

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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March 11, 2022

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 20-10604-U
Case Style: USA, et al v. John Mcavoy, et al
District Court Docket No: 1:17-cv-00470-KD-N

For the purpose of the upcoming en banc rehearing in the above referenced case, the court desires for counsel to focus their briefs on the following issue:

Should this Court overrule its holding and reasoning in *United States v. Everglades College, Inc.*, 855 F.3d 1279 (11th Cir. 2017), and in so doing, decide that the United States may not dismiss a *qui tam* suit under the False Claims Act under 31 U.S.C. § 3730(c)(2)(A) without first intervening in the action?

APPELLANTS' EN BANC BRIEF SHALL BE SERVED AND ELECTRONICALLY FILED ON OR BEFORE APRIL 15, 2022. APPELLEES' EN BANC BRIEF SHALL BE SERVED AND ELECTRONICALLY FILED ON OR BEFORE MAY 16, 2022. An en banc reply brief shall be electronically filed on or before June 6, 2022. NO EXTENSIONS WILL BE GRANTED. Parties should format their briefs according to Federal Rules of Appellate Procedure 28 and 32 and shall contain the title "En Banc Brief". Each brief must adhere to the page and type-volume limitations Rule 32(a)(7). Fifteen (15) copies of the en banc briefs should be filed. Counsel is expected to serve all parties a copy of their brief by the close of business on the day of filing. PAPER COPIES OF THE BRIEFS SHOULD BE MAILED THE NEXT BUSINESS DAY. Counsel is not required to submit the additional copies of the previous filed briefs.

The filing of an en banc amicus brief is governed by 11th Cir.R.35-8.

Oral argument will be conducted the week of June 20, 2022 in Atlanta, Georgia. Each party will be allotted twenty (20) minutes per side for oral argument. Counsel will receive subsequent correspondence regarding the specific time of oral argument.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Jenifer L. Tubbs
Phone #: 404-335-6166

BR-1CIV Civil appeal briefing ntc issued