No. 25-10842

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES *ex rel.* CHERYL TAYLOR,
Plaintiff-Appellee/Cross-Appellant,
UNITED STATES OF AMERICA,
Intervenor,
v.
HEALTHCARE ASSOCIATES OF TEXAS, L.L.C.,
Defendant-Appellant/Cross-Appellee.

On Appeal from the United States District Court for the Northern District of Texas, No. 3:19-cv-02486-N, Hon. David C. Godbey

BRIEF OF *AMICUS CURIAE* THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA IN SUPPORT OF CROSS-APPELLEE

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CERTIFICATE OF INTERESTED PERSONS

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1. The Chamber of Commerce of the United States of America ("Chamber"), *Amicus Curiae*, represented by:

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2. The Chamber has no parent corporation, and no publicly held company has 10% or greater ownership in the Chamber.

Dated: June 12, 2026

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INTEREST OF *AMICUS CURIAE*[1]

The Chamber of Commerce of the United States of America is the world's largest business organization. As the nation's leading advocate for business, the Chamber represents companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation's business community.

Many American businesses—including many of the Chamber's members—contract with the federal government for the provision of goods and services. As a result, these businesses are subject to the False Claims Act ("FCA"). The FCA empowers profit-driven relators to prosecute violations for and in the name of the United States. And that troubling dynamic has predictably spawned constitutionally excessive penalties in recent years. The Chamber's members have a strong interest in avoiding that result. The Chamber thus files this brief to explain why the Eighth Amendment forbids the massive penalty that the relator seeks here.

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[1] No counsel for any party authored this brief in whole or in part, and no entity or person, aside from *amicus curiae*, its members, or its counsel, made any monetary contribution intended to fund the preparation or submission of this brief. Counsel for all parties consented to this brief's filing.

INTRODUCTION AND SUMMARY OF ARGUMENT

For almost a thousand years, Anglo-American law has prohibited the government from imposing excessive fines on its citizens. In the United States, this protection is enshrined in the Eighth Amendment, which declares that "[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. amend. VIII. This constitutional safeguard was "adopted[] as an admonition *to all departments of the national government*." 3 Joseph Story, *Commentaries on the Constitution of the United States* 750 (1833) (emphasis added). And it serves to "limit[] the government's power to extract payments, whether in cash or in kind, as punishment for some offense." *Austin v. United States*, 509 U.S. 602, 609-10 (1993) (quotation marks omitted).

Congress's approval of a statutory penalty cannot displace this time-honored constitutional guarantee. Instead, "the Excessive Fines Clause applies to any statutory scheme that serves in part to punish." *Tyler v. Hennepin County*, 598 U.S. 631, 648 (2023) (Gorsuch, J., joined by Jackson, J., concurring) (alterations adopted; quotation marks and emphasis omitted). Applying that basic principle, the Supreme Court has invalidated a statutorily prescribed penalty for violating the Excessive Fines Clause. *See, e.g.*, *United States v. Bajakajian*, 524 U.S. 321, 324 (1998) (invalidating a forfeiture under 18 U.S.C. § 982(a)(1)).

The District Court correctly did the same here. As a threshold matter, the District Court properly held that the Excessive Fines Clause applies to statutory penalties under the False Claims Act, following every Circuit to have considered the issue—a point which the relator and the Government do not contest. *See* ROA.6051; Relator Br. at 50; Gov't Br. at 30.

The District Court also correctly held that the nearly $300 million penalty sought here would be "grossly disproportionate" to HCAT's "moderate" conduct. ROA.6055. The conduct was "unrelated to any other illegal activities," and the "injury suffered by the government" was "relatively minor." *Bajakajian*, 524 U.S. at 337-40.

As the Chamber explained in its previous *amicus* brief, the judgment below should be reversed because *qui tam* litigation violates Article II—full stop. *See* ECF 78. If the Court disagrees with this contention, then the Court should refuse the relator's invitation to impose a constitutionally excessive fine, and should affirm the District Court's decision to reduce the fine.

ARGUMENT

I. The Excessive Fines Clause Is a Bulwark of Individual Liberty.

The relator and Government argue that the Excessive Fines Clause imposes *no* limit on Congress's ability to exact statutory fines. *See* Relator Br. at 15, 50-52; Gov't Br. at 9, 31-33. But the Framers did not ratify such a hollow guarantee.

Instead, "the protection against excessive fines has been a constant shield throughout Anglo-American history." *Timbs v. Indiana*, 586 U.S. 146, 153-54 (2019) (holding that the Excessive Fines Clause is incorporated by the Due Process Clause of the Fourteenth Amendment).

A. Long Before the American Founding, Prohibitions on Excessive Fines Were Deeply Rooted in English Law.

In English law, the understanding that the government cannot impose excessive fines traces back at least to the Norman Era. When King Henry I ascended to the throne in 1100, he issued a written proclamation to his subjects that guaranteed their fundamental liberties. *See* H. W. C. Davis, *England Under the Normans and the Angevins 1066-1272*, at 119-20 (Methuen & Co. ed., 1905). This "Charter of Liberties" declared that "[i]f any of [the] barons or men commit a crime, he shall not bind himself to a payment at the king's mercy," but rather, "shall make amends according to the extent of the crime." *Charter of Liberties of Henry I* ¶ 8 (1100), reprinted in Albert Beebe White & Wallace Notestein, *Source Problems in English History* 367, 369 (1915); *see also Timbs*, 586 U.S. at 160 (Thomas, J., concurring in judgment) (quoting from different translation of same guarantee from Charter of Liberties). In that way, the King bound himself to issue fines only to the extent that they were proportional to the gravity of the offense.

Amid later battles over civil rights, the same protection was included in the font of English liberty. Magna Carta codified the protection against excessive fines,

and it did so in no uncertain terms: "For a trivial offence, a free man shall be fined only in proportion to the degree of his offence, and for a serious offence correspondingly, but not so heavily as to deprive him of his livelihood." *Magna Carta* ¶ 20 (1215), bit.ly/47NY46F (British Library translation); *see also Timbs*, 586 U.S. at 151 (majority op.) (discussing Magna Carta); *id.* at 160-61 (Thomas, J., concurring in judgment) (same).

It is "[v]ery likely there was no clause in Magna Carta more grateful to the mass of the people." *Pleas of the Crown for the County of Gloucester* xxxiv (F. Maitland ed., 1884). The clause was "aimed at putting limits on the power of the King, on the 'tyrannical extortions, under the name of amercements, with which [King] John had oppressed his people.'" *Browning-Ferris Indus. of Vt., Inc. v. Kelco Disposal, Inc.*, 492 U.S. 257, 271-72 (1989) (quoting T. Taswell-Langmead, *English Constitutional History* 83 (10th ed. 1946)). And the clause—along with later statutes that reiterated its guarantees—played a pivotal role in reining in the excesses of royal power. *See* Nicholas M. McLean, *Livelihood, Ability to Pay, and the Original Meaning of the Excessive Fines Clause*, 40 Hastings Const. L.Q. 833, 856-57 (2013); *see also, e.g.*, Statute of Westminster, 3 Edw. 1, ch. 6 (1275).

By the seventeenth century, the King's Bench "had ceased to honor Magna Carta's restrictions on excessive fines." John F. Stinneford, *The Excessive Fines Clause*, reprinted in *The Heritage Guide to the Constitution* 695 (3d ed. 2025). The

"Stuart kings, in particular, were criticized for using large fines to raise revenue, harass their political foes, and indefinitely detain those unable to pay." *Timbs*, 586 U.S. at 152; *see also id.* at 161-63 (Thomas, J., concurring in judgment). That included complaints about "sums exacted" that "seemed to have some colour and shadow of a law," but which were nonetheless "against all the rules of justice" because of "the proportion of the fines demanded." The Grand Remonstrance ¶ 17 (1641), in *The Constitutional Documents of the Puritan Revolution 1625-1660*, at 210 (S. Gardiner ed., 1906). Those complaints unfortunately fell on deaf ears. And, over the next few decades, "fines became even more excessive and partisan." Lois G. Schwoerer, *The Declaration of Rights, 1689*, at 91 (1981).

