IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA ex rel.
CORI RIGSBY and KERRI RIGSBY — RELATORS/COUNTER-DEFENDANTS

v. — CASE NO. 1:06cv433-LTS-RHW

STATE FARM FIRE & CASUALTY COMPANY — DEFENDANT/COUNTER-PLAINTIFF

and

HAAG ENGINEERING CO. — DEFENDANT

STATE FARM'S MOTION FOR LEAVE TO SUBMIT SUPPLEMENTAL MEMORANDUM REGARDING: [738] THE RIGSBYS' MOTION FOR RECONSIDERATION OF SCOPE OF PROCEEDINGS IN LIGHT OF ADDITIONAL EVIDENCE ADDUCED IN DISCOVERY; [734] STATE FARM'S MOTION FOR SUMMARY JUDGMENT; AND [736] STATE FARM'S MOTION FOR SUMMARY JUDGMENT ON THE CLAIMS OF CORI RIGSBY

Defendant/Counter-Plaintiff State Farm Fire and Casualty Company ("State Farm"), hereby moves for leave to submit a Supplemental Memorandum Regarding: [738] the Rigsbys' Motion for Reconsideration of Scope of Proceedings in Light of Additional Evidence Adduced in Discovery; [734] State Farm's Motion for Summary Judgment; and [736] State Farm's Motion for Summary Judgment on the Claims of Cori Rigsby.

1. On January 24, 2011, United States District Judge Sarah S. Vance issued her Order and Reasons, ([886] in *United States of America ex rel. Branch Consultants, L.L.C. v. Allstate Insurance Co., et. al.*; No. 06-4091 (E.D. La. Jan. 24, 2011)) ("Opinion"), ([873-1.) On January 25, 2011, Judge Vance issued her Judgment dismissing the *Branch* case in its entirety ("Judgment"), ([873-2].)

2. On January 25, 2011, State Farm filed its [873] Notice of Intervening Authority, placing each of the above referenced documents into the record.

3. On January 28, 2011, the Rigsbys filed their [875] Relators' Notice of Intervening Authority. That Notice brought no additional authority to the Court's attention, but rather provided legal argument over the significance of Judge Vance's Opinion, Judgment and Amended Judgment in *Branch*.

4. In light of the significance of the *Branch* Opinion – a significance acknowledged by both sides to this litigation – State Farm believes it would assist the Court to have a response from State Farm to the matters briefed by the Rigsbys in their [875] Notice.

5. In support of its motion, State Farm incorporates by reference its concomitant memorandum of authorities, including all evidence, argument and law contained therein.

WHEREFORE, PREMISES CONSIDERED, for the foregoing reasons, State Farm respectfully moves for leave to submit a Supplemental Memorandum Regarding: [738] the Rigsbys' Motion for Reconsideration of Scope of Proceedings in Light of Additional Evidence Adduced in Discovery; [734] State Farm's Motion for Summary Judgment; and [736] State Farm's Motion for Summary Judgment on the Claims of Cori Rigsby, Ex. A hereto.

This the 7th day of February, 2011.

Respectfully submitted,

STATE FARM FIRE AND CASUALTY COMPANY

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This the 7th day of February, 2011.

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I. PRELIMINARY STATEMENT

The Rigsbys' proffered interpretation of Judge Vance's Order of Dismissal in the *Branch* case is both untenable and inconsistent with what the Rigsbys have previously represented to the Court. Just recently, the Rigsbys argued that the *Branch* case "is very similar to this one" (1/12/2011 Hr'g Tr. at 34:25-35:1, attached as Ex. 1), and submitted an order in that case as supplemental authority supporting their motion to expand the scope of discovery. ([750].) Now that Judge Vance has dismissed the *Branch* case against multiple defendants for whom Branch had not identified a bona fide false "loss-shifting" claim, the Rigsbys are attempting to forge a hasty retreat from their previous position. In their most recent Notice of Intervening Authority regarding *United States ex rel. Branch Consultants, L.L.C. v. Allstate Insurance Co.*, No. 06-4091 (E.D. La. Jan. 24, 2011) ([875]), the Rigsbys paradoxically argue that Judge Vance's order dismissing the *Branch* loss-shifting claims somehow supports the Rigsbys' motion to reopen and exponentially expand the scope of this case. According to the Rigsbys, even if the McIntosh claim is ***not*** false, "the larger question of whether State Farm's scheme resulted in other false claims would remain as a necessary issue for trial." ([875] at 3.) That is, the Rigsbys ask this Court to grant them unbounded discovery precisely because they have no knowledge – let alone direct and independent knowledge – of "whether State Farm's [purported] scheme resulted in . . . false claims." (*Id.*)

