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7 Attorneys for *Qui Tam* Plaintiff  
8 Neal Brigner

[REDACTED]  
[REDACTED]  
[REDACTED]  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

**FILED**

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN JOSE DIVISION

DEC 23 2009

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

12 UNITED STATES OF AMERICA and the  
13 STATE OF CALIFORNIA *ex rel.* NEAL  
14 BRIGNER,

15 Plaintiffs,

16 vs.

17 EL CAMINO HOSPITAL,

18 Defendant.

No. C 09-00604 RMW

**STIPULATION TO UNSEAL AND  
VOLUNTARILY DISMISS  
COMPLAINT;**

**[PROPOSED] ORDER**

**FILED UNDER SEAL**

19 *Qui Tam* Plaintiff (“Relator”) Neal Brigner and the United States, by and through its  
20 undersigned counsel of record, hereby agree and stipulate that the complaint should be unsealed  
21 pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2), and further stipulate to voluntarily  
22 dismiss this action without prejudice pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of  
23 Civil Procedure.

- 24 1. On February 10, 2009, the Relator filed the complaint under seal pursuant to 31  
25 U.S.C. 3730(b)(2) which states, “[t]he complaint shall be filed in camera, shall  
26 remain under seal for at least 60 days and shall not be served  
27 on the defendant until the court so orders. [ ] The Government may, for good  
28 cause shown, move the court for extensions of the time during which the


1 complaint remains under seal. . . .”

- 2 2. On May 7, 2009, pursuant to a stipulation entered into between the United States  
3 and the Relator, the Court extended the time during which the complaint remained  
4 under seal until October 19, 2009. The purpose of the extended seal was to permit  
5 the United States an additional period to continue its investigation of the Relator’s  
6 allegations.
- 7 3. The United States has completed its investigation and has decided not to intervene  
8 in this action pursuant to 31 U.S.C. § 3730(b)(4)(B).
- 9 4. The United State and Relator agree that the action should be voluntarily dismissed  
10 without prejudice. The State of California concurs in this request.
- 11 5. The only parties who have appeared in this action are the Relator and the United  
12 States.

13  
14 IT IS SO STIPULATED.

15 Respectfully Submitted,  
16 **WARREN ■ BENSON Law Group**


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18  
19 Dated: 10/16/09

20 By: 

21 Phillip E. Benson  
22 Attorney for *Qui Tam* Plaintiff  
23 Neal Brigner

24 **JOSEPH P. RUSSONIELLO**  
25 United States Attorney

26 Dated: 10/16/09

27 By:   
28 **GIOCONDA R. MOLINARI**  
Assistant United States Attorney  
Attorneys for the United States

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~~PROPOSED~~ ORDER

IT IS HEREBY ORDERED THAT:

1. The complaint in this action be unsealed and that the seal be lifted as to all other matters occurring in this action after the date of this order; and that
2. This action is dismissed without prejudice.

Dated: 12/23/09

*Ronald M. Whyte*

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RONALD M. WHYTE  
UNITED STATES DISTRICT JUDGE