



1 Before the status conference occurred, the parties filed a stipulation resolving their  
2 discovery dispute. (ECF No. 185). During the status conference, the parties confirmed their  
3 resolution of the dispute, agreeing that the terms of the settlement resolve Plaintiff's motion.

4 Accordingly, in light of the parties' stipulation (ECF No. 185) IT IS ORDERED as  
5 follows:

6 1. Pursuant to the terms of the parties' stipulation (ECF No. 185):

- 7 a. Neither Relator nor Defendants will complete any expert analysis and/or audit of  
8 the Sample of Calendar Days for any purpose in this litigation.
- 9 b. The Sample of Patient Encounters cannot be used to derive alleged damages  
10 and/or penalties stemming from deficiencies related solely to concurrency pursuant  
11 to 42 C.F.R. § 415.110(a)(2). Thus, since the Parties will not be completing any  
12 expert analysis and/or audit of the Sample of Calendar Days, the Parties agree that  
13 any alleged damages and/or penalties in this matter will not be based on alleged  
14 deficiencies related solely to concurrency pursuant to 42 C.F.R. § 415.110(a)(2),  
15 although evidence relating to concurrency may be presented for purposes of  
16 liability.
- 17 c. Neither Relator nor Defendants will object to the opposing Party's expert analysis  
18 and/or results related to the Sample of Patient Encounters as an inappropriate  
19 method of identifying the number and dollar amount of alleged false claims or of  
20 analyzing alleged damages and/or penalties in this matter because the opposing  
21 Party did not complete an expert analysis and/or audit of the Sample of Calendar  
22 Days. The Party's expert analyses and/or audits of the Sample of Patient  
23 Encounters may be used for the purposes agreed upon for that sample in the  
24 Parties' Stipulation Regarding Sampling Protocol.

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2. This Clerk of the Court shall terminate Plaintiff's motion for evidentiary sanctions for failure to obey a court order on the docket. (ECF No. 169, *see* ECF No. 171).

IT IS SO ORDERED.

Dated: June 29, 2021

/s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE