

United States District Court
District of Massