

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA <i>ex rel.</i>	)	
ANDREW SHEA,	)	
Plaintiff	)	
	)	Civil Action No. 21-cv-11777-DJC
v.	)	
	)	
eHEALTH, Inc., <i>et al.</i> ,	)	
Defendants.	)	

**MOTION TO EXTEND THE STAY OF ALL PROCEEDINGS  
CONCERNING RELATOR’S QUI TAM CLAIMS**

Defendants eHealth Inc. and eHealthInsurance Services, Inc. (collectively, “eHealth”), GoHealth, Inc. (“GoHealth”), SelectQuote, Inc. (“SelectQuote”), Humana Inc. (“Humana”), and WellCare Health Plans, Inc. (“WellCare”) move to (1) extend the stay of all proceedings regarding *qui tam* relator Andrew Shea’s (“Relator”) claims for 90 days, from May 26, 2026 through August 24, 2026 and (2) set a status conference on or before August 24, 2026 to discuss any further extension of the stay.<sup>1</sup> Defendants will be prepared to discuss this request at the May 26, 2026 status conference if it would be helpful to the Court. The requested extension will conserve resources, help prevent potentially duplicative efforts and inconsistent rulings, allow the Department of Justice (“DOJ”) to make progress on its investigation, avoid—or, at least, postpone—the need for this Court to decide constitutional and statutory issues regarding Relator’s ability—or lack thereof—to proceed on non-intervened claims, and cause no prejudice to the Relator or DOJ. The interests of justice thus merit the requested extension of the stay, and this motion should be granted.

<sup>1</sup> The Relator also brings claims against Aetna Life Insurance Company (“Aetna”) and Elevance Health, Inc. (f/k/a Anthem, Inc.) (“Elevance Health”). Aetna and Elevance Health have not been served, and Defendants’ understanding is that Relator is not purporting to separately pursue any non-intervened claims, including Relator’s claims against Aetna, Elevance Health, and Humana, Inc. (“Humana”). Out of an abundance of caution, Humana joins this Motion to Stay All Proceedings Concerning Relator’s *Qui Tam* Claims.

If the Court is not inclined to extend the stay, Defendants request that the Court order that (1) Relator file an amended complaint or more definite statement of the claims that remain live and are not superseded by DOJ's complaint-in-intervention; and (2) Defendants respond to what remains of the complaint 60 days after Relator files the amended complaint or more definite statement of the remaining claims.

Relator's counsel is inclined not to oppose the stay; however, he reserves the right to file a response if he feels something in this motion warrants it.

## ARGUMENT

### I. An Extension of the Stay is Warranted.

The “power to stay proceedings is incidental to the power inherent in every court to control the disposition and causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Blue Cross & Blue Shield of Mass., Inc. v. Regeneron Pharm., Inc.*, 633 F.Supp.3d 385, 392 (D. Mass. 2022) (quoting *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936)). In assessing whether a stay is appropriate, courts “weigh the competing interests of the parties and the court's interest in efficient procedures.” *Id.* (quotation marks omitted). For several independent reasons, a stay continues to be warranted here.

The extension of the stay will continue to avoid potential duplication of effort and inconsistent judgments, as well as conserve Defendants' and the Court's resources. It will also promote fairness since DOJ has not made its intervention decision with respect to the claims involving WellCare. The False Claims Act (“FCA”) puts a threshold choice to DOJ: (i) intervene and “proceed with the action” or (ii) “decline[],” in which case “the [relator] shall have the right to conduct the action.” 31 U.S.C. § 3730(b)(4); 31 U.S.C. § 3730(b)(2).<sup>2</sup> Here, DOJ opted for a third path in its

Notice as to the WellCare claims: to “not interven[e] at this time” while it “continues its investigation.” *U.S. ex rel. Shea v. eHealth, et al.*, No. 21-CV-11777-DJC, Dkt. No. 34 at 1 (D. Mass. Jan. 13, 2025). But one reason for making DOJ decide whether to intervene—and for sealing in the meantime—is to “prevent the defendant from being required to answer the complaint without knowing whether the government or the relator would ultimately pursue the claim.” *U.S. ex rel. Ellard v. Medtronic, Inc.*, Case No. A-08-CA-637-SS, 2009 WL 10669335, at \*1 (W.D. Tex. June 12, 2009); *see U.S. ex rel. Smith v. Clark/Smoot/Russell*, 796 F.3d 424, 430 (4th Cir. 2015) (sealing also “protect[s] the reputation of a defendant” when the “United States has not yet decided whether to intervene” (quotation marks omitted)). Depending on whether DOJ intervenes, there is a substantial risk that litigation of the Relator’s WellCare claims will be duplicative and a wasted effort. Courts in this District have found that such avoided duplication alone merits a stay. *See, e.g., Blue Cross & Blue Shield of Mass.*, 633 F.Supp.3d at 392–93 (stating that where lawsuits overlap, “courts may stay one case to avoid ‘duplication of effort and potentially inconsistent judgments.’”).

Additionally, an extension of the stay will ensure that this Court need not reach issues presented by the Relator Complaint unless and until necessary. For instance, an extension of the stay will postpone—or eliminate—the need for this Court to decide if it is unconstitutional for the Relator to litigate non-intervened claims.<sup>3</sup> An extension will also postpone or eliminate the need for

<sup>2</sup> *See, e.g., United States v. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 425 (2023) (explaining that “[i]f the Government, during the so-called seal period, elects to intervene, the relator loses control,” and that “[o]nly if the Government passes on intervention does the relator ‘have the right to conduct the action’” (quoting 31 U.S.C. § 3730(b)(4)(B)).

<sup>3</sup> *See United States ex rel. Zafirov v. Florida Med. Assocs., LLC*, 751 F. Supp.3d 1293, 1324 (M.D. Fla. Sept. 30, 2024) (“Because Zafirov initiated this FCA action when unconstitutionally appointed, I grant the defendants’ motion for judgment on the pleadings and dismiss the case.”) (appeal pending in No. 24-13581 (11th Cir.)); *Polansky*, 599 U.S. at 449 (Thomas, J., dissenting) (“There are substantial arguments that the *qui tam* device is inconsistent with Article II...”); *United States ex rel. Montcrief v. Peripheral Vascular Assocs., P.A.*, 133 F.4th 395, 410 (5th Cir. 2025) (Duncan, J., concurring) (“The FCA defies this exclusive vesting of executive power twice over.”); *see also* Br. for Defendant-Appellant, *United States ex rel. Penelow v. Janssen Products L.P.*, No. 25-1818, ECF No. 31 at 47–52 (3d

the Court to decide multiple, complex statutory questions, such as the extent to which the Relator can proceed after a partial DOJ intervention.<sup>4</sup>

Finally, an extension of the stay will not prejudice the Relator. To start, much of the Relator Complaint has been superseded by the DOJ Complaint. Once “the government has intervened, the relator has no separate free-standing FCA cause of action”—there is just “one claim, the government’s.” *In re Pharm. Indus. Avg. Wholesale Price Litig.*, No. 01-12257-PBS, 2007 WL 4287572, at \*4 (D. Mass. Dec. 6, 2007) (quoting *U.S. ex rel. Barajas v. Northrop Corp.*, 147 F.3d 905, 910 (9th Cir. 1998)); *see, e.g., U.S. v. Pub. Warehousing Co. K.S.C.*, 242 F.Supp.3d 1351, 1357 (N.D. Ga. 2017) (“When the government has intervened, that portion of the relator’s complaint effectively ceases to exist...”). Further, the Relator’s interest in fees related to the superseded claims under 31 U.S.C. § 3730(d) will be unaffected, and any generalized interest the Relator has in the claims advancing will be “protected” by DOJ. *UnitedHealthcare Ins. Co. v. Regeneron Pharm., Inc.*, 21-CV-6245, 2021 WL 6137097, at \*5 (S.D.N.Y. Dec. 29, 2021). Nor will an extension of the stay harm the Relator as to any non-intervened claims. The extension will be temporary and tied to DOJ’s intervention decision. Additionally, the Relator has not alleged, or otherwise suggested, any urgency here. Much the opposite. The Relator has leveled allegations regarding historical, industry-wide marketing practices. And considering the timing of the filing of the operative amended

Cir. July 14, 2025) (arguing FCA *qui tam* provisions are unconstitutional). The question of whether relators may constitutionally proceed with non-intervened claims has been briefed and argued in the Third and Eleventh Circuits in the *Janssen* and *Zafirov* matters—decisions remain forthcoming.

<sup>4</sup> Compare, e.g., *United States ex rel. Brooks v. Stevens-Henager Coll., Inc.*, 359 F. Supp. 3d 1088, 1120–21 (D. Utah 2019) (relator’s options to proceed after partial intervention restricted), with, e.g., *United States ex rel. White v. Mobile Care EMS & Transp., Inc.*, 2021 WL 6064363, at \*11 (S.D. Ohio Dec. 21, 2021) and *United States v. Exagen, Inc.*, 2025 WL 959460, at \*6 (D. Mass. Mar. 31, 2025).

complaint and Relator's inclination not to oppose the stay, there is no reason to expect that the Relator will face prejudice from the comparatively brief stay sought in this motion.

