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 Group, Inc.; Southern California Permanente
 Medical Group; and Colorado Permanente
 Medical Group, P.C.*

[Additional Counsel Listed on Signature Page]

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

20 UNITED STATES OF AMERICA ex rel.
 21 RONDA OSINEK,

22 Plaintiff,

23 v.

24 KAISER PERMANENTE, et al.,

25 Defendants.

Case No. 3:13-cv-03891-EMC

**JOINT STIPULATION TO CONTINUE
 CASE MANAGEMENT CONFERENCE
 AND SET INITIAL CASE DEADLINES;
 [PROPOSED] ORDER**

CMC Date: October 26, 2021

(CAPTION CONTINUED)

1 UNITED STATES OF AMERICA ex rel.
 2 ANASER AREFI, AJITH KUMAR and
 3 PRIME HEALTHCARE SERVICES, INC.,
 4
 5 Plaintiff,
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 7 v.
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 9 KAISER FOUNDATION HEALTH PLAN,
 10 INC., et al.,
 11
 12 Defendants.

Case No. 3:16-cv-01558-EMC

**JOINT STIPULATION TO
CONTINUE CASE MANAGEMENT
CONFERENCE AND SET INITIAL
CASE DEADLINES; [~~PROPOSED~~]
ORDER**

CMC Date: October 26, 2021

11 UNITED STATES OF AMERICA ex rel.
 12 MARCIA STEIN and RODOLFO BONE,
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 14 Plaintiff,
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 16 v.
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 18 KAISER FOUNDATION HEALTH PLAN,
 19 INC., et al.,
 20
 21 Defendants.

Case No. 3:16-cv-05337-EMC

**JOINT STIPULATION TO
CONTINUE CASE MANAGEMENT
CONFERENCE AND SET INITIAL
CASE DEADLINES; [~~PROPOSED~~]
ORDER**

CMC Date: October 26, 2021

20 UNITED STATES OF AMERICA ex rel.
 21 GLORYANNE BRYANT and VICTORIA
 22 HERNANDEZ,
 23
 24 Plaintiff,
 25
 26 v.
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 28 KAISER PERMANENTE, INC., et al,
 29
 30 Defendants.

Case No. 3:18-cv-01347-EMC

**JOINT STIPULATION TO
CONTINUE CASE MANAGEMENT
CONFERENCE AND SET INITIAL
CASE DEADLINES; [~~PROPOSED~~]
ORDER**

CMC Date: October 26, 2021

(CAPTION CONTINUED)

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UNITED STATES OF AMERICA and
STATE OF CALIFORNIA ex rel. MICHAEL
BICOCCA,

Plaintiffs,

v.

PERMANENTE MEDICAL GROUP, INC.,
et al.,

Defendants.

Case No. 3:21-cv-03124-EMC

**JOINT STIPULATION TO
CONTINUE CASE MANAGEMENT
CONFERENCE AND SET INITIAL
CASE DEADLINES; [~~PROPOSED~~]
ORDER**

CMC Date: October 26, 2021

UNITED STATES OF AMERICA ex rel.
JAMES M. TAYLOR,

Plaintiff,

v.

KAISER PERMANENTE, INC., et al.,

Defendants.

Case No. 3:21-cv-03894-EMC

**JOINT STIPULATION TO
CONTINUE CASE MANAGEMENT
CONFERENCE AND SET INITIAL
CASE DEADLINES; [~~PROPOSED~~]
ORDER**

CMC Date: October 26, 2021

1 Pursuant to Civil Local Rules 6-1(b), 6-2, and 7-12, the United States of America; De-
2 fendants Kaiser Foundation Health Plan, Inc., Kaiser Foundation Health Plan of Colorado, The
3 Permanente Medical Group, Inc., Southern California Permanente Medical Group, and Colorado
4 Permanente Medical Group, P.C. (collectively, “Defendants”); and Relators Ronda Osinek, James
5 Taylor, M.D., Naser Arefi, Ajith Kumar, Prime Healthcare Services, Inc., Marcia Stein, Rodolfo
6 Bone, Gloryanne Bryant, Victoria Hernandez, and Michael Bicocca, M.D. (collectively, “Rela-
7 tors”) hereby recite, stipulate, and request as follows:

