

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

**AMERICAN CIVIL LIBERTIES UNION,
*et al.***

Plaintiffs,

1:09cv42 (LO/TRJ)

v.

**ERIC HOLDER, Attorney General
of the United States, *et al.***

Defendants.

**MOTION OF TAXPAYERS AGAINST FRAUD EDUCATION FUND
FOR LEAVE TO FILE A MEMORANDUM AS *AMICUS CURIAE*
IN SUPPORT OF A MOTION TO DISMISS FILED BY
THE UNITED STATES OF AMERICA**

NOW INTO COURT, through undersigned counsel, comes Taxpayers Against Fraud Education Fund (“TAFEF”) who hereby seeks leave of Court to file this memorandum as *amicus curiae* supporting the Motion to Dismiss filed by the United States of America (the “Government”). In support of this Motion, applicant states as follows:

1. Plaintiffs the American Civil Liberties Union, OMB Watch, and the Government Accountability Project (“ACLU *et al.*”) have filed this action, challenging the constitutionality of the seal provisions of the federal False Claims Act, 31 USC §§ 3729-3733 (the “Act”), and alleging the unconstitutional infringement of First Amendment rights of relators who file under the Act.
2. The United States Department of Justice, as named Defendant herein, through its Attorney General, Eric Holder (“USDOJ”), has filed at R.Doc. #'s 19-20 a Motion to

Dismiss and a Memorandum in Opposition to the Complaint filed by the ACLU *et al.* in this matter.

3. TAFEF is the leading nonprofit public interest organization dedicated to combating fraud against the federal and state governments through its education of the public, the legal community, legislators, and others about the False Claims Act and its *qui tam* provisions. TAFEF supports vigorous enforcement of the Act by contributing its understanding of the Act's proper interpretation and application and by working in partnership with *qui tam* plaintiffs ("relators"), private attorneys representing relators, and the Government to effectively prosecute meritorious *qui tam* suits.

4. TAFEF, which is based in Washington, D.C., works with a network of more than 300 attorneys nationwide who represent *qui tam* relators in False Claims Act litigation. In the past few years, TAFEF has greatly expanded its efforts towards public awareness and education regarding the False Claims Act.

5. TAFEF publishes the False Claims Act and *Qui Tam* Quarterly Review, a quarterly publication that provides an overview of case decisions, settlements, and other developments under the Act. Past issues of the publication are available on line at www.TAF.org/quarterlypdf.htm.

6. TAFEF has produced and makes available a variety of other resources regarding the False Claims Act, including: *Advising the Qui Tam Whistleblower: From Identifying a Case to Filing Under the False Claims Act*; *Reducing Health Care Fraud, An Assessment of the Impact of the False Claims Act*; *Fighting Medicare Fraud: More Bang for the Federal Buck*; *Reducing Medicaid Fraud: The Potential of the False Claims Act*;

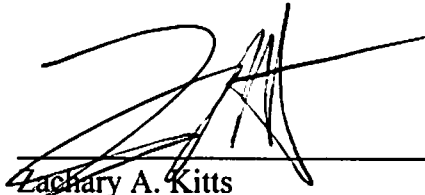
and *Reducing Medicare and Medicaid Fraud by Drug Manufacturers*. Most of these publications are available on line at www.TAF.org/publications.htm

7. TAFEF presents a yearly educational conference for False Claims Act attorneys, typically attended by more than 200 practitioners from around the nation.

8. TAFEF collects and disseminates information concerning the False Claims Act and its *qui tam* provisions. TAFEF regularly responds to inquiries from a variety of sources, including the general public, the legal community, the media, and government officials. TAFEF maintains a comprehensive False Claims Act library, which is open to the public, and TAFEF has an educational presence on the internet. TAFEF also has provided congressional testimony, conference presentations, and training programs on the False Claims Act. TAFEF and its sister nonprofit, the False Claims Act Legal Center, have filed *amicus* briefs on important legal and policy issues in False Claims Act cases before numerous federal courts, including the United States Supreme Court. TAFEF possesses extensive knowledge about the origin and purposes of the False Claims Act amendments of 1986 and has experience with its implementation. As such, TAFEF hopes this memorandum in support of the Government's Motion to Dismiss will assist the Court's consideration of the False Claims Act issues raised by ACLU, *et al.* in this case.

This memorandum is being attached to this Motion for Leave and TAFEF respectfully urges this Court to grant this Motion for Leave and respectfully requests that the Clerk of the Court be directed to file the enclosed Memorandum in Support.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on the 24 day of April, 2009, I will electronically file the foregoing Motion for Leave to File *Amicus Curiae* with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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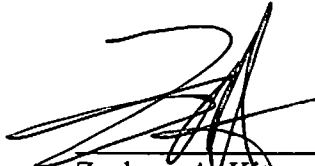
And I further certify that I will serve by U.S. Mail, Postage Prepaid, true and correct copies of the foregoing and the NEF of the same document to the following non-filing users at the physical addresses indicated and will also serve copies of the same documents, in pdf format, by electronic mail to the indicated email addresses of the following non-filing users:

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