**II. If the Court Does Not Extend the Stay, the Court Should Order Relator to File An Amended Complaint or More Definite Statement of the Non-Superseded Claims.**

If the Court declines to extend the stay, Defendants request that the Court order Relator to file an amended complaint or more definite statement clarifying which claims remain live and have not been superseded by DOJ's complaint-in-intervention so that the Defendants can respond to those claims. Rule 12(e) of the Federal Rules of Civil Procedure authorizes a party to move for a more definitive statement where a pleading "is so vague or ambiguous that the party cannot reasonably prepare a response." Fed. R. Civ. P. 12(e). It "allows district courts to ask a plaintiff to provide 'details that enable the defendants to respond intelligently and the court to handle the litigation effectively.'" *Shuhaiber v. Ill. Dep't of Corr.*, 980 F.3d 1167, 1170 (7th Cir. 2020) (quoting *Chapman v. Yellow Cab Coop.*, 875 F.3d 846, 849 (7th Cir. 2017)). Given the size and overlap of the Relator's and DOJ's pleadings—which, together, span 305 pages, 1,144 paragraphs, five overlapping claims, and six overlapping Defendants—a more definite statement from the Relator is necessary to untangle the parts of the Relator's Amended Complaint that currently remain live versus superseded by DOJ's complaint-in-intervention.<sup>5</sup> See *Vargas v. Lincare, Inc.*, 134 F.4th 1150, 1163 (11th Cir. 2025) (Tjoflat, J., concurring) (stating that if a relator forces defendants to "guess at what they should defend against," a Rule 12(e) motion can be merited). Fair notice requires nothing less. See *U.S. ex rel. Garst v. Lockheed Integrated Solutions Co.*, No. 98-C-5072,

<sup>5</sup> This issue is exacerbated by the Relator Complaint packing multiple alleged schemes involving multiple parties into single counts. To illustrate, Count V of the Relator Complaint alleges "Conspiracy" to violate the FCA, but may sweep in alleged crisscrossing conspiracies between Aetna and eHealth, Humana and eHealth, WellCare and eHealth, Elevance Health and eHealth, Aetna and GoHealth, Humana and GoHealth, WellCare and GoHealth, Elevance Health and GoHealth, Aetna and SelectQuote, Humana and SelectQuote, WellCare and SelectQuote, and Elevance Health and SelectQuote. ECF No. 40 at ¶¶ 273–278.

Dkt. No. 87 (N.D. Ill. May 8, 2002) (ordering a more definite statement where, among other things, the allegations were not connected to the factual allegations in a way that enabled the court or defendants to tell which allegations of fact were intended to support which claims for relief); *Hilchey v. City of Haverhill*, 233 F.R.D. 67, 70 (D. Mass. 2005) (granting defendants’ motion for a more definitive statement where plaintiff’s complaint failed to meet the minimum standards of notice pleading); *Adams v. Wells Fargo Bank*, No. 17-12092-FDS, 2018 WL 3421859, at \*2 (D. Mass. July 12, 2018) (granting defendants’ motion for a more definitive statement of claims because the complaint did not contain sufficiently specific allegations that would allow defendant to respond).

**CONCLUSION**

For the reasons set forth above, the Court should grant this motion and extend the stay of all proceedings on the Relator’s claims through August 24, 2026, and set a status conference to discuss any extension of the stay on or before August 24, 2026. If the Court denies this motion, Defendants respectfully request that the Court order Relator to file an amended complaint or more definite statement of the claims that remain live and are not superseded by DOJ’s complaint-in-intervention and order that Defendants must respond to what remains of the complaint 60 days after Relator files the amended complaint or more definite statement of the claims.

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document was served upon all counsel of record via ECF on May 26, 2026.

/s/ Ryan M. DiSantis  
Ryan M. DiSantis

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1**

Pursuant to Local Rule 7.1(a)(2), I hereby certify that I conferred with counsel for the Relator and attempted in good faith to resolve or narrow the issue presented by this motion. Relator's counsel advised that he is inclined not to oppose the stay; however, he reserves the right to file a response if he feels something in this motion warrants it. I further certify that movants' counsel, as a courtesy, conferred with counsel for DOJ and it takes no position on this motion.

/s/ Ryan M. DiSantis

Ryan M. DiSantis