8 1. On June 25, 2021, the Court consolidated six pending *qui tams*:

9 a. *United States ex rel. Osinek v. Kaiser Permanente*, No. 3:13-cv-03891-
10 EMC (N.D. Cal.);

11 b. *United States ex rel. Arefi v. Kaiser Foundation Health Plan, Inc.*, No.
12 3:16-cv-01558-EMC (N.D. Cal.);

13 c. *United States ex rel. Stein v. Kaiser Foundation Health Plan, Inc.*, No.
14 3:16-cv-05337-EMC (N.D. Cal.);

15 d. *United States ex rel. Bryant v. Kaiser Permanente*, No. 3:18-cv-1347-EMC
16 (N.D. Cal.);

17 e. *United States ex rel. Bicocca v. Permanente Medical Group, Inc.*, No.
18 3:21-cv-03124-EMC (N.D. Cal.); and

19 f. *United States ex rel. Taylor v. Kaiser Permanente*, No. 3:21-cv-03894-
20 EMC (N.D. Cal.). Dkt. No. 61.

21 2. On July 27, 2021, the United States intervened in part in all six pending *qui tams*.
22 Dkt. No. 64.

23 3. On July 29, 2021, the Court unsealed the *qui tams*, ordered the United States to file
24 and serve its complaint-in-intervention by October 25, 2021, and set a case management
25 conference for October 26, 2021. Dkt. No. 65 (“July 29 Order”).

26 4. Under the July 29 Order, Relators are not required to serve or amend their
27 complaints before the currently scheduled case management conference.

28 5. In addition, Rule 15(a)(1) of the Federal Rules of Civil Procedure (“Rules”)

1 permits Relators to amend their complaints as a matter of course within 21 days after serving
2 them, or within 21 days after service of a responsive pleading or motion under Rule 12(b), (e), or
3 (f), whichever is earlier.

4 6. In the interest of case management efficiency, the parties stipulate, and request that
5 the Court so order, that the Relator(s) in each case may amend their existing complaints,
6 regardless of prior amendments, so long as they serve any such amendment, or their original
7 complaint if not amended, by November 15, 2021.

8 7. Defendants Kaiser Foundation Health Plan, Inc., Kaiser Foundation Health Plan of
9 Colorado, The Permanente Medical Group, Inc., Southern California Permanente Medical Group,
10 and Colorado Permanente Medical Group, P.C. stipulate to waiver of service pursuant to Rules
11 4(d) and 4(m) for all Relators' complaints to the extent any of those defendants are named in
12 those complaints. The parties below propose a briefing schedule that affords Defendants the
13 benefits of that waiver.

14 8. Rule 26(f)(1) requires the parties to meet and confer about discovery 21 days in
15 advance of the case management conference. The current schedule requires a conference no later
16 than October 5, 2021. The Court's July 29 Order requires the parties to submit a joint report
17 seven days before the case management conference—no later than October 19, 2021. Dkt. No. 65
18 at 8.

19 9. These deadlines fall before the deadline for service of any complaint and before
20 the deadline for filing amended complaints or responsive pleadings to such complaints. Counsel
21 for the parties have been meeting and conferring, and the United States confirmed that it intends
22 to file its complaint-in-intervention on October 25, 2021. Several Relators intend to amend their
23 *qui tam* complaints. As such, on the currently proposed date for the case management
24 conference, Defendants may not have been served with the Relators' original or amended
25 complaints and will only have been served with the complaint-in-intervention the day before, at
26 the earliest. The United States and Relators similarly will not have Defendants' responses to the
27 complaints. Without the benefit of all complaints and the Defendants' responses thereto, the
28 parties will be unable to create a plan for discovery and prepare adequately for the case

1 management conference.

2 10. The parties also conferred about a briefing schedule on motions to dismiss. The
3 parties agree that Defendants should file motions to dismiss on January 18, 2022 and have
4 proposed a briefing schedule herein based on that deadline. But while the United States and
5 Relators have proposed that Defendants file all contemplated motions to dismiss on January 18,
6 2022, Defendants have proposed a staged briefing process for Rule 12 motions addressing
7 Relators' *qui tam* complaints: first, any motions to dismiss based on the False Claims Act's first-
8 to-file rule, 31 U.S.C. § 3730(b)(5), and second, any motions based on other grounds for
9 dismissal after the Court has ruled on the first-to-file arguments. For purposes of this stipulation,
10 however, Defendants have agreed to the proposed schedule below because they agree that at least
11 some of their Rule 12 motions, including any motion addressing the United States' complaint-in-
12 intervention, should be filed by January 18, 2022. Relators acknowledge that Defendants intend
13 to move for leave to stage briefing on their Rule 12 motions addressing Relators' *qui tam*
14 complaints and have agreed to a briefing schedule on that motion for leave as set forth below.