The Rigsbys' assertion is directly contrary to *Branch* and the numerous cases cited in the *Branch* opinion. These cases uniformly hold that a court lacks subject matter jurisdiction over a *qui tam* lawsuit under the False Claims Act ("FCA") where, as here: (i) the allegations in the original complaint "were a matter of public record long before the Relators' FCA action was filed" ([871] at 11); and (ii) the relator does not have direct and independent knowledge of exemplars where the government was overcharged. *See* ([886] in *United States of America ex rel.*

Branch Consultants, L.L.C. v. Allstate Insurance Co., et. al.; No. 06-4091 (E.D. La. Jan. 24, 2011)) at 52 ("*Branch* Op.") (dismissing FCA claim against defendant because "[t]he purported exemplars simply do not support Branch's loss-shifting claim"). *Branch* further demonstrates that simply having direct and independent knowledge of allegedly false claims is insufficient to establish jurisdiction. In addition, the relator must both list these exemplar properties in the original complaint, and "voluntarily provide the information underlying its allegations to the government before filing suit." *Branch* Op. at 41.

As this Court has previously and correctly recognized, "Relators identify two ***and only two*** specific instances in which they allege the submission of false flood damage claims" – the McIntosh property and the Mullins property. ([261] at 3 (emphasis added).) Because the Mullins property was not even covered by a federally insured flood policy, it cannot be an example of "loss-shifting" fraud as a matter of law. (*Id.*) Thus, the McIntosh claim is the ***only*** allegedly false claim identified by the Rigsbys in their complaint, and is therefore the ***only*** potential basis for this Court's subject matter jurisdiction. ([343] at 10.) As in *Branch*, if this exemplar claim is not false, the case must be dismissed. ([261] at 3 (explaining that if McIntosh flood claim is justified, the Rigsbys' case must be dismissed).)

II. ARGUMENT

A. *BRANCH* CONFIRMS THAT THE RIGSBYS' ALLEGATIONS OF A FRAUDULENT SCHEME ARE INSUFFICIENT TO ESTABLISH SUBJECT MATTER JURISDICTION

The Rigsbys admit that Judge Vance dismissed the loss-shifting claims for lack of subject matter jurisdiction because the exemplar properties enumerated in the *Branch* complaint could not support their loss-shifting claim. ([875] at 2.) Yet they contend that the exact opposite result is mandated in this case because the Rigsbys were State Farm "insiders" and have alleged a "fraudulent scheme." ([875] at 2-3.) This attempt to distinguish *Branch* factually evaporates

under even minimal scrutiny. After analyzing numerous seminal *qui tam* cases – including the Supreme Court's decision in *Rockwell International Corp. v. United States*, 549 U.S. 457 (2007), and the Fourth Circuit decision in *United States ex rel. Vuyyuru v. Jadhav*, 555 F.3d 337 (4th Cir. 2009) – Judge Vance expressly rejected the notion that original source status can be predicated on allegations of a scheme: "A relator's 'mere suspicion that there must be a false or fraudulent claim lurking around somewhere simply does ***not*** carry his burden of proving that he is entitled to original source status.'" *Branch* Op. at 56 (emphasis added; quoting *Vuyyuru*, 555 F.3d at 353). This holding had absolutely nothing to do with whether Branch was an "insider" or an "outsider."

The extensive case law cited in *Branch* makes this point plain. For instance, in *Vuyyuru*, the relator, Dr. Lokesh Vuyyuru, was the Director of Endoscopy at a hospital. He claimed that a gastroenterologist with whom he worked closely at the hospital falsely billed Medicare and Medicaid for unnecessary or incomplete medical procedures, including procedures performed on one of Dr. Vuyyuru's own patients. The Fourth Circuit affirmed the district court's dismissal for want of subject matter jurisdiction because the relator did not identify a bona fide exemplar of a false claim. The court explained that "[t]he single patient which Relator Vuyyuru identifies by name [Dr. Vuyyuru's patient] and gives some detailed information [about] . . . was not Medicare eligible[,] and Relator Vuyyuru offered no evidence to establish that he was eligible for any other federal health-care assistance program under which any of the Defendants could have made a claim upon the public fisc." *Vuyyuru*, 555 F.3d at 353.

