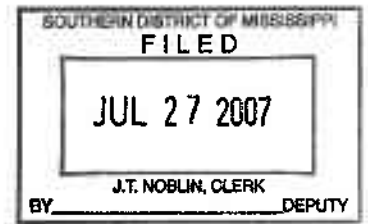


THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI



UNITED STATES OF AMERICA, ex rel.  
CORI RIGSBY, et al.

Plaintiff,

v.

STATE FARM INS. CO., et al.

Defendants.

Civil No. 1:06cv433WJG-JMR

FILED UNDER SEAL

MEMORANDUM IN SUPPORT OF THE UNITED STATES'  
EX PARTE APPLICATION FOR PARTIAL LIFTING OF THE SEAL

The United States of America respectfully submits this memorandum in support of its *ex parte* application for partial lifting of the seal in this case, for the limited purpose of disclosing the complaint to the Court and, through counsel, the Relator in *United States ex rel. Branch Consultants LLC v. Allstate Ins. Co.*, Civ. No. 2:06-4091 (Eastern District of Louisiana) ("Louisiana Qui Tam"). The complaint in this later-filed case alleges violations of the False Claims Act, some of which are substantially the same as contained in the instant case. The Louisiana Qui Tam is no longer under seal and is publicly available.

STATEMENT OF FACTS

Relators filed this action in April 2006, under the qui tam provisions of the False Claims Act ("FCA"), 31 U.S.C. § 3730. Relator alleged that the Defendants, who consist of insurance companies authorized by the Federal Emergency Management Agency to write federal flood insurance policies as well as claims-processing and engineering consultants to those insurance companies, defrauded the Government by deliberately mis-classifying damages from Hurricane Katrina. According to Relators, the Defendants falsely classified wind-related storm damages as water-related storm damages, so that the financial responsibility for those damages would be

shifted away from private homeowners' policies and onto federal flood insurance policies instead.

In August 2006, a different relator filed, under seal, a *qui tam* suit called *United States ex rel. Branch Consultants LLC v. Allstate Ins. Co.*, Civ. No. 2:06-4091 (Eastern District of Louisiana) ("Louisiana Qui Tam"), in the United States District Court for the Eastern District of Louisiana, raising issues that arguably overlap with those of the instant case. In May 2007, the United States filed a pleading in the Louisiana Qui Tam stating that it was unable at that time to make an adequately informed intervention decision, and so it was not intervening at that time but that it would continue to investigate and monitor the case. That Court entered an Order unsealing that case and permitting the relator to proceed with the litigation. The Relator has served the various defendants with process, and responsive pleadings and/or dispositive motions will be due by August 6, 2007.

#### ARGUMENT

Currently pending before the Court is a motion by the Relators to lift the seal on this case and to compel the Government to make its election regarding intervention. As set forth in the United States' concurrently-filed brief in opposition to that motion, the United States contends that such an unsealing would be inappropriate at this time and would compromise the Government's ability to conduct an adequate civil investigation of this case.

However, because the Court in the Louisiana Qui Tam has unsealed that case, the Government submits that it would be appropriate for this Court to enter an Order partially lifting the seal on the instant case to allow disclosure of the existence of this case and the Complaint to the Court and the Relator in the Louisiana Qui Tam. Because there is arguable overlap in the issues presented in each case, a partial lift would allow dialogue between the Relators in this case and the Louisiana Qui Tam relator, and that Court will be able to guide its handling of that case on a fully-informed basis.

It should be noted that the Government has not yet taken a position as to whether or not there is sufficient overlap between the two complaints as to invalidate the later Relator's statutory fitness to serve as a Relator. It may be that the instant Relators and the later Relator will be able to reach some form of mutual accommodation that would permit both to remain active participants in these cases, provided that such arrangement is also acceptable to the United States and both Courts. The instant Relators and the later Relator may also be able to offer helpful input as to the procedural handling of these two cases, with guidance as well from the Court in the Louisiana Qui Tam. Some form of consolidated handling of these cases may be possible, which would foster the conservation of limited judicial resources. Under these circumstances, partial unsealing of the instant complaint for the limited purpose of allowing the United States to inform the later Relator about the pendency of this action is appropriate.

**CONCLUSION**

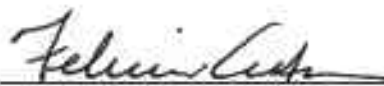
For the foregoing reasons, the Government requests that the Court grant the application for a partial unsealing of the complaint in this action, in order to permit the United States to disclose the existence of the instant action and the Complaint with the Court and the Relator in the Louisiana Qui Tam.

Respectfully submitted,

PETER D. KEISLER  
Assistant Attorney General

DUNN O. LAMPTON  
United States Attorney  
Southern District of Mississippi

Dated: July 25, 2007

  
FELICIA ADAMS  
Assistant United States Attorney  
188 East Capitol Street, Suite 500  
Jackson, MS 39201  
Telephone: (601) 965-4480  
Fax: (601) 965-4409

JOYCE R. BRANDA  
PATRICIA R. DAVIS  
JAY D. MAJORS  
Attorneys, Department of Justice  
Civil Division  
Post Office Box 261  
Ben Franklin Station  
Washington, DC 20044  
Tel: (202) 307-0264  
Fax: (202) 514-0280