

United States District Court  
Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA ex rel.  
RONDA OSINEK,

Plaintiff,

v.

PERMANENTE MEDICAL GROUP, INC,  
et al.,

Defendants.

Case No. [13-cv-03891-EMC](#)

**CONSOLIDATED MEMBER CASES**

Case No. [16-cv-01558-EMC](#)

Case No. [16-cv-05337-EMC](#)

Case No. [18-cv-01347-EMC](#)

Case No. [21-cv-03124-EMC](#)

Case No. [21-cv-03894-EMC](#)

**ORDER GRANTING DEFENDANTS’  
MOTION TO DISMISS OSINEK’S  
FIRST AMENDED COMPLAINT**

Docket No. 180

The above-referenced case consists of several consolidated cases that charge Kaiser entities with making false claims for payment to the federal government. The main claims asserted against the Kaiser entities are violations of the federal False Claims Act (“FCA”). Following the Court’s order of May 5, 2022, *see* Docket No. 171 (order), the following cases remain:

- (1) The United States’ complaint in intervention (Docket No. 110);
- (2) The first amended complaint in *Osinek* (Docket No. 87);
- (3) Parts of the second amended complaint in *Taylor* (Docket No. 118); and
- (4) Parts of the first amended complaint in *Bryant* (Docket No. 117).<sup>1</sup>

<sup>1</sup> The Court’s order also dismissed the claims in *Bicocca* except to the extent the first amended complaint (Docket No. 16 in Case No. C-21-3124 EMC) pled claims under the California False Claims Act. *See* Docket No. 171 (Order at 46). However, prior to the Court’s order, the plaintiff in *Bicocca* had dismissed those state law claims. *See* Docket No. 159 (notice of voluntary partial

United States District Court  
Northern District of California

1           Currently pending before the Court are four motions to dismiss filed by the relevant Kaiser  
2 entities. The motions are targeted at all of the cases that remain. This order addresses only the  
3 motion to dismiss the first amended complaint in *Osinek*.

4           Defendants in *Osinek* have made various challenges to the first amended complaint. In  
5 response, Ms. Osinek argues that the motion to dismiss is moot because she “does not intend to  
6 pursue any non-intervened claims” – *i.e.*, her pleading has essentially been superseded by the  
7 government’s complaint in intervention. Opp’n at 1. In its reply, Kaiser states that, in light of Ms.  
8 Osinek’s brief, it simply asks that the Court “dismiss with prejudice [the] FAC to the extent it  
9 includes any non-intervened claims.” Reply at 1.

10           The Court agrees with Defendants that its approach is proper. Accordingly, the Court  
11 hereby **GRANTS** Defendants’ motion to dismiss and dismisses with prejudice Ms. Osinek’s first  
12 amended complaint to the extent it includes any nonintervened claims.

13           This order disposes of Docket No. 180.

14  
15           **IT IS SO ORDERED.**

16  
17           Dated: November 14, 2022

18  
19           

EDWARD M. CHEN  
United States District Judge

20  
21  
22  
23  
24  
25  
26  
27  
28           \_\_\_\_\_ dismissal with respect to Counts III and IV of FAC). Accordingly, there is nothing left in  
*Bicocca*.