Crucially, the court did not have subject matter jurisdiction over the complaint even though Dr. Vuyyuru submitted "inside information" regarding the alleged fraudulent billing scheme by the gastroenterologist. Specifically, Dr. Vuyyuru stated that he had: (i) conducted his

own independent investigation into the gastroenterologist's billing practices; (ii) reviewed the gastroenterologist's patient charts; and (iii) interviewed other doctors who worked under the supervision of the gastroenterologist in order to garner information on the alleged fraud. *Id.* at 345. In addition, Dr. Vuyyuru provided a detailed description of the alleged scheme, including the specific medical billing code that the gastroenterologist allegedly used to obtain reimbursement from Medicare and Medicaid.[1] Nevertheless, the court held that these scheme allegations did not establish that Dr. Vuyyuru was an original source: "The disconnect between this information and Relator Vuyyuru's burden of establishing original source status ***is obvious***. Relator Vuyyuru ***never*** connected his knowledge of any underperformance of medical care by [the gastroenterologist] ***with an actual claim upon the public fisc***." *Id.* (first and third emphases added).

The same is true in this case. Contrary to the Rigsbys' inexplicable reading of Judge Vance's decision in *Branch*, this Court's jurisdiction cannot be predicated on the Rigsbys' supposed "insider" knowledge of a flood fraud scheme. Because the McIntosh flood claim – and ***not*** the Rigsbys' "suspicion that there must be a false or fraudulent claim lurking around somewhere," *id.* at 353 – is the threshold issue in this litigation, the Rigsbys' motion to expand and restart discovery should be denied.

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[1] Specifically, Dr. Vuyyuru claimed that he had direct and independent knowledge that:

(1) Dr. Jadhav billed Medicaid and Medicare in general, often using CPT code 99253, which requires the doctor to have performed a detailed medical history, a detailed examination, and medical decision making of low complexity; and

(2) Dr. Jadhav failed to perform and record a comprehensive history and perform physical examinations on the majority of his patients that would qualify for use of CPT code 99253.

Vuyyuru, 555 F.3d at 353.

B. THE RIGSBYS' INTERPRETATION OF *BRANCH* IS UNTENABLE

In an attempt to blunt the impact of the *Branch* dismissal, the Rigsbys all but ignore the fact that the court ***dismissed*** Branch's complaint for failure to identify a false claim. Instead, the Rigsbys point to an isolated sentence on page 65 of the 68-page opinion. Specifically, the Rigsbys selectively quote a portion of the opinion where Judge Vance discussed her prior order, which held that Branch's pleadings were sufficient to survive a facial attack to jurisdiction: "[t]his Court has ruled that a relator need not be an original source of the actual false claims made by the defendants to the Government." ([875] at 1 (quoting *Branch* Op. at 64).) But the Rigsbys selectively omit the fact that the court went on to explain that this provisional ruling at the motion to dismiss stage did not control the outcome of the summary judgment motion: "***For the purposes of defendants' facial jurisdictional challenge***, the Court ruled that the information Branch gathered in its property examinations was sufficient to raise an inference of potential fraud." *Branch* Op. at 65 (emphasis added; citing *United States ex rel. Branch Consultants, L.L.C. v. Allstate Ins. Co.*, 668 F. Supp. 2d 780, 801 (E.D. La. 2009)). At the summary judgment stage, however, Branch was no longer entitled to "an inference of potential fraud." *Id.* Rather, Branch was required to come forth with competent evidence of an actual false claim. When Branch could not proffer such evidence, the court dismissed Branch's *qui tam* claim for lack of subject matter jurisdiction.

Of course, the interpretation of *Branch* that the Rigsbys espouse in their Notice – that scheme allegations are sufficient to confer subject matter jurisdiction regardless of direct knowledge of (or even the existence of) an actual false claim – would render Judge Vance's opinion internally inconsistent. Indeed, the Rigsbys' reading of this single sentence in *Branch* is wholly inconsistent with Judge Vance's statement – made just eight pages earlier – that "[a] relator's 'mere suspicion that there must be a false or fraudulent claim lurking around

somewhere simply does not carry his burden of proving that he is entitled to original source status.'" *Branch* Op. at 56 (quoting *Vuyyuru*, 555 F.3d at 353). Here, the Rigsbys' motion to expand and restart discovery is based entirely on their desire to "lurk[] around" State Farm's files in an effort to confirm their suspicion that there must be a false claim out there somewhere. This is manifestly insufficient to support original source jurisdiction.

