

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

**CASE NO.: 1:10-cv-24546-HOEVELER**

**MARJAN MAZZA, on behalf of the  
UNITED STATES OF AMERICA,**

**Plaintiff/Relator**

vs.

**MIAMI-DADE COUNTY and  
MIAMI-DADE TRANSIT DEPARTMENT,**

**Defendants.**

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**NOTICE OF THE UNITED STATES OF ITS OPPOSITION  
TO DISMISSAL ON THE BASIS OF THE PUBLIC DISCLOSURE BAR**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(e)(4)(A), the United States notifies the Court that it is exercising its right to object to dismissal of Relator Marjan Mazza's ("Ms. Mazza") First Amended Complaint on the basis of the Public Disclosure Bar.

On January 31, 2013, Miami-Dade County and Miami-Dade County Transit Department filed their Motion to Dismiss Plaintiff's First Amended Complaint (the "County's Motion to Dismiss.") (DE 53.) In Section III of the County's Motion to Dismiss, defendants assert that the First Amended Complaint must be dismissed because this Court has no subject matter jurisdiction under the Public Disclosure Bar. The County asserts that Ms. Mazza's allegations were publicly disclosed during a federal government investigation and audit involving the same issues alleged in the First Amended Complaint. *See* County's Motion to Dismiss at 14-16. The County also contends that the First Amended Complaint fails to allege sufficient facts showing that Ms. Mazza is an original source. *See id.* at 16-18.

The FCA states in pertinent part:

The court shall dismiss an action or claim under this section, *unless opposed by the Government*, if substantially the same allegations or transactions as

alleged in the action or claim were publicly disclosed-- (i) in a Federal criminal, civil, or administrative hearing in which the Government or its agent is a party; (ii) in a congressional, Government Accountability Office, or other Federal report, hearing, audit, or investigation; or (iii) from the news media, unless the action is brought by the Attorney General or the person bringing the action is an original source of the information.

31 U.S.C. § 3730(e)(4)(A) (emphasis added).<sup>1</sup> In sum, the statute provides that, if the United States objects, the court may not dismiss the action on the ground of public disclosure. The United States hereby notifies that Court that it is exercising its right to object to the dismissal of the action on this ground. Accordingly, defendants' motion to dismiss on the ground of public disclosure bar should be denied.

The United States takes no position on the remaining grounds asserted for dismissal in the County's Motion to Dismiss.

June 6, 2013

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<sup>1</sup> The public disclosure bar of the FCA was amended on March 23, 2010. Because the instant action was filed on December 10, 2010, the amended version of the public disclosure bar applies. See *United States of America, ex rel. Sanchez, v. Abuabara*, No.: 10-61673, 2012 U.S. Dist. LEXIS 76969 \*3-\*4 and n.1 (S.D. Fla. Jun. 4, 2012) (“Since the suit in this case was filed many months after the Act was signed into law, this Court will apply the amended language. The parties agree that the amended version of the Public Disclosure Bar is applicable.”)

**CERTIFICATE OF FILING AND SERVICE**

I hereby certify that on June 6, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. I also certify that the foregoing document is being served this day on all counsel of record on the attached Service List via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsels who are not authorized to receive electronically Notices of Electronic Filing.

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