

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
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES and the STATE OF
CALIFORNIA, ex rel. NICOLLE
O'NEILL,

Plaintiffs/Relator,

v.

SOMNIA, INC. et al.,

Defendants.

No. 1:15-cv-00433-ADA-EPG

ORDER DISMISSING DEFENDANTS
SOMNIA, INC., PRIMARY ANESTHESIA
SERVICES, BYRON MENDENHALL, AND
QUINN GEE

(ECF Nos. 232, 234)

On April 13, 2023, Plaintiff/Relator Nicolle O'Neill ("Plaintiff/Relator") and Defendants Somnia, Inc., Primary Anesthesia Services, Dr. Byron Mendenhall, and Dr. Quinn Gee (the "Somnia Defendants"); (collectively, the "Parties") filed a stipulation to dismiss the case in its entirety, with prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), against the Somnia Defendants. (ECF No. 232.) On May 1, 2023, this Court ordered the United States and the State of California to notify the Court of their position regarding the Parties' stipulation to dismiss the action. (ECF No. 233.) The United States and the State of California filed a joint response to the Court on May 4, 2023, stating that Plaintiff/Realtor can dismiss her claims against the Somnia Defendants with prejudice, but that they "consent only to dismissal **without prejudice** of the allegations set forth in the First, Second, and Third Causes of Action in the Second Amended

1 Complaint (ECF [No.] 74) brought against the Somnia Defendants under the *qui tam* provisions of
2 the False Claims Act, 31 U.S.C. § 3730(b), and the California False Claims Act, Cal. Gov. Code §
3 12652(c).” (ECF No. 234) (bold emphasis added).


4 Pursuant to the False Claim Act, “[t]he action may be dismissed only if the court and the
5 Attorney General give written consent to the dismissal and their reasons for consenting.” 31 U.S.C.
6 § 3730(b)(1). Likewise, California’s False Claim Act provides that “the action may be dismissed
7 only with the written consent of the court and the Attorney General or prosecuting authority of a
8 political subdivision, or both, as appropriate under the allegations of the civil action, taking into
9 account the best interest of the parties involved and the public purposes behind this act.” Cal. Gov.
10 Code § 12652(c)(1).

11 Based upon the information provided—including the interests and consent of both the
12 United States and the State of California—the Court finds dismissal of the Somnia Defendants
13 appropriate. Accordingly,

- 14 1. Plaintiff/Relator Nicolle O’Neill’s individual claims for relief against the Somnia
15 Defendants are **DISMISSED** with prejudice;
- 16 2. The claims brought against the Somnia Defendants under the *qui tam* provisions of
17 the False Claim Act, 31 U.S.C. §3730(b), are **DISMISSED** without prejudice as to
18 the United States;
- 19 3. The claims brought against the Somnia Defendant’s under the *qui tam* provisions of
20 the California False Claim Act, Cal. Gov. Code § 12652(c), are **DISMISSED**
21 without prejudice as to the State of California; and
- 22 4. The claims against Defendant PST Services LLC remain, pending the Court’s
23 review of Plaintiff/Realtor’s motion for reconsideration.

24
25
26 IT IS SO ORDERED.

27 Dated: June 5, 2023

28

UNITED STATES DISTRICT JUDGE