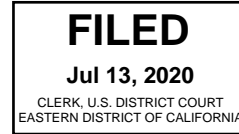


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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA, and the
12 states of CALIFORNIA, COLORADO,
13 GEORGIA, HAWAII, DISTRICT OF
COLUMBIA, MARYLAND, VIRGINIA,
WASHINGTON, *ex rel.* JEFFREY MAZIK,

2:19-CV-559 JAM KJN

**THE UNITED STATES' NOTICE
OF ELECTION TO DECLINE
INTERVENTION**

14 Plaintiffs,

15 vs.

16 KAISER PERMANENTE, INC., and KAISER
17 FOUNDATION HEALTH PLAN, INC.,

18 Defendant.
19

20 Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies the
21 Court of its decision not to intervene in this action.

22 Although the United States declines to intervene, we respectfully refer the Court to 31
23 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States;
24 providing, however, that the "action may be dismissed only if the court and the Attorney General
25 give written consent to the dismissal and their reasons for consenting." *Id.* The United States Court
26 of Appeals for the Ninth Circuit has held that, notwithstanding this language, the United States has
27 the right only to a hearing when it objects to a settlement or dismissal of the action. *U.S. ex rel.*

28 *Green v. Northrop Corp.*, 59 F.3d 953, 959 (9th Cir. 1995); *U.S. ex rel. Killingsworth v. Northrop*

1 *Corp.*, 25 F.3d 715, 723-25 (9th Cir. 1994). Therefore, the United States requests that, should either
2 the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued,
3 this Court provide the United States with notice and an opportunity to be heard before ruling or
4 granting its approval.

5 Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all
6 pleadings filed in this action be served upon the United States; the United States also requests that
7 orders issued by the Court be sent to the Government's counsel. The United States reserves its right
8 to order any deposition transcripts, to intervene in this action, for good cause, at a later date, and to
9 seek the dismissal of the relator's action or claim. The United States also requests that it be served
10 with all notices of appeal.

11 Finally, the Government requests that the relator's Complaint, this Notice, and the
12 attached proposed Order be unsealed. The United States requests that all other papers on file in this
13 action remain under seal because in discussing the content and extent of the United States'
14 investigation, such papers are provided by law to the Court in camera and under seal for the sole
15 purpose of evaluating whether the seal and time for making an election to intervene should be
16 extended.

17 A proposed order accompanies this notice.

18
19 DATED: July 10, 2020

Respectfully Submitted,

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McGREGOR W. SCOTT
United States Attorney
Eastern District of California

By: /s/ Catherine J. Swann
CATHERINE J. SWANN
Assistant United States Attorney

1 **CERTIFICATE OF SERVICE BY ELECTRONIC MAIL**

2 The undersigned hereby certifies that she is an employee in the Office of the United States
3 Attorney for the Eastern District of California and is a person of such age and discretion to be
4 competent to serve papers.

5 That on July 10, 2020, she served a copy of:

6 THE UNITED STATES' NOTICE
7 OF ELECTION TO DECLINE INTERVENTION

8 by sending copies via electronic mail to the electronic address(es) stated below, which is/are the last
9 known electronic address(es).

10 **Addressee(s):**

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26
27 /s/ Monica C. Lee
MONICA C. LEE

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