That all changed with the Glorious Revolution. After King James II fled England in 1688, "the House of Commons, in an attempt to end the crisis precipitated by the vacation of the throne, appointed a committee to draft articles concerning essential laws and liberties that would be presented to William of Orange." *Browning-Ferris*, 492 U.S. at 290 (O'Connor, J., concurring in part and dissenting in part). The resulting "English Bill of Rights reaffirmed Magna Carta's guarantee by providing that 'excessive Bail ought not to be required, nor excessive Fines imposed; nor cruel and unusual Punishments inflicted.'" *Timbs*, 586 U.S. at 152 (quoting 1 Wm. & Mary, ch. 2, §10, in 3 Eng. Stat. at Large 441 (1689)); *see also id.* at 163-64 (Thomas, J., concurring in judgment). This provision was

"declaratory" of "the old constitutional law of the land" and was cherished by British subjects for years to come. 4 William Blackstone, *Commentaries on the Laws of England* 372 (1769).

B. The Framers Ratified the Excessive Fines Clause to Limit the Government's Power to Punish.

The story was no different across the Atlantic. Virginia's constitution enshrined the prohibition on excessive fines verbatim from the English Bill of Rights. *See* Va. Const. of 1776, Bill of Rights, § 9. And seven other States similarly recognized the people's right to be free from excessive fines. *See* Del. Const. of 1776, Decl. of Rights, § 16; Ga. Const. of 1777, art. LIX; Md. Const. of 1776, Decl. of Rights, § XXII; Mass. Const. of 1780, pt. 1, art. XXVI; N.H. Const. of 1784, art. 1, § XXXIII; N.C. Const. of 1776, Decl. of Rights, § X; Pa. Const. of 1776, Plan or Frame of Gov't, § 29.

The omission of that fundamental right from the federal Constitution sparked backlash among the Anti-Federalists. Brutus, for example, argued that the state provisions forbidding excessive fines were essential "[f]or the security of liberty." Brutus II (Nov. 1, 1787), reprinted in *Debates and Proceedings in the Convention of the Commonwealth of Massachusetts* 378, 382 (William White ed., 1856). And that protection was "as necessary under the general government as under that of the individual States." *Id.*

Patrick Henry expressed similar concerns. He warned that "[i]n th[e] business of legislation," Congress will naturally "loose the restriction of not imposing excessive fines." 3 *Debates in the Several State Conventions on the Adoption of the Federal Constitution* 447 (Jonathan Elliot ed., 1888). An amendment was therefore necessary to ensure that the legislature would not "define punishments without this control." *Id.* As Henry concluded, "when we come to punishments, no latitude ought to be left, nor dependence put on[,] the virtue of representatives." *Id.*

The Framers responded accordingly. They introduced the Eighth Amendment with no resistance, and it was quickly ratified by the States. *See* Stinneford, *supra*. This guaranteed that "[e]xcessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. amend. VIII.

That mandatory language contains no exception for statutory fines. Rather, the Excessive Fines Clause—like the rest of the Eighth Amendment—was "an admonition to all departments of the national government." Story, *supra*, at 750. It "limits the government's power to extract payments" in any form "as punishment for some offense." *Bajakajian*, 524 U.S. at 328 (quoting *Austin*, 509 U.S. at 609-10); *see also Hennepin County*, 598 U.S. at 648 (Gorsuch, J., joined by Jackson, J., concurring) ("[T]he Excessive Fines Clause applies to *any* statutory scheme that 'serves in part to punish.'" (brackets and some emphasis omitted)). Thus, as *Bajakajian* makes clear, the legislature's determination does not—and cannot—

resolve the constitutional inquiry. *See* 524 U.S. at 336-40 (holding that a penalty prescribed by Congress violated the Excessive Fines Clause).

C. Neither *Newell Recycling* Nor *Cripps* Compels this Court to Ignore the History of the Excessive Fines Clause and *Bajakajian*.

The relator and Government respond with a pair of decisions from this Court. *See Cripps v. State Dep't of Agric. & Forestry*, 819 F.3d 221 (5th Cir. 2016); *Newell Recycling Co. v. United States EPA*, 231 F.3d 204 (5th Cir. 2000). But neither decision requires this Court to hold that *any* fine set by Congress is necessarily constitutional.

In truth, neither decision binds this Court because Supreme Court precedent must control. And that is true even if the Supreme Court's decision comes *before* this Court's own—at least when the Supreme Court decision goes "uncited." *Trader Joe's Co. v. NLRB*, 167 F.4th 766, 789 n.17 (5th Cir. 2026); *see also, e.g.*, *Gahagan v. U.S. Citizenship & Immigration Servs.*, 911 F.3d 298, 302 (5th Cir. 2018); *Thompson v. Dallas City Attorney's Off.*, 913 F.3d 464, 467-68 (5th Cir. 2019); *Wilson v. Taylor*, 658 F.2d 1021, 1034-35 (5th Cir. 1981).

Such is the case here. *Newell Recycling* "turns a blind eye" to *Bajakajian*. *Thompson*, 913 F.3d at 468. It "never discusses" the seminal Supreme Court

decision and remarkably "never even acknowledges" it. *Id.* at 467.[2] The same goes for *Cripps*. It simply cites *Newell Recycling* without addressing the binding Supreme Court precedent that the prior panel ignored. *See* 819 F.3d at 234. Accordingly, this Court is "bound to apply [*Bajakajian*] and [the Court's] cases that abide [the Supreme Court decision], not [*Newell Recycling* or *Cripps*]." *Thompson*, 913 F.3d at 468. Those cases are not good law.

Even if *Newell Recycling* or *Cripps* were good law, there is no reason to extend them to this case. In *Cripps*, an agency had already assessed the propriety of imposing a specific administrative fine under the unique circumstances of that case. *See* 819 F.3d at 234. So too in *Newell Recycling*. *See* 231 F.3d at 210. Here, by contrast, no case-specific judgment has been made by the political branches. And this Court should hesitate to adopt the relator's proposed regime of blind legislative deference, in which "Congress supplies an answer to the questions of what a fine should be *and* whether it's excessive," without any further check by any other branch. *Yates v. Pinellas Hematology & Oncology, P.A.*, 21 F.4th 1288, 1318 (11th Cir. 2021) (Newsom, J., concurring). That would invite precisely the sort of arbitrary fines that the Eighth Amendment was adopted to prevent.

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[2] The lone decision that *Newell Recycling* does cite was a pre-*Bajakajian* decision from the D.C. Circuit, which assessed both whether "the penalty [was] proportional to [the defendant's] violation" *and* whether it was "below the statutory maximum." *Pharaon v. Bd. of Governors of the Fed. Rsrv. Sys.*, 135 F.3d 148, 157 (D.C. Cir. 1998).

In short, *Newell Recycling* and *Cripps* are inapposite. This Court should apply the original meaning of the Excessive Fines Clause, as expounded by the Supreme Court. Consistent with that understanding, the penalty sought "violates the Excessive Fines Clause if it is grossly disproportional to the gravity of [the] defendant's offense." *Bajakajian*, 524 U.S. at 334.

II. The District Court Correctly Held that the Massive Statutory Penalties Here Would Violate the Excessive Fines Clause.

The District Court correctly held that the statutory penalties sought here—which are, at a minimum, over $299 million—would transgress the limits of the Excessive Fines Clause. Such penalties dwarf the $2.8 million in actual damages sustained by the Government, while lacking any semblance of proportionality to HCAT's offense. And neither the relator's nor the Government's contrary arguments warrant a different result. Congressional authorization of a statutory penalty does not insulate that penalty from constitutional scrutiny. Nor does assessing each per-claim penalty in isolation cure the constitutional infirmity of the aggregate amount of penalties permitted under the statute and sought here.

