



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

September 20, 2019

Via ECF

The Honorable Valerie E. Caproni
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: United States of America and New York State *ex rel.* TZAC, Inc. v. Oxfam,
18 Civ. 1500 (VEC)

Dear Judge Caproni:

This Office represents the United States of America (the “United States” or “Government”) in the above-referenced *qui tam* action brought by the relator TZAC, Inc. pursuant to the False Claims Act, as amended, 31 U.S.C. § 3729 *et seq.* (the “FCA”). As the Court is aware, on July 12, 2019, the Government filed a Notice of Decision to Decline Intervention and declined to intervene in this action. On behalf of the United States, we write respectfully to request that the Court enter the attached proposed scheduling order in the case, which establishes a briefing schedule for the Government’s anticipated motion to dismiss, extends the defendant’s time to respond to the complaint until such time as the Court has decided the Government’s motion, and adjourns the initial pretrial conference until after the defendant’s response to the complaint has been filed. The Government has been in communication with counsel for the relator and defendant Oxfam (the “Parties”), and they have both consented to the proposed schedule.

As the Government has informed the Parties, the Government intends to move to dismiss this action pursuant to 31 U.S.C. § 3730(c)(2)(A). In light of the foregoing, rather than proceed with the initial pretrial conference, which is presently scheduled to occur on September 27, 2019, pursuant to the Court’s August 19, 2019, order, the Government requests that the Court instead enter the proposed order. The Government submits that the proposed schedule is in the interest of efficiency and conserving judicial resources. Under the terms of the proposed order: the Government would file its anticipated motion to dismiss by October 18, 2019; the relator would file its response, if any, by November 18, 2019; the Government would file any reply brief by December 2, 2019; if the complaint survives the Government’s motion to dismiss, the defendant’s time to respond to the complaint would be extended until 30 days after the Court issues its decision denying the Government’s motion; and the initial conference would be adjourned to a date at the Court’s earliest convenience following the defendant’s filing of a responsive motion or pleading.

We thank the Court for its consideration of this letter and the enclosed papers.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York

By: /s/ Jessica Jean Hu

JESSICA JEAN HU
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, NY 10007
Telephone: 212-637-2726
Facsimile: 212-637-2717
E-mail: jessica.hu@usdoj.gov

Enclosures

cc:

By e-mail

David Abrams, Esq.
Counsel for Relator

J. Emmett Murphy
Jeffrey S. Bucholtz,
King & Spalding LLP
Counsel for Defendant