

**COMMITTEE OF COUNSEL AND SCHOLARS SUPPORTING THE FALSE CLAIMS ACT
2000 P STREET, NW
SUITE 300
WASHINGTON, DC 20036**

Honorable Charles Grassley
Chairman, United States Senate Judiciary Committee
135 Hart Senate Office Building
Washington, DC 20510

Re: Nomination of William P. Barr for United States Attorney General

Dear Senator Grassley:

As attorneys representing whistleblowers who have successfully litigated under the *qui tam* provisions of the False Claims Act to recover monies for the United States Government, and as legal scholars who have studied this statute, one of the most successful laws used to combat fraud on the government, we write to express our concerns regarding the nomination of William P. Barr for the position of United States Attorney General.

Our concern relates to the nominee's remarks in an oral interview provided to the Miller Center at the University of Virginia. In an April 5, 2001 interview, General Barr referred to the *qui tam* provisions of the False Claims Act as an "abomination" which he wanted to "attack" and he cited a "Mexican standoff" with the then Solicitor General who supported the provisions. A transcript of that interview is available at the following links: <https://millercenter.org/the-presidency/presidential-oral-histories/william-p-barr-oral-history-assistant-attorney-general>.

General Barr's remarks came in response to a question posed by UVA Law Professor and former Assistant Attorney General (1977-1979), Dan Meador:

Meador

Within the Justice Department, were there any significant disagreements, say, between the Solicitor General and the Attorney General—either you or Thornburgh—about a position to be taken, not necessarily involving the White House, but internally within the Department?

Barr

Yes, there were significant disagreements sometimes between the SG's [Solicitor General] office and my office on a position. One of the big ones was the *qui tams* [sic] statute, which is basically a bounty hunter statute that lets private citizens sue in the name of the United States and get a bounty. I felt then, and feel now, that is an abomination and a violation of the appointments clause under the due powers of the President as well as the standing issue of the Supreme Court. So I wanted to attack the *qui tam* statute, and the SG's office wanted to defend it. That was a big dispute.

Meador

How did it come out?

Barr

Mexican standoff, we didn't file at all. [laughter]

Well settled Supreme Court precedent has shown the nominee's professed concerns regarding the False Claims Act and its *qui tam* provisions to be without basis; *see, e.g. Vermont Agency of Natural Resources v. United States ex rel. Stevens*, 529 US 765 (2000). It is particularly striking that General Barr's comments were made after *Stevens*. In addition, other Supreme Court decisions have rejected the very challenges to the statute articulated in his interview and Congress intentionally strengthened the False Claims Act and its *qui tam* provisions in 2009 and 2010 by enacting the Fraud Enforcement and Recovery Act of 2009 ("FERA") and Affordable Care Act ("ACA").

As you are aware, the *qui tam* provisions allow the government to leverage enforcement capabilities by empowering private individuals—who meet the law's rigorous standing and pleading requirements—to bring suit in the name of the government. It is the *qui tam* provisions—which General Barr sought to attack—that are at the heart of this important statute; yearly reports from the Department of Justice show that Billions of Dollars are recovered each year as a result of litigation initiated by *qui tam* Plaintiffs.

We bring this to your attention in your capacity as Chairman of the Senate Judiciary Committee and as the leading voice in the Senate in support of the False Claims Act whose success is part of your legacy in the Senate.

We ask that General Barr be rigorously questioned on this matter; that the decision on his nomination reflect a commitment to all provisions of this important statute, and that he be called upon to commit the resources necessary at both the local and national levels to ensure vigorous and complete enforcement of the False Claims Act should he be confirmed.

Respectfully,

Reuben A. Guttman, Esq.
Guttman, Buschner & Brooks, PLLC
Washington, DC

Traci L. Buschner, Esq.
Justin S. Brooks, Esq.
R. Bradley Miller, Esq.
Caroline Poplin, M.D., J.D.
Guttman, Buschner & Brooks, PLLC
Washington, DC

Nancy Gertner, Esq.
Lecturer on Law, Harvard law School
Fmr. United States District Judge
Massachusetts

Philip Freidin, Esq.
President, Florida Justice Association, 1991-92
Freidin Brown, PA
Miami, FL

Bill Nettles, Esq.
Fmr. United States Attorney-South Carolina, 2010-15
Law Office of Bill Nettles
Columbia, SC

Chris Nidel, Esq.
Jonathan Nace, Esq.
Nidel & Nace, PLLC
Washington, DC

Susan Coler, Esq.
Halunen Law
Chicago, IL

Tom Devine, Esq.
Legal Director, Government Accountability Project
Washington, DC

Daniel Miller, Esq.
Berger Montague
Philadelphia, PA

John Roddy, Esq.
Michael Murphy, Esq.
Bailey Glasser, LLP
Boston, MA

Charles S. Siegel, Esq.
Water Kraus & Paul, LLP
Dallas, TX

Brandon J. Lauria, Esq.
Eric L. Young, Esq.
McEldrew Young, Esq.
McEldrew Young Law
Philadelphia, PA

Richard Celler, Esq.
Celler Law, PA
Davie, FL

Michael Hamilton, Esq.
Provost Umphrey Law Firm, LLP
Nashville, TN

Chet Rabon, Esq.
Rabon Law Firm, PLLC
Charlotte, NC

Chris Sanders, Esq.
Chris Sanders Law, PLLC
Louisville, KY

Jason Zuckerman, Esq.
Zuckerman Law
Washington, DC

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