15 11. Accordingly, the parties respectfully ask to continue the case management
16 conference and impose initial case deadlines consistent with the proposed schedule set forth
17 below:

- 18 • October 22, 2021 – deadline for Defendants to file motion for leave to stage Rule
19 12 briefing
- 20 • October 25, 2021 – deadline for United States' complaint-in-intervention
- 21 • November 5, 2021 – deadline for any oppositions to Defendants' motion for leave
22 to stage Rule 12 briefing
- 23 • November 12, 2021 – deadline for Defendants' to file replies in support of their
24 motion for leave to stage Rule 12 briefing
- 25 • November 15, 2021 – deadline for Relators to file any amended complaint(s) or
26 provide existing complaint(s) to Defendants pursuant to the agreed waiver of
27 service
- 28 • December 2, 2021 (or as soon as the matter may be heard) – hearing on

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Defendants’ motion for leave to stage Rule 12 briefing

- January 18, 2022 – deadline for responses of Defendants to the United States’ complaint-in-intervention and the Relators’ complaints
- February 15, 2022 – case management conference
- March 18, 2022 – deadline for responses of the United States and Relators to any motions to dismiss filed by Defendants
- April 18, 2022 – deadline for replies by Defendants
- May 5, 2022 (or as soon as the matter may be heard) – hearing on any motions to dismiss

12. To date, the only requests for extension made in this matter have been requests by the United States to extend its deadline for intervention.

13. Because the case management conference and the United States’ deadline to serve its complaint-in-intervention are the only deadlines that have been set in this case, moving the case management conference and setting the schedule set forth above will not affect any other dates that have been set by this Court.

IT IS SO STIPULATED.

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Dated: October 7, 2021

Respectfully submitted,

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ATTESTATION

Pursuant to Local Rule 5-1(i)(3), I hereby attest that the other signatories listed, on whose behalf this filing is submitted, concur in the filing's content and have authorized the filing.

DATED: October 7, 2021

/s/ K. Lee Blalack, II
K. LEE BLALACK, II

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~~PROPOSED~~ ORDER

Pursuant to stipulation and with good cause shown, the Case Management Conference currently set for October 26, 2021, is hereby continued and initial case deadlines are set pursuant to the schedule set forth below. Additionally, pursuant to the schedule below, Relators may elect to amend their existing complaints or, for purposes of 31 U.S.C. § 3730(b)(2), are permitted to serve their existing complaints.


The parties shall adhere to the following initial case management schedule:

- October 22, 2021 – deadline for Defendants to file motion for leave to stage Rule 12 briefing
- October 25, 2021 – deadline for United States’ complaint-in-intervention
- November 5, 2021 – deadline for any oppositions to Defendants’ motion for leave to stage Rule 12 briefing
- November 12, 2021 – deadline for Defendants’ to file replies in support of their motion for leave to stage Rule 12 briefing
- November 15, 2021 – deadline for Relators to file any amended complaint(s) or provide existing complaint(s) to Defendants pursuant to the agreed waiver of service
- December 2, 2021 (or as soon as the matter may be heard) – hearing on Defendants’ motion for leave to stage Rule 12 briefing
- January 18, 2022 – deadline for responses of Defendants to the United States’ complaint-in-intervention and the Relators’ complaints
- February 15, 2022 ^{at 1:30PM} – case management conference . Joint cmc stmt due 2/8/2022
- March 18, 2022 – deadline for responses of the United States and Relators to any motions to dismiss filed by Defendants
- April 18, 2022 – deadline for replies by Defendants
- May 5, 2022 (or as soon as the matter may be heard) – hearing on any motions to dismiss

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: October 8, 2021


HONORABLE EDWARD M. CHEN
UNITED STATES DISTRICT JUDGE