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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,

14 Plaintiffs,

15 vs.

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

18 Defendant.  
19

2:19-CV-559 JAM KJN

**THE UNITED STATES' NOTICE  
OF ELECTION TO DECLINE  
INTERVENTION AS TO AMENDED  
COMPLAINT**

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 as to the allegations stated in relator's Amended Complaint in  
22 this action.

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

1 *Green v. Northrop Corp.*, 59 F.3d 953, 959 (9th Cir. 1995); *U.S. ex rel. Killingsworth v. Northrop*  
2 *Corp.*, 25 F.3d 715, 723-25 (9th Cir. 1994). Therefore, the United States requests that, should either  
3 the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued,  
4 this Court provide the United States with notice and an opportunity to be heard before ruling or  
5 granting its approval.

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

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

17 A proposed order accompanies this notice.

18  
19 DATED: December 1, 2021

Respectfully Submitted,

20 PHILLIP A. TALBERT  
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21 Eastern District of California

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