A. The Excessive Fines Clause Applies to the FCA's Statutory Penalties

The Excessive Fines Clause "limits the government's power" to levy "fines," meaning "payment[s] to a sovereign as punishment for some offense." *Bajakajian*, 524 U.S. at 327-28 (citations omitted).

The massive penalty sought here unquestionably fits that definition. The Supreme Court has recognized that FCA treble damages serve "punitive objectives." *Cook County v. United States ex rel. Chandler*, 538 U.S. 119, 130 (2003). And the same goes for the FCA's per-claim civil penalties. *See Vt. Agency of Nat. Res. v. United States ex rel. Stevens*, 529 U.S. 765, 784-85 (2000). These per-claim civil penalties are "compulsory irrespective of the magnitude of the financial injury to the United States." *Yates*, 21 F.4th at 1308. And the Government receives the "lion's share" of that punitive award—even where, as here, the Government does not intervene. *Id.* at 1311; *see* 31 U.S.C. § 3730(d)(2). Indeed, in non-intervened actions, the United States "generally receives between 70 and 75 percent of the recovery, but its share can be even greater in some circumstances." *Yates*, 21 F.4th at 1308; *see* 31 U.S.C. § 3730(d)(2).

It is therefore no surprise that every Circuit to consider the issue has held "that FCA monetary awards constitute fines for purposes of the Excessive Fines Clause." *Yates*, 21 F.4th at 1308; *see also Grant ex rel. United States v. Zorn*, 107 F.4th 782, 797-98 (8th Cir. 2024); *United States ex rel. Drakeford v. Tuomey*, 792 F.3d 364, 388-90 (4th Cir. 2015); *United States v. Mackby*, 261 F.3d 821, 831 (9th Cir. 2001). The District Court correctly reached the same conclusion.

B. Imposing a Penalty Against HCAT of at Least $299 Million Would Be Grossly Disproportional to the Offense.

In determining whether a fine violates the Excessive Fines Clause, *Bajakajian* considered, in relevant part, the "essence of" the defendant's offense, whether the offense was related "to any other illegal activities," and the "injury suffered" from the offense. 524 U.S. at 337-40. Each of those factors supports the District Court's conclusion that a statutorily mandated penalty of at least $299,197,200 would violate the Excessive Fines Clause.

The essence of the FCA offense found by the jury strongly weighs against imposing nearly $300 million in penalties. The jury was instructed to consider HCAT's submission of claims to Medicare, which the relator argued was in violation of Medicare billing rules. ROA.5905-5912. This included claims that the relator argued were submitted for services by providers not yet eligible to bill Medicare, submitted as incident to a physician's care without proper documentation, or submitted for services performed by medical assistants rather than qualified providers. ROA.5909. But, critically, every alleged false claim at issue involved services that were actually performed. "And there is no evidence that HCAT's conduct is related to other criminal or fraudulent activity." ROA.6053. The District Court thus correctly recognized that any violations found by the jury were similar in gravity to the "reporting offense" at issue in *Bajakajian*. 524 U.S. at 337; *see* ROA.6053.

The magnitude of the harm suffered does not justify the massive civil penalty prescribed by the statute, either. The jury found that less than $2.8 million "would fairly and reasonably compensate the government for the amount of false claims paid or not refunded." ROA.5920. A statutory penalty of more than *100 times* the actual damages sustained by the Government "bear[s]" no "relationship to the gravity of the offense that it is designed to punish." *Bajakajian*, 524 U.S. at 334.

Under any fair application of *Bajakajian*, the penalty that the relator seeks to impose is grossly disproportional to HCAT's offense as found by the jury.

