

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
UNITED STATES OF AMERICA,

Plaintiff,

-against-

SPECTRUM PAINTING CORP., and TOWER  
MAINTENANCE CORP.,

Defendants.

ANALISA TORRES, United States District Judge:

USDC SDNY  
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ELECTRONICALLY FILED  
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19 Civ. 2096 (AT)

**ORDER**

On August 25, 2020, the Court denied Defendants' motion to dismiss the Government's claims under the False Claims Act ("FCA"), 31 U.S.C. § 3729 *et seq.* MTD Order, ECF No. 62. On August 28, 2020, Defendant Tower Maintenance Corp. ("Tower") requested leave to move for an order certifying for immediate appeal, pursuant to 28 U.S.C. § 1292(b), the question of whether an FCA plaintiff must show that the Government suffered actual damages in order to prevail. ECF No. 65; *see* MTD Order at 27 ("The Court agrees with those courts that have found that an FCA plaintiff need not show actual damages to the Government, so long as there is some direct impact on the federal treasury." (internal quotation marks, citations, and alterations omitted)). Having reviewed the parties' pre-motion letters, ECF Nos. 65 and 66, Tower's request is DENIED. The Court does not believe that the issue raised by Tower is "a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation." 28 U.S.C. § 1292(b).

Tower also seeks leave to file a motion for reconsideration of the Court's order. In accordance with Paragraph III(A) of the Court's Individual Practices in Civil Cases, Defendants need not seek leave to move for reconsideration.

SO ORDERED.

Dated: September 4, 2020  
New York, New York



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ANALISA TORRES  
United States District Judge