Unable to reconcile their interpretation of *Branch* with the actual holding, the Rigsbys seek to exploit the fact that, in FCA parlance, the word "claim" is used both to mean an exemplar false claim and the actual submission of that claim to the government. But when Judge Vance's current dismissal order is read in conjunction with the previous order that it references, it is clear that she is referring to the ***submission*** of the false claim to the government. Specifically, the portion of the previous opinion that is cited discusses defendants' argument that Branch was not an original source because it "did not have knowledge of any false claim ***submitted to the government***." *Branch*, 668 F. Supp. 2d at 801 (emphasis added). Judge Vance rejected this argument, holding that "'the fact that Relators did not have knowledge of the ***actual alleged fraudulent submissions to the Government*** cannot disqualify them as an original source.'" *Id.* (quoting *Kennard v. Comstock Res., Inc.*, 363 F.3d 1039, 1044 (10th Cir. 2004)). When read in context, Judge Vance's statement that "a relator need not be an original source of the actual false claims made by the defendants to the Government," *Branch* Op. at 64, simply means that a relator need not plead direct and independent knowledge of the "'actual alleged fraudulent ***submissions*** to the Government.'" *Branch*, 668 F. Supp. 2d at 801 (emphasis added) (quoting *Kennard*, 363 F.3d at 1044). It does ***not*** mean that the Rigsbys do not have to identify a single false claim because they have alleged a "scheme."

C. THE RIGSBYS ARE NOT ORIGINAL SOURCES OF "CORE INFORMATION"

The Rigsbys further contend that the truth or falsity of the McIntosh flood claim is irrelevant to this Court's jurisdiction because "it is sufficient for a relator to be 'an original source of a certain core of information.'" ([875] at 2 (quoting *Branch* Op. at 64).) This argument ignores both *Branch*'s holding and the cases cited therein.

Judge Vance's discussion of the "core information" requirement is derived from *United States v. New York Medical College*, 252 F.3d 118 (2d Cir. 2001) ("*New York II*"), *aff'd sub nom. United States v. N.Y. City Health & Hosp. Corp.*, No. 95-Civ.-7649, 2000 WL 1610802 (S.D.N.Y. Oct. 27, 2000) ("*New York I*"), in which "the Second Circuit ruled that a relator must be the 'source of the core information' underlying the allegations." *Branch* Op. at 62 (citing *New York II*, 252 F.3d at 121). Even a cursory review of *New York I* and *New York II* demonstrates beyond cavil that the Rigsbys' allegation of a "fraudulent scheme" does not constitute "core information" sufficient to support subject matter jurisdiction under the FCA.

In the *New York* cases, the relators were former high-level executives – the former Executive Director, Deputy Executive Director, and Chief Financial Officer – of a New York City hospital. The City had entered into an agreement with a medical college to provide physician service and staffing at the hospital. These services were paid for in part by Medicare and Medicaid. During the course of their employment, relators became concerned that the medical college was billing Medicare/Medicaid for services that were never provided to the hospital's patients. When one of the relators confronted the medical college's dean, the dean did not deny that overbilling was occurring. Rather, he contended "that it was '[the medical college's] turn to start receiving the same financial benefits' that other [New York City] affiliates were receiving." *New York I*, 2000 WL 1610802, at *1. The City then initiated an audit that

corroborated the relators' description of the fraudulent scheme and revealed that the medical college had, in fact, overcharged by over $2 million for services that were not provided. *Id.* at *2.

Relators argued that they qualified as original sources because they provided "core information" to the government regarding the alleged fraud, and they were the impetus for the audit which uncovered all of the false claims. The district court disagreed and dismissed the complaint on the grounds that the relators were not original sources. *See New York I*, 2000 WL 1610802, at *4-6. A unanimous Second Circuit panel – including now Supreme Court Justice Sonia Sotomayor – affirmed, explaining that the relators' knowledge that the medical college "was failing to provide the level of services required by the Agreement" did not constitute the "'core information' underlying [their] allegations of fraud." *New York II*, 252 F.3d at 121. Rather, the "core information" was provided by the audit – that is, the investigation that revealed the medical college's actual overcharges. Thus, *New York I* and *New York II* demonstrate that knowledge of a fraudulent scheme is insufficient to meet the original source requirement in the absence of direct and independent knowledge of actual overcharges.

