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

13 UNITED STATES OF AMERICA ex rel.  
14 RONDA OSINEK,

15 Plaintiff,

16 v.

17 KAISER PERMANENTE, et al.,

18 Defendants.

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

**RELATOR OSINEK’S OPPOSITION TO  
DEFENDANTS’ MOTION TO DISMISS  
FIRST AMENDED COMPLAINT**

Hearing Date: October 14, 2022  
Time: 1:30 PM  
Judge: Hon. Edward M. Chen  
Courtroom: 5, 17th Floor

19 UNITED STATES OF AMERICA and STATE  
20 OF CALIFORNIA ex rel. GLORYANNE  
21 BRYANT and VICTORIA M. HERNANDEZ,

22 Plaintiffs,

23 v.

24 KAISER PERMANENTE, INC., et al.,

25 Defendants.

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

**RELATOR OSINEK’S OPPOSITION TO  
DEFENDANTS’ MOTION TO DISMISS  
FIRST AMENDED COMPLAINT**

Hearing Date: October 14, 2022  
Time: 1:30 PM  
Judge: Hon. Edward M. Chen  
Courtroom: 5, 17th Floor

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28 *(caption continued on next page)*

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

3 Plaintiff,

4 v.

5 PERMANENTE MEDICAL GROUP, INC., et  
6 al.,

7 Defendants.

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

**RELATOR OSINEK'S OPPOSITION TO  
DEFENDANTS' MOTION TO DISMISS  
FIRST AMENDED COMPLAINT**

Hearing Date: October 14, 2022

Time: 1:30 PM

Judge: Hon. Edward M. Chen

Courtroom: 5, 17th Floor

8  
9  
10 UNITED STATES OF AMERICA ex rel.  
11 JAMES M. TAYLOR,

12 Plaintiffs,

13 v.

14 KAISER PERMANENT, INC., et al.,

15 Defendants.

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

**RELATOR OSINEK'S OPPOSITION TO  
DEFENDANTS' MOTION TO DISMISS  
FIRST AMENDED COMPLAINT**

Hearing Date: October 14, 2022

Time: 1:30 PM

Judge: Hon. Edward M. Chen

Courtroom: 5, 17th Floor

1 Kaiser moves to dismiss Relator Osinek’s First Amended Complaint, but that complaint is no  
 2 longer the operative complaint in the *Osinek* action. “By automatic operation of [the False Claims Act],  
 3 the Government’s complaint in intervention bec[ame] the operative complaint as to all claims in which  
 4 the government has intervened.” *United States ex. rel. Dresser v. Qualium Corp.*, No. 5:12-CV-01745-  
 5 BLF, 2016 WL 3880763, at \*10 (N.D. Cal. July 18, 2016) (citing 31 U.S.C. § 3730(c)(1) and quoting  
 6 *United States ex rel. Sansbury v. LB & B Associates, Inc.*, 58 F. Supp. 3d 37, 47 (D.D.C. 2014)); *see*  
 7 *also United States ex rel. Est. of Gadbois v. PharMerica Corp.*, 292 F. Supp. 3d 570, 577–78 (D.R.I.  
 8 2017) (“numerous courts have concluded that the functional result of the Government’s complaint in  
 9 intervention is to amend the original pleading”).

10 Following the filing of the United States’ superseding complaint, all relators were given an  
 11 opportunity to file an amended pleading asserting any non-intervened claims they might wish to  
 12 continue pursuing on the government’s behalf. (*See* 10/10/21 Order [Dkt. No. 104] at 10.) Relator  
 13 Osinek did not file any such pleading and does not intend to pursue any non-intervened claims. Her  
 14 prior complaint is accordingly fully superseded by the government’s complaint in intervention and any  
 15 challenges to that superseded pleading should be denied as moot. *See Dresser*, 2016 WL 3880763, at  
 16 \*10 (“Defendants’ arguments are moot because the United States’ allegations, not Dresser’s allegations,  
 17 control as to the intervened claims.”); *Sansbury*, 58 F. Supp. 3d at 47 (denying motion to dismiss as  
 18 moot “because the Government’s complaint in intervention supersedes Relators’ complaint with respect  
 19 to the intervened claims, and because Relators have the right to continue as parties to this action”).

20  
 21 Dated: August 5, 2022

Respectfully submitted,

22 By:  /s/ Amy M. Zeman

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