

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  
Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES AND STATES OF CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, FLORIDA, GEORGIA, HAWAII, ILLINOIS, INDIANA, IOWA, LOUISIANA, MARYLAND, MASSACHUSETTS, MICHIGAN, MINNESOTA, MONTANA, NEVADA, et al.,  
  
Plaintiffs,  
  
v.  
  
HIND HEALTH CARE, INC., et al.,  
  
Defendants.

Case No. 15-CV-04928-LHK  
**ORDER ADOPTING REPORT AND RECOMMENDATION**  
Re: Dkt. No. 14

Relators W. Christian Hoyer and Peggy Ryan (“Relators”) filed this qui tam action against Hind Health Care, Inc. (“Hind”), Teikoku Seiyaku Co., Ltd. (“Teikoku”), Larry Caldwell, and Bradley Galer (collectively, “Defendants”), on behalf of the states of California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Virginia, and Washington (collectively, “Plaintiff States”); the United States; and the District of Columbia for alleged

1 violation of the federal False Claims Act, 31 U.S.C. § 3729, *et seq.*, as well as the false claims  
2 laws of each of the Plaintiff States and the District of Columbia. The case was referred to  
3 Magistrate Judge Howard Lloyd. The Plaintiff States, the District of Columbia, and the United  
4 States have declined to intervene in the action. ECF Nos. 7, 10. Thus, Relators are currently  
5 pursuing this action on behalf of the United States, the Plaintiff States, and the District of  
6 Columbia.

7 Because the United States, the Plaintiff States, and the District of Columbia have declined  
8 to intervene in this action, Judge Lloyd issued a Report and Recommendation on October 27, 2016  
9 that recommended unsealing the case. Ordinarily, a Report and Recommendation is filed and  
10 served on all parties. However, because the Report and Recommendation was filed under seal, the  
11 Report and Recommendation was not served on Defendants. Nevertheless, the Magistrate Judge's  
12 Report and Recommendation was filed on October 27, 2016, no objections have been filed, and  
13 the time to file objections has expired. *See* FED. R. CIV. P. 72(b)(2).

14 Having reviewed the Report and Recommendation, as well as the record in this case, the  
15 court finds that the Report and Recommendation is well-founded in fact and in law and, therefore,  
16 adopts the Report and Recommendation. In conformity with the Report and Recommendation, the  
17 Court makes the following rulings:

- 18 1. In accordance with the terms of the Maryland False Health Claims Act, Md. Code  
19 Ann., Health Gen, § 2-604(a)(7), the State of Maryland having declined to  
20 intervene in this matter, all claims asserted on behalf of the State of Maryland are  
21 hereby dismissed without prejudice.
- 22 2. The parties shall serve all pleadings and motions filed in this action, including  
23 supporting memoranda, upon the United States, the Plaintiff States, and the District  
24 of Columbia in accordance with 31 U.S.C. § 3730(c)(3) and the Certificate of  
25 Service attached to the States' Notice of Election to Decline Intervention, ECF No.  
26 10. The United States, the Plaintiff States, and the District of Columbia may order  
27 any deposition transcripts and are entitled to intervene in this action, for good

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

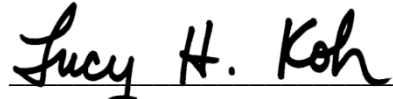
- cause, at any time;
3. The parties shall serve all notices of appeal upon the United States;
  4. Relators shall send all orders of this Court to the United States, the Plaintiff States, and the District of Columbia;
  5. Should Relators or Defendants propose that this action be dismissed, settled, or otherwise discontinued, the Court will provide the United States with notice and an opportunity to be heard before ruling or granting its approval;
  6. Should Relators or Defendants propose that this action on behalf of any of the Plaintiff States and/or the District of Columbia be dismissed, settled, or otherwise discontinued, Relators shall solicit and submit to the Court the written consent of each of the Plaintiff States and the District of Columbia before filing such proposal so that the Court may consider said consent(s) before ruling or granting its approval;
  7. Any dismissal of this action, or any part of this action, shall be without prejudice as to any of the Plaintiff States and the District of Columbia, unless the state and/or the District of Columbia consents to dismissal with prejudice;
  8. The Relators' complaint, ECF No. 1, the Order Setting Initial Case Management Conference and ADR Deadlines, ECF No. 2, the United States' and the Plaintiff States'/District of Columbia's notices of election to decline intervention, ECF Nos. 7, 9–10, the Report and Recommendation of Judge Howard Lloyd, ECF No. 14, and the Order Reassigning Case, ECF No. 15, shall be unsealed as of January 16, 2017 and served upon Defendants.
  9. The Clerk's Notice regarding the Deadline for Consent or Declination to Proceed Before a United States Magistrate Judge, ECF No. 11, and the forms regarding Consent/Declination to Proceed Before a Magistrate Judge, ECF Nos. 12–13, shall be unsealed as of January 16, 2017.
  10. The seal of this matter shall be lifted as to all other matters occurring in this action

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

after January 16, 2017.

**IT IS SO ORDERED.**

Dated: January 16, 2017



---

LUCY H. KOH  
United States District Judge