

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

**UNITED STATES OF AMERICA and
ANGELA D'ANNA,**

Plaintiffs,

v.

2:14-cv-437-JLB-NPM

**LEE MEMORIAL HEALTH SYSTEM and
CAPE MEMORIAL HOSPITAL, INC.,**

Defendants.

ORDER

A decade ago, relator Angela D'Anna brought this action against Lee Health¹ under the *qui tam* provision of the False Claims Act. (Doc. 1). The United States elected not to intervene. (Doc. 48). Now, Lee Health moves for judgment on the pleadings arguing the *qui tam* provision of the False Claims Act violates Articles II and III of the U.S. Constitution. (Doc. 268). More specifically, it challenges “the authority of Congress to empower a private party to litigate on behalf of the United States in cases in which the Government has declined intervention.” (Doc. 268 at 1 n.1). On April 30, 2024, consistent with Civil Rule 5.1, Lee Health filed a notice of


¹ Defendants Lee Memorial Health System and Cape Memorial Hospital, Inc. are collectively referred to as “Lee Health.”

constitutional question, and it served the notice and motion on the Attorney General of the United States. (Doc. 271).

Pursuant to 28 U.S.C. § 2403(a) and Civil Rule 5.1(b), the court must certify to the Attorney General any action challenging the constitutionality of an Act of Congress. Such is the case here. Thus, the court hereby certifies to the Attorney General of the United States that the constitutionality of the *qui tam* provision of the False Claims Act, 31 U.S.C. § 3730, has been called into question in this case. By **July 1, 2024**, the Attorney General must notify the court of its decision to intervene in this action. *See* Fed. R. Civ. P. 5.1(c).

The clerk is **directed** to immediately transmit a copy of this order, the third-amended complaint (Doc. 142), Lee Health's motion for judgment on the pleadings (Doc. 268), and Lee Health's notice of constitutional question (Doc. 271) to the United States Attorney General at U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington D.C. 20530, and to provide an additional copy of these documents to the United States Attorney for this District.

ORDERED on May 17, 2024.



NICHOLAS P. MIZELL
United States Magistrate Judge