

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

UNITED STATES OF AMERICA, ex )  
rel. Tracy Payton; )  
)  
STATE OF GEORGIA, ex. rel. )  
Tracy Payton; )  
)  
STATE OF CALIFORNIA, ex. )  
rel. Tracy Payton; )  
)  
STATE OF COLORADO, ex. rel. )  
Tracy Payton; )  
)  
STATE OF CONNECTICUT, ex. )  
rel. Tracy Payton; )  
)  
STATE OF FLORIDA, ex. rel. )  
Tracy Payton; )  
)  
STATE OF ILLINOIS, ex. rel. )  
Tracy Payton; )  
)  
STATE OF LOUISIANA, ex. rel. )  
Tracy Payton; )  
)  
STATE OF MASSACHUSETTS, ex. )  
rel. Tracy Payton; )  
)  
STATE OF NEW JERSEY, ex. )  
rel. Tracy Payton; )  
)  
STATE OF NEW YORK, ex. rel. )  
Tracy Payton; )  
)  
STATE OF NORTH CAROLINA, ex. )  
rel. Tracy Payton; )  
)  
STATE OF TEXAS, ex. rel. )  
Tracy Payton; )  
)  
STATE OF VIRGINIA, ex. rel. )  
Tracy Payton; )  
)  
STATE OF WASHINGTON, ex. )

CASE NO. CV416-102

U. S. DISTRICT COURT  
Southern District of Ga.  
Filed in Office

9/28<sup>M</sup>2017  
Deputy Clerk

rel. Tracy Payton; )  
 )  
 Plaintiffs-Relator, )  
 )  
 v. )  
 )  
 PEDIATRIC SERVICES OF )  
 AMERICA, INC., a Delaware )  
 Corporation; PEDIATRIC )  
 SERVICES OF AMERICA, a )  
 Georgia Corporation; )  
 PEDIATRIC HEALTHCARE INC.; )  
 PEDIATRIC HOME NURSING )  
 SERVICES, collectively doing )  
 business as PSA Healthcare; )  
 PEDIATRIC SERVICES HOLDING )  
 CORPORATION; PORTFOLIO )  
 LOGIC, LLC; and J. H. )  
 WHITNEY CAPITAL PARTNERS, )  
 LLC; )  
 )  
 Defendants. )  
 )

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**ORDER**

Before the Court is the parties' Joint Stipulation of Dismissal With Prejudice. (Doc. 112.) Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), an action may be dismissed pursuant to "a stipulation of dismissal signed by all parties who have appeared." For the following reasons, the Joint Stipulation of Dismissal with Prejudice is **GRANTED IN PART** and **DISMISSED AS MOOT IN PART**.

On September 6th, 2017, this Court granted the parties request and dismissed Defendants Pediatric Healthcare, Inc. and J.H Whitney Capital Partners, LLC with prejudice as to the Relator and without prejudice as to the United States and other named Plaintiff States. (Doc. 111.) Additionally,

the Court dismissed Defendants Pediatric Services of America, Inc. (DE), Pediatric Services Holding Corporation, and Portfolio Logic, LCC from this action without prejudice. Now the parties are requesting that all claims be dismissed against all Defendants—including those previously dismissed without prejudice—with prejudice as to the Relator.

Because this Court has already dismissed Pediatric Services of America, Inc. (DE), Pediatric Services Holding Corporation, and Portfolio Logic, LCC from this action without prejudice, these parties are no longer a part of this action. The Court lacks the ability to dismiss these parties for a second time.<sup>1</sup> Therefore, the Motion to Dismiss as to Pediatric Services of America, Inc. (DE), Pediatric Services Holding Corporation, and Portfolio Logic, LCC is **DISMISSED AS MOOT**.

However, the Court consents to dismissing Pediatric Services of America (GA) and Pediatric Nursing Services from this action. See 31 U.S.C. § 3730(b)(1). Accordingly, as requested by the parties, Pediatric Services of America (GA) and Pediatric Nursing Services are **DISMISSED WITH**

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<sup>1</sup> While a party can file a Rule 59 Motion to alter or amend a judgment, that motion must be made within 10 days of a final entry of judgment. Fed. R. Civ. P. 59(e). Even if the Court construed the stipulation as a request under Rule 59, the Court would be unable to amend the judgment as the request falls outside of the 10-day limit.

**PREJUDICE** as to all claims by Relator Tracy Payton only.<sup>2</sup> As to the rights of the United States and other Plaintiff States, Pediatric Services of America (GA) and Pediatric Nursing Services are **DISMISSED WITHOUT PREJUDICE**. Each party shall bear its own costs and attorney's fees. The Clerk of Court is **DIRECTED** to close this case.

SO ORDERED this 28<sup>th</sup> day of September 2017.

  
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WILLIAM T. MOORE, JR.  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA

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<sup>2</sup> In the Government's Notice of Election to Decline Intervention, the United States Government and Plaintiff States requested that the Court obtain the Government's approval before allowing Relator to dismiss this action with prejudice. (Doc. 23.) The Government has already consented to a dismissal so long as the United States and Plaintiff States' claims are dismissed without prejudice. (Id.) Here, the stipulated dismissal is only with prejudice as to Relator Tracy Payton, not the United States or any Plaintiff States. Therefore, the Court is not required to obtain the Government's approval.