

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, <i>ex rel.</i> ,)	
MARCO WHITE, MARK MITCHELL,)	
and LESLIE LAKIND,)	
)	Case No. 22-cv-284-WJ-JFR
Plaintiffs,)	
)	
)	
v.)	
)	
COUY GRIFFIN,)	
)	
Defendant.)	

GRIFFIN’S NOTICE OF SUPPLEMENTAL AUTHORITY

Griffin, through his counsel, provides the Court with the following supplemental authority in connection with Plaintiffs’ Motion to Remand. D.N.M. LR-Civ. 7.8(b).

In *Vt. Agency of Natural Res. v. United States ex rel. Stevens*, the Supreme Court held that *qui tam* relators had Article III standing to seek False Claims Act relief on behalf of the injury-in-fact of the United States. 529 U.S. 765, 774. The Court reasoned that the history of *qui tam* actions was “particularly relevant” to that holding “since . . . Article III’s restriction of the judicial power to ‘Cases’ and ‘Controversies’ is properly understood to mean ‘cases and controversies of the sort traditionally amenable to, and resolved by, the judicial process.’” *Id.* (quoting *Steel Co. v. Citizens for Better Environment*, 523 U.S. 83, 102 (1998)). That is, precisely because *qui tam* actions were “prevalent in America and England, at least in the period immediately before and after the framing of the Constitution,” it was “well nigh conclusive” that *qui tam* actions presented constitutional “cases and controversies.” *Id.* at 777.

The leading English language treatise on the writ of *quo warranto* demonstrates that Plaintiffs’ *quo warranto* action fits squarely within *Vt. Agency*’s historical framework for actions

that “conclusive[ly]” present constitutional “cases and controversies.” J. High, *A Treatise on Extraordinary Legal Remedies Embracing Mandamus, Quo Warranto, and Prohibition* (3d ed. 1896), Exh. 1. The Supreme Court of New Mexico has cited the High treatise approvingly in the context of New Mexico *quo warranto* actions specifically. *State ex rel. Martinez v. Padilla*, 94 N.M. 431, 434, 1980-NMSC-064, 6, 612 P.2d 223, 226 (1980).

As the High treatise demonstrates unequivocally, courts in England and the United States had jurisdiction to entertain a private relator’s suit for a writ of *quo warranto* “at least in the period immediately before and after the framing of the Constitution.” *Vt. Agency of Natural Res.*, 529 U.S. at 777. Specifically, the statute of Anne, enacted in the regnal year 1710, “extended the remedy of *quo warranto* . . . to private citizens desiring to test the title of persons usurping or executing municipal offices and franchises, and rendered any person a competent relator in such proceedings who might first obtain leave of the court to file an information.” Exh. 1, pp. 497-498. Thus, Plaintiffs’ enjoy Article III standing under *Vt. Agency*.

Dated: May 13, 2022

Respectfully submitted,

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Certificate of Service

I hereby certify that on the 13th day of May, 2022, I filed the foregoing filing with the Clerk of Court using the CM/ECF system, and counsel of record were served by electronic means.

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