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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

UNITED STATES OF AMERICA, *ex rel.*  
FELIPE A. PRIAST,  
  
Plaintiffs,  
  
v.  
  
GENENTECH, INC., et al.,  
  
Defendants.

*a*

**RECEIVED**

JUL - 7 2016

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

**FILED**

JUL - 8 2016

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

Case No. C 2016-00927-SBA

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

**FILED UNDER SEAL**

**ORIGINAL**

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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **OAKLAND DIVISION**

12 UNITED STATES OF AMERICA, *ex rel.*  
13 FELIPE A. PRIAST,

14 Plaintiffs,

15 v.

16 GENENTECH, INC., et al.,

17 Defendants.

Case No. C 16-00927-SBA

18 **UNITED STATES' NOTICE OF**  
19 **ELECTION TO DECLINE**  
20 **INTERVENTION;**  
21 **[PROPOSED] ORDER**

22 **FILED UNDER SEAL**

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

25 While a *qui tam* relator is generally permitted to maintain the action in the name of the  
26 United States following a declination, *see id.*, we respectfully refer the Court to *United States ex*  
27 *rel. Stoner v. Santa Clara County Office of Education*, 502 F.3d 1116, 1126-28 (9th Cir. 2007),  
28 in which the Court held that a *pro se* relator cannot prosecute a *qui tam* action on behalf of the  
United States under the False Claims Act. Accordingly, in this case, we respectfully suggest that

1 the Court dismiss the relator's First Cause of Action under the False Claims Act unless the  
2 relator obtains counsel within 30 days of the date of the Court's Order.


3 The Government also requests that all previous filings in this action be unsealed and the  
4 seal be lifted as to all matters subsequently occurring in this action.  
5

6  
7 Respectfully submitted,

8 BRIAN J. STRETCH  
9 United States Attorney

10 Dated: July 7, 2016

11 By:

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13 \_\_\_\_\_  
14 KIMBERLY FRIDAY  
15 Assistant United States Attorney  
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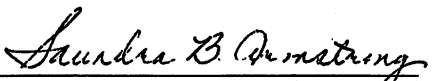
1  
2  
3 **[PROPOSED] ORDER**

4 IT IS HEREBY ORDERED THAT:

- 5 1. The United States having declined to intervene in this action pursuant to the False Claims  
6 Act, 31 U.S.C. § 3730(b)(4)(B), the Court rules that, unless the relator obtains counsel  
7 and counsel files a notice of appearance within 30 days of the date of this Order, the  
8 relator's cause of action under the False Claims Act will be dismissed pursuant to *United*  
9 *States ex rel. Stoner v. Santa Clara County Office of Education*, 502 F.3d 1116, 1126-28  
10 (9th Cir. 2007).  
11 2. The contents of the Court's file in this action shall be unsealed.  
12 3. The seal shall be lifted as to all other matters occurring in this action after the date of this  
13 Order.  
14

15 IT IS SO ORDERED.

16  
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18 Dated: 7/8/16

  
19 SAUNDRA BROWN ARMSTRONG  
20 Senior United States District Judge  
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28

1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies that she is an employee of the Office of the United  
3 States Attorney for the Northern District of California and is a person of such age and discretion  
4 to be competent to serve papers. The undersigned further certifies that she is causing a copy of:

5 **UNITED STATES' NOTICE OF ELECTION TO DECLINE INTERVENTION;**  
6 **[PROPOSED] ORDER**

7 to be served this date upon the party(ies) as follows:

8 Felipe A. Priast  
9 PO Box 54  
10 Brisbane, CA 94005

11 Lindsey Catherine Barnhart  
12 Covington Burling LLP  
13 One Front St., 35<sup>th</sup> Floor  
14 San Francisco, CA 94111

15  BY FIRST CLASS MAIL, by placing such envelope(s) with postage thereon fully  
16 prepaid in the designated area for outgoing U.S. mail in accordance with this office's  
17 practice.

18  BY PERSONAL SERVICE, (MESSENGER)

19  FEDERAL EXPRESS

20  BY E-MAIL: I caused each such document to be sent by email to the person or offices of  
21 each address above.

22  CERTIFIED MAIL, by placing such envelope(s) with postage thereon fully prepaid in the  
23 designated area for outgoing U.S. mail in accordance with this offices practice .

24 I declare under penalty of perjury under the laws of the United States that the foregoing is  
25 true and correct.

26 DATED: July 7, 2016

27   
28 TINA LOUIE  
Legal Assistant