

Good afternoon, Chairman Hillyer, Vice-Chair Grendell, Ranking Member Galonski, and members of the House Civil Justice Committee. My name is Brian Flick, and I am the managing partner of the Cincinnati office of DannLaw, one of the nation's leading consumer protection law firms. I am pleased to have the opportunity to appear before you today to testify in favor of HB 533, the Ohio False Claims Act.

Since the founding of our republic, the catch phrase, "waste, fraud, and abuse" has been attached to nearly every discussion about government spending. In his book "George Washington's Expense Account," author Marvin Kitman shows how the man who could not tell a lie indulges his insatiable lust for fine food and drink, extravagant clothing, and lavish accommodations by padding his wartime expense account.

During the Civil War unscrupulous contractors sold the Union Army so many broken down horses and mules, faulty rifles, canons and ammunition, and rancid rations that Congress was forced to act. In 1863 the House and Senate passed, and President Lincoln signed the federal False Claims Act (FCA) which is often referred to as the "Lincoln Law" for obvious reasons. Senator Jacob M. Howard of Michigan inserted the qui tam or whistleblower provisions into the statute because he believed rewarding those who had knowledge of waste, fraud, and abuse was "the safest and most expeditious way...of bringing rogues to justice."

History has proved him right. As of 2019, more than 72 percent of cases brought under the FCA have been filed by whistleblowers. Between 1987 and 2019 the FCA generated \$62.1 billion in recovered funds. Cases brought under the qui tam provisions of the law were directly responsible for \$44.7 billion or 72% of the total.

Acting Assistant Attorney General Brian Boyton recently commented on the important role whistleblowers play. "Industry insiders are uniquely positioned to expose fraud and false claims and often risk their careers to bring these schemes to light," he said. "Our efforts to protect taxpayer funds benefit from the courageous actions of these whistleblowers, and they are justly rewarded under the False Claims Act."

In 2021 alone, more than \$5 billion was returned to taxpayers as a result of FCA settlements and judgements in cases involving health care and Medicare fraud, unlawful kickbacks, procurement fraud, customs and tax fraud, and the misuse of PPP loans.

Given the demonstrated effectiveness and success of the federal FCA, it should come as no surprise that more than 30 states across the nation have adopted false claim acts that include qui tam provisions.

What is surprising is that Ohio has failed to take advantage of this proven mechanism for reigning in waste, fraud, and abuse and holding bad actors accountable for ripping off Ohio taxpayers. House Bill 533 gives the members of the General Assembly and the governor the opportunity to place this powerful weapon in our state's legal arsenal.

While I do not for a moment dismiss or discount the Attorney General's efforts to combat fraud, the fact is he and his staff do not have the capacity to police the state's \$80.8 billion budget, including the \$21 billion that is devoted to Medicaid. Passing HB 533 will quickly and exponentially increase the number of cops on the beat as emboldened insiders and private attorneys join the battle alongside the AG's staff—at no cost to the state or its citizens.

Let's be honest, we all know that at this very moment someone working for a state contractor or vendor is involved in or aware of illegal activity or fraudulent spending that will never be detected because that person is afraid of losing their job or being retaliated against in some other way if they come forward. Absent whistleblower protection there is absolutely no reason to blow the whistle.

HB 533 will change that dynamic by providing the protection and incentives that have motivated thousands of people to expose billions of dollars in waste, fraud, and abuse. Ohio and Ohioans cannot afford to waste another day or another dollar—the time to take decisive, effective action is now. I respectfully urge the Committee to give this critically important legislation favorable consideration.

Thank you, Chairman Hillyer, I will be happy to answer any questions you or the members of the Committee may have.