

Congress of the United States

Washington, DC 20515

December 3, 2002

Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

Dear Attorney General Ashcroft:

We are writing regarding the Qui-Tam Case of UNITED STATES OF AMERICA, ex rel., DR. NIRA SCHWARTZ; vs. TRW, INC., and BOEING NORTH AMERICA, INC. (CASE NO. CV 96-3065 RSWL (RMCx) Hon. Ronald S. W. Lew). Specifically, we are concerned that the State Secrets Privilege may unnecessarily prevent the facts in this case from ever being tried.

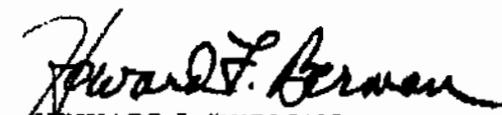
Dr. Schwartz has alleged in the attached letter that the use of the State Secrets Privilege in this case may be in violation of White House Executive Order 12598, an order that prevents the use of classifications to conceal violations of law. The documents in question are being sought by TRW/BOEING. Dr. Schwartz does not need these documents to argue her case. She believes TRW/BOEING is merely seeking these documents to trigger the State's use of its Secret Privilege. Without these documents TRW will argue that it cannot properly defend itself, and the case will likely be dismissed before the facts are ever vetted.

This case has the potential of being one of the largest Qui-Tam cases in history, thus it is important that this case be tried on its merits and that State Secrets Privilege. If there is a way to provide "redacted" versions of the documents being sought by TRW or to be more selective about which documents warrant protection under the State Secrets Privilege, we urge you pursue this course.

As the principal House and Senate sponsors of the 1986 False Claims Act amendments we have a particularly strong interest in insuring that it is implemented properly. To date, the Qui-Tam provisions or their amendments have resulted in cases that have returned over \$3 billion to the federal treasury. We also sponsored a GAO study earlier in the year that validated many of the concerns raised in Dr. Schwartz's Qui-Tam case. The results of this study highlighted previously undisclosed problems with the 1997 missile tests and underscored the importance of this Qui-Tam case.

Please look into the questions raised by Dr. Schwartz in the attached letter and please do everything possible to insure that the State Secrets Privilege is not misused in this case. We look forward to hearing from you on this matter in the near future. Thank you for your time and consideration.

Sincerely,


HOWARD L. BERMAN
Member of Congress


CHARLES E. GRASSLEY
U.S. Senator

cc: The Honorable Donald Rumsfeld
Secretary of Defense
The Pentagon
Washington, DC 20301