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FILED

MAY -5 2016

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

6 Attorneys for the United States of America

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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 UNITED STATES OF AMERICA, *ex rel.*
ARTEMUS,

12 Plaintiffs,

13 v.

14 LOUIE, *et al.*,

15 Defendants.
16

Case No. C 16-626 JSC

17 **UNITED STATES' NOTICE OF
ELECTION TO DECLINE
INTERVENTION; [~~PROPOSED~~]
ORDER TO UNSEAL**

FILED UNDER SEAL

18 Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States notifies
19 the Court of its decision not to intervene in this action.

20 Although the United States declines to intervene, it respectfully refers the Court to 31
21 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United
22 States; providing, however, that the “action may be dismissed only if the court and the Attorney
23 General give written consent to the dismissal and their reasons for consenting.” *Id.* The United
24 States Court of Appeals for the Ninth Circuit has held that, notwithstanding this language, the
25 United States only has the right to a hearing when it objects to a settlement or dismissal of the
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28 U.S. NOTICE OF ELECTION TO DECLINE INTERVENTION; [~~PROPOSED~~] ORDER, No. C 16-626 JSC

1 action. *U.S. ex rel. Green v. Northrop Corp.*, 59 F.3d 953, 959 (9th Cir. 1995); *U.S. ex rel.*
2 *Killingsworth v. Northrop Corp.*, 25 F.3d 715, 723-25 (9th Cir. 1994).

3 Therefore, the United States requests that, should either the relator or the defendants
4 propose that this action be dismissed, settled, or otherwise discontinued, this Court provide the
5 United States with notice and an opportunity to be heard before ruling or granting its approval.
6

7 Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all
8 pleadings filed in this action be served upon the United States. The United States also requests
9 that orders issued by the Court be sent to the government's counsel. The United States reserves
10 its rights to order any deposition transcripts and to intervene in this action, for good cause, at a
11 later date, and to seek dismissal of the relator's action or claim. See 31 U.S.C. § 3730(c)(2), (3).
12 The United States also requests that it be served with all notices of appeal.
13

14 Finally, we request that the Court unseal: (1) relator's Complaint; (2) the summons, if
15 any; (3) the scheduling order; (4) this Notice of Election to Decline Intervention, with (Proposed)
16 Order to Unseal; and (5) all other matters occurring in this action after the date the Court enters
17 the unsealing order. We request that all other contents of the Court's file in this matter
18 (including, but not limited to, any applications filed by the United States for extensions of the
19 sixty-day investigative period, any applications for partial lifting of the seal, and any orders
20 previously entered in this matter) remain under seal and not be made public or served upon
21 defendants.
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28 U.S. NOTICE OF ELECTION TO DECLINE INTERVENTION; [PROPOSED] ORDER, No. C 16-626 JSC

Respectfully submitted,

BRIAN J. STRETCH
United States Attorney

Dated: May 3, 2016

By:


SARA WINSLOW
Assistant United States Attorney

[PROPOSED] ORDER TO UNSEAL

The United States having declined to intervene in this action pursuant to the Federal False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the Court rules as follows.

IT IS HEREBY ORDERED that:

1. All current contents of the Court's file in this action shall remain under seal and not be made public or served upon the defendants, except for (1) relator's Complaint; (2) the summons, if any; (3) the scheduling order; (4) this Order; and (5) the accompanying United States' Notice of Election to Decline Intervention, which are hereby unsealed.

2. The relator shall serve the Complaint upon the defendants.

3. The relator shall serve this Order and the accompanying Joint Notice of Election to Decline Intervention upon the defendants after service of the Complaint.

4. The seal shall be lifted as to all other matters occurring in this action after the date of this Order.

5. The parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time.

7. The parties will provide the United States a copy of the notice or petition initiating any appeal and each paper, including briefs, filed in the appeal.

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8. All orders of this Court shall be sent to the United States.

9. Should the relator or the defendant(s) propose that this action be dismissed, settled, or otherwise discontinued, the Court will provide the United States with notice and an opportunity to be heard before ruling or granting its approval.

IT IS SO ORDERED.

Dated: 5-5-16


JACQUELINE SCOTT CORLEY
United States Magistrate Judge

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4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA

6 WILLIAM ARTEMUS, et al.,
7 Plaintiffs,

8 v.

9 JIM YAN LOUIE, et al.,
10 Defendants.

Case No. 16-cv-00626-JSC
SEALED

11 **CERTIFICATE OF SERVICE**

12
13 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.
District Court, Northern District of California.


14 That on 5/5/2016, I SERVED a true and correct copy(ies) of the attached, by placing said
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
16 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
located in the Clerk's office.

17 Sara Winslow
18 US Attorney's Office
450 Golden Gate Avenue
San Francisco, CA 94102

19
20 Jason A Hain
Law Offices of Jason Hain
30 Cumberland Street
21 San Francisco, CA 94110

22
23 Dated: 5/5/2016

24 Susan Y. Soong
25 Clerk, United States District Court

26 By: 
27 Ada Means, Deputy Clerk to the
28 Honorable JACQUELINE SCOTT CORLEY