

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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PHILIP J. BERG, ESQUIRE, <i>pro se</i> , on his own	:	
BEHALF and on BEHALF of the	:	
GOVERNMENT OF THE UNITED STATES	:	
OF AMERICA,	:	Case No. 08-cv-1933
	:	
Relator,	:	
	:	
vs.	:	
	:	
BARACK HUSSEIN OBAMA,	:	
	:	
Defendant.	:	

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**RELATOR’S RESPONSE IN OPPOSITION TO  
THE UNITED STATES MOTION TO DISMISS**

Philip J. Berg, Esquire, on his own behalf and as Relator on behalf of the Government of the United States [hereinafter “Relator”] in this matter files the within Response in Opposition to the Government of the United States [hereinafter “Government”] Motion to Dismiss the Relator’s Complaint pursuant to the False Claims Act on the following grounds:

- The Dismissal of the Relator’s Complaint under the False Claims Act is not mandatory when the Government moves for Dismissal;
- When the Government seeks dismissal of a False Claims Act Complaint, the standard of review that applies under Section 3730(c)(2)(A) is the “rational relation” standard, which is the standard that applies to substantive due process analyses. The Government has failed to meet the “rational relation” Standard.

- The Relator is requesting and entitled to the Government's Discovery regarding their Decision to move for dismissal.

For the above aforementioned reasons, Relator respectfully requests this Court to deny the Government's Motion to Dismiss, unseal the Case and allow the Relator to prosecute his False Claims Act action. In addition, Relator requests this Honorable Court to grant his request for Discovery from the Government relating to the Government's decision to file the within Motion to Dismiss. Relator is also requesting a hearing on the Government's Motion to Dismiss.

Respectfully submitted,

Dated: April 18, 2009

s/ Philip J. Berg  
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Philip J. Berg, Esquire, Relator  
*Relator*  
555 Andorra Glen Court, Suite 12  
Lafayette Hill, PA 19444-2531  
PA Identification No. 09867  
(610) 825-3134

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BARACK HUSSEIN OBAMA,	:	
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**CERTIFICATE OF SERVICE**

I, hereby certify that Philip J. Berg, the Relator's Response in Opposition to the U.S. Department of Justice and U.S. Attorney's Motion to Dismiss Relator's False Claim Act Complaint was served by mail through the United States Postal Service, this 20<sup>th</sup> day of April 2009 upon the following:

Keith V. Morgan  
Assistant United States Attorney  
U.S. Department of Justice  
555 Fourth Street N.W.  
Washington, D.C. 20530

Sara McClean  
Department of Justice Trial Attorney  
United States Department of Justice  
Civil Division  
P.O. Box 261  
Ben Franklin Station  
Washington, D.C. 20044

s/ Philip J. Berg

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