

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA, *ex rel.*
PAUL PIETSCHNER,

v.

KATHRYN PETRALIA, ROBERT
FROHWEIN, and SPENCER ROBINSON.

Case No. 4:21-cv-110-SDJ

DEFENDANTS' NOTICE OF INVOLVEMENT OF COUNSEL DEFENSE

Defendants Kathryn Petralia, Robert Frohwein, and Spencer Robinson (collectively, “Defendants”) respectfully file this Notice of Involvement of Counsel Defense pursuant to the Court’s Scheduling Order (Dkt. #96). In support of their Notice, Defendants state as follows:

1. Defendants intend to present evidence that they understood that attorneys were involved in reviewing and providing legal advice regarding Kabbage, Inc.’s (“Kabbage”) participation in the Paycheck Protection Program (“PPP”). They expect the evidence to include documents and testimony that Kabbage employees informed Defendants that they had sought advice of counsel and followed that advice in connection with Kabbage’s participation in the PPP. At a minimum, such evidence is relevant to the scienter element of the government’s claims under the False Claims Act.

2. Defendants may rely on evidence regarding the involvement of attorneys in Kabbage’s PPP participation, including but not limited to: Leslie Scott Askins (former in-house counsel at Kabbage); Azba Habib (former in-house counsel at Kabbage); and Elizabeth Maiellaro (former in-house counsel at Kabbage).

3. Defendants understand that, during the relevant period, each of the aforementioned witnesses was a practicing attorney.

4. Discovery is in its early stages and is ongoing. Defendants reserve the right to timely supplement this list with additional attorneys who advised Kabbage employees with respect to the PPP.

5. Defendants anticipate that the evidence will show that certain employees at Kabbage sought attorneys' advice in good faith in relation to Kabbage's participation in the PPP to determine the lawfulness of Kabbage's conduct.

6. Defendants also anticipate that they each may personally testify as to their own reliance on the involvement of counsel with respect to Kabbage's participation in the PPP.

7. Although the Court's Scheduling Order and applicable rules do not require advance notice that a defendant intends to rely on evidence regarding the involvement of counsel, Defendants submit this notice out of an abundance of caution and in the interest of transparency.

Respectfully submitted this 16th day of January, 2026.

/s/ George P. Varghese

George P. Varghese (pro hac vice)
Sharon K. Hogue (pro hac vice)
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109
Telephone: (617) 526-6000
Fax: (617) 526-5000
george.varghese@wilmerhale.com
sharon.hogue@wilmerhale.com

Christopher E. Babbitt (pro hac vice)
Michaela S. Wilkes Klein (pro hac vice)
Wilmer Cutler Pickering Hale and Dorr LLP
2100 Pennsylvania Avenue NW
Washington, DC 20037
Telephone: (202) 663-6000
Fax: (202) 663-6363
christopher.babbitt@wilmerhale.com
michaela.wilkesklein@wilmerhale.com

Anjan Sahni (pro hac vice)
Wilmer Cutler Pickering Hale and Dorr LLP
7 World Trade Center, 250 Greenwich Street
New York, NY 10007
Tel: (212) 230-8800
Fax: (212) 230-8888
anjan.sahni@wilmerhale.com

Melissa R. Smith
Gillam & Smith LLP
303 South Washington Ave.
Marshall, TX 75670
Telephone: (903) 934-8450
Fax: (903) 934-9257
melissa@gillamsmithlaw.com

Counsel for Kathryn Petralia

/s/ Henry W. Asbill

Henry W. Asbill (pro hac vice)
Christopher B. Mead (pro hac vice)
Lisa H. Schertler (pro hac vice)
Paola Pinto (pro hac vice)
Schertler Onorato Mead & Sears
555 13th Street NW Suite 500W
Washington DC 20004
Telephone: 202-628-4199
Facsimile: 202-628-4177
hasbill@schertlerlaw.com
cmead@schertlerlaw.com
lschertler@schertlerlaw.com
ppinto@schertlerlaw.com

Counsel for Spencer Robinson

/s/ Nicholas M. Mathews

Nicholas M. Mathews
Alexander J. Chern
McKool Smith, PC - Dallas
300 Crescent Court, Suite 1500
Dallas, TX 75201
Telephone: (214) 978-4258
Fax: (214) 978-4044
NMathews@mckoolsmith.com
AChern@mckoolsmith.com

Faith E. Gay (pro hac vice)
Temidayo Aganga-Williams (pro hac vice)
Joshua S. Margolin (pro hac vice)
Sylvia Woodmansee (pro hac vice)
Selendy Gay PLLC
1290 Avenue of the Americas
New York, NY 10104
Telephone: 212-390-9001
Facsimile: 212-390-9399
Fgay@selendygay.com
TAgangawilliams@selendygay.com
JMargolin@selendygay.com
SWoodmansee@selendygay.com

Counsel for Robert Frohwein

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2026, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which sent notification of filing to all attorneys of record.

/s/ Sharon K. Hogue
Sharon K. Hogue