C. The Relator's and the Government's Contrary Arguments Are Meritless.

Both the relator and the Government assert that the statutory penalty sought here cannot be excessive because Congress authorized it. *See* Relator Br. at 15, 50-52; Gov. Br. at 9, 31-33. In doing so, they suggest that the government may "both lev[y] the fine and . . . determine[] its constitutionality," which is "like letting the driver set the speed limit." *Yates*, 21 F.4th at 1318 (Newsom, J., concurring).

That cannot be right. This position would invite Congress to thwart the Eighth Amendment by legislative fiat. And *Bajakajian* itself refutes that approach. While the Supreme Court there noted "that judgments about the appropriate punishment for an offense belong in the first instance to the legislature," *Bajakajian*, 524 U.S. at 336, that was not the Court's last word in that case. Notwithstanding the legislature's judgment, the Court held that the statutorily mandated forfeiture penalty

transgressed the Excessive Fines Clause. *Id.* at 336-40. The relator's theory of blind deference to Congress, which would provide the legislature a blank check to impose statutory penalties, is impossible to square with that holding.

The relator and the Government also justify imposing a massive civil penalty against HCAT by claiming that this Court should look at each FCA violation only in isolation. Relator. Br. at 53-59; Gov't Br. at 34-35. That piecemeal approach to evaluating the constitutionality of an FCA penalty finds no support in the Excessive Fines Clause. And, as this case exemplifies, it is incongruous to evaluate excessiveness by comparing the fine for a *single* claimed FCA violation to the *totality* of a defendant's conduct. HCAT adopted a small set of Medicare billing practices that the jury found resulted in the submission of 21,844 false claims. ROA.5913; *see also* ROA.9951:4-9. These centralized practices hardly merit 21,844 times the punishment one would face for defrauding the government through a single false claim. Mechanically imposing such nine-figure punishment would be "grossly disproportional to the gravity of [HCAT's] offense." *Bajakajian*, 524 U.S. at 334. It is no surprise, then, that circuit courts have commonly evaluated excessiveness with respect to the total FCA penalty that would be imposed. *See, e.g.*, *Zorn*, 107 F.4th at 800 (comparing the total punitive sanction with the total actual harm); *Drakeford*, 792 F.3d at 389-90 (same); *United States v. Mackby*, 339 F.3d 1013, 1017 (9th Cir. 2003) (same). This Court should do the same.

The problem with considering statutory penalties on a per-claim basis is only exacerbated in the context of the healthcare industry. "When numerous small claims are at issue, the FCA's per claim fines can metamorphize from rough remedial justice to grossly disproportionate penalties." Melissa Ballengee, Bajakajian*: New Hope for Escaping Excessive Fines Under the Civil False Claims Act*, 27 J.L. Med. & Ethics 366, 368 (1999). And medical providers "tend to submit a large number of relatively small claims each year." Joan H. Krause, *"Promises to Keep": Health Care Providers and the Civil False Claims Act*, 23 Cardozo L. Rev. 1363, 1370 (2002). Accordingly, "the statutory penalties quickly can reach astronomical proportions," *id.*, just as they did here.

CONCLUSION

As the Chamber explained in its previous *amicus* brief, the judgment below should be reversed because *qui tam* litigation violates Article II several times over. *See* ECF 78. If the Court disagrees, then it should refuse the relator's invitation to impose a constitutionally excessive fine.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This Brief complies with the type-volume limitation of Fed. R. App. P. 29(a)(5) because it contains 3,735 words, excluding those portions of the brief exempted by Fed. R. App. P. 32(f). This Brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and 5th Cir. R. 32.1 and the typestyle requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Times New Roman 14-pt font.

Dated: June 12, 2026

/s/ Steven A. Engel
Steven A. Engel

CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2026, I caused the foregoing Brief to be filed electronically with the Clerk of Court of the United States Court of Appeals for the Fifth Circuit using the CM/ECF system. All participants in this case are registered CM/ECF users and service will be accomplished by the CM/ECF system.

Dated: June 12, 2026

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