

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

E.L.A. and O.L.C.,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 2:20-cv-1524-RAJ

**NOTICE OF SUPPLEMENTAL
AUTHORITY**

Pursuant to Local Civil Rule 7(n), Plaintiffs E.L.A. and O.L.C. write to notify the Court of two decisions in *D.A. v. United States*, No. EP-22-CV-00295-FM (W.D. Tex. Mar. 23, 2023) (Ex. A) and *C.D.A. v. United States*, No. 5:21-cv-00469-EGS (Mar. 28, 2023) (Ex. B), that address the arguments at issue in Defendant’s motion to dismiss.

In *D.A.*, the court denied the government’s motion to dismiss based on the discretionary function exception because of the alleged constitutional violations committed by Defendant’s employees. Ex. A at 13–21. The Texas court in this case also concluded that the plaintiffs had stated an abuse of process claim under Texas law. *Id.* at 36–37.

In *C.D.A.*, the Court similarly denied the government’s motion to dismiss. That motion was based Defendant’s discretionary function arguments, as well as based on their arguments regarding the due care exception and private analogues under state law. Ex. B at 27–36.

1 DATED this 28th day of March, 2023.

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24