the executive Power"—within the structure of the federal government created by the Constitution. The Framers used the term "executive Power," and its counterparts "legislative Power" and "judicial Power," to refer to powers of the *government*, *see* The Federalist, No. 47 (1788), and their vesting of the "executive Power"—that is, the

government's power to carry out the law—in the President meant that that power was not conferred on other branches of government (except to the extent that some particular provision allowed them to share in what otherwise might be considered executive power). But the Vesting Clause is not contradicted when a nongovernmental actor (or nonfederal actor, such as a state attorney general) has a legal entitlement to do something to advance the execution of federal law—for example by filing a lawsuit—because doing so is not an exercise of the executive power of the government of the United States. Thus, even though the prosecution of a contempt of court, when undertaken by federal government officers, is an exercise of executive power appropriately undertaken by executive branch officers, prosecution of a contempt by a private attorney designated by a court does not contradict the vesting of the government's executive power in the President. *See Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787 (1987).

Moreover, to the extent that the False Claims Act does impose requirements that call for the exercise of the authority of government bodies, such governmental acts are carried out by executive branch officials to the extent they are executive in nature (e.g., reviewing qui

tam complaints, determining whether to intervene in qui tam actions, conducting the litigation if the government intervenes, and taking various other supervisory actions if it does not), and by judicial branch officers to the extent they are judicial in nature (e.g., deciding issues of fact and law presented by qui tam actions). Nothing in such a scheme is inconsistent with Article II's Vesting Clause (or that of Article III). If there were any doubt on this point, it is put to rest by the wide acceptance of qui tam actions and other private enforcement actions at the time of the framing and in the 250 years since, as detailed in *Vermont Agency of Natural Resources v. United States ex rel. Stevens*, 529 U.S. 765, 774 (2000), as well as in the briefs of the United States, appellee Cheryl Taylor, and the amici legal history scholars.

As for the Take Care Clause, its command that the President see that the laws are faithfully executed would be violated by the False Claims Act only if it "prevent[ed] the Executive Branch from accomplishing its constitutionally assigned functions." *Nixon v. Admin. of Gen. Servs.*, 433 U.S. 425, 443 (1977). But the extensive powers that the Executive Branch has to control how False Claims Act are prosecuted and resolved, as detailed in the briefs of the parties, negate any

suggestion that the qui tam provisions are incompatible with the President's ability to fulfill his duty to see that the laws are faithfully executed. Rather, the President faithfully executes the law when his subordinates in the Justice Department administer the Act according to its terms, and, as the brief of the United States describes, their ability to ensure that the conduct and resolution of qui tam cases is not inconsistent with federal interests is ample to prevent impairment of the President's authority to carry out his constitutionally assigned functions. *See* U.S. Br. 3–4.

CONCLUSION

For the foregoing reasons, this Court should affirm the district court's holding that the qui tam provisions of the False Claims Act do not violate Article II of the Constitution.

Respectfully submitted,

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March 30, 2026

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rules of Appellate Procedure 32 and 29, I certify that the foregoing brief complies with applicable typeface, type-style, and type-volume requirements because it uses a proportionally spaced, 14-point roman style typeface with serifs (Century Schoolbook), and, as calculated by my word processing software (Microsoft Word for Microsoft 365), it contains 4,661 words, excluding parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

I further certify that: (1) all required privacy redactions have been made in this brief, in compliance with 5th Cir. R. 25.2.13; (2) the electronic submission is an exact copy of the paper document, in compliance with 5th Cir. R. 25.2.l; and (3) the document has been scanned for viruses with the most recent version of a commercial virus scanning program and is free of viruses.

/s/ Scott L. Nelson
Scott L. Nelson

CERTIFICATE OF SERVICE

I hereby certify that this brief has been served through the Court's ECF system on counsel for all parties required to be served on March 30, 2026.

/s/ Scott L. Nelson
Scott L. Nelson