The Rigsbys may not downgrade the McIntosh flood claim to a mere afterthought after engaging in years of litigation involving this specific property. In their voluminous briefing, the Rigsbys have acknowledged that the McIntosh flood claim ***is*** the core of their FCA case:

- "Kerri Rigsby also testified that she uncovered this scheme by stumbling on the two engineering reports on the McIntosh home." ([348] at 5.)
- "The Rigsbys' growing awareness of State Farm's fraud crystallized in October 2005, when Kerri Rigsby received a copy of an engineering report [on the McIntosh property]." ([223] at 14.)
- "The [McIntosh] report is perhaps the strongest evidence illustrating both the nature of the Defendants' fraudulent scheme and the manner in which the McIntosh claim exemplified that scheme." ([348] at 15.)
- "State Farm's entire fraud scheme is well-illustrated through the McIntosh claim." ([223] at 28.)

- "[T]he McIntosh claim . . . illustrate[s] exactly how State Farm executed the fraud." ([224] at 3.)

As the Rigsbys admit in their briefing, their "scheme" is inextricably intertwined with the McIntosh flood claim. If the McIntosh flood claim is not a false claim under the FCA, then the Rigsbys are not original sources of any "core information," and this Court lacks jurisdiction to entertain the Rigsbys' FCA claim based on their "'mere suspicion that there must be a false or fraudulent claim lurking around somewhere.'" *Branch* Op. at 56 (quoting *Vuyyuru*, 555 F.3d at 353).

D. THE COURT'S ORDERS LIMITING THE TRIAL TO THE MCINTOSH CLAIM IN THE FIRST INSTANCE ARE CONSISTENT WITH *BRANCH*

Branch, *Vuyyuru*, and *New York I* and *II* are in full accord with this Court's analysis in its August 10, 2009, memorandum opinion ([343]). In that opinion, this Court recognized that the FCA "defines an 'original source' as someone who has 'direct and independent knowledge' of the allegations on which the ***FCA claim*** is premised." ([343] at 4 (emphasis added).) The Rigsbys' FCA claim cannot be premised on allegations of a scheme alone because "[w]ithout a false or fraudulent claim, FCA liability, as a matter of law, does not attach to [defendants]." *United States ex rel. Stebner v. Stewart & Stevenson Servs., Inc.*, 305 F. Supp. 2d 694, 704 (S.D. Tex. 2004), *aff'd*, 144 F. App'x 389, 394-95 (5th Cir. 2005). This is why – despite the Rigsbys' constant invocations of their supposed knowledge of a fraudulent scheme – the Court focused its earlier original source analysis on whether the Rigsbys had "'direct and independent knowledge' of the allegations ***concerning the McIntosh flood claim***." ([343] at 4 (emphasis added).) The recent *Branch* opinion, and the cases on which it relies, simply reaffirm this Court's earlier holding that whether the McIntosh flood claim is a "false claim" under the FCA is the threshold issue in this litigation. (*See* [343] at 10 ("In the event the Relators prevail on the merits of their

allegations concerning the McIntosh claim, I will then consider whether additional discovery and further proceedings are warranted.").)

For all of these reasons, the Rigsbys' motion for expanded discovery should be denied. *Branch* makes clear that "a court cannot proceed if it lacked jurisdiction ***at the time the initial complaint was filed***." *Branch* Op. at 22 (emphasis added). "The Court may not acquire jurisdiction by amendment when it lacked jurisdiction over the original complaint." *Id.* at 28. This Court has recognized that "[t]he McIntosh claim is the ***only instance*** of State Farm's having submitted an allegedly false claim of which the Relator Kerri Rigsby has first hand knowledge . . . sufficient to support the Court's subject matter jurisdiction." ([343] at 10 (emphasis added).) The Rigsbys cannot retroactively recast themselves as original sources based on anything they could possibly reel in during their sought-after fishing expedition. As in *Branch*, "[n]one of the discovery" that the Rigsbys "seek[] would be relevant to establish that [they are] original source[s] of [the] broader scheme." *Branch* Op. at 57. Rather, "the facts supporting [their] purported original source status should be within [their] own control ***and should not require discovery***." *Id.* (emphasis added).

III. CONCLUSION

Branch confirms once again that "[e]vidence of an actual false claim is 'the *sine qua non* of a False Claims Act violation.'" *United States ex rel. Aflatooni v. Kitsap Physicians Serv.*, 314 F.3d 995, 1002 (9th Cir. 2002). In *Branch*, the relator's failure to produce summary judgment evidence demonstrating that the purported exemplar property supported Branch's loss-shifting claim was fatal to its *qui tam* case. Likewise, if the McIntosh claim is not a false claim, the Rigsbys' case must be dismissed. Since the Rigsbys' entire motion for expanded discovery is based on the exact opposite proposition – that their case can proceed regardless of whether the McIntosh claim is valid or false – it should be denied as a matter of logic and law.

This the 7th day of February, 2011.

Respectfully submitted,

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This the 7th day of February, 2011.

/s/ *E. Barney Robinson III* (MSB # 09432)
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA ex rel.
CORI RIGSBY and KERRI RIGSBY — RELATORS/COUNTER DEFENDANTS

V. — CASE NO: 1:07cv433 LTS RHW

STATE FARM MUTUAL INSURANCE
COMPANY — DEFENDANT/COUNTER PLAINTIFF

TRANSCRIPT OF STATUS CONFERENCE

BEFORE HONORABLE L.T. SENTER, JR.
UNITED STATES DISTRICT JUDGE

JANUARY 12, 2011
GULFPORT, MISSISSIPPI

COURT REPORTER:

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again. And I believe Your Honor's first question to State Farm really goes right to the heart of this whole issue, is, can you show how the government was harmed? And the answer is absolutely not, they cannot.

The government in this case first of all, State Farm in I believe it was March 16, 2006, the Mississippi Attorney General subpoenaed State Farm, and in that subpoena, they specifically directed State Farm to produce copies of all the engineering reports and other information that goes to some of these same factual issues. State Farm knew by then that the government was onto them, that this issue was being looked at. I hadn't heard anything from Mr. Robinson's argument that really made any argument as to how the government was actually harmed. Mr. Robinson pointed out that what he believed in this context "government harm" means is any kind of harm to the whole scheme, which really is another way of saying that he's arguing that a seal violation of any sort, even at the most technical level, is jurisdictional as opposed to a violation that requires the Court to do a balancing test, and we strongly disagree with that.

It's simply not in the majority of the case law. They point to the *Lujan* decision in the Ninth Circuit that spells out a balancing test, but that's not an outlier; that's a majority. There is that case and there's scores of District Court cases that hold, including the *Branch* case, which, as

Your Honor knows, is very similar to this one where they explicitly hold that this is not a jurisdictional provision, that it's a violation if there's a violation, it's just like the violation of any of Your Honor's orders.

Your Honor, we're not contesting that Your Honor has the discretion to do whatever the Court deems just. If the parties violated any of Your Honor's orders, Your Honor certainly has the discretion to dismiss the case or do any other kind of sanction that the Court deems appropriate. What we're arguing and what we believe is supported by the case law and the statute itself is that dismissal is not required. State Farm would like to really take all control out of the qui tam provisions from this Court, from other Courts, that if their argument is correct, it means that any technical violation, somebody whispers a word about this qui tam action or the facts underlying it, accidentally, with no bad faith intended when they had no intention to disclose information, the Court would have no discretion, under State Farm's view of the law, that the Court would absolutely have to at that point concede it has no jurisdiction over the claim anymore. And that's simply not supported by the law.

In addition to the Ninth Circuit case in *Lujan*, there are one of the cases we cite, *NATURAL GAS ROYALTIES Qui Tam Litigation* from 2006, at that point says there is already at least seven District Court decisions that hold that these are

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I, Kati M. Vogt, RMR, CRR, Official Court Reporter for the United States District Court for the Southern District of Mississippi, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a correct transcript of the proceedings reported by me using the stenotype reporting method in conjunction with computer aided transcription, and that same is a true and correct transcript to the best of my ability and understanding.

I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

s/*Kati M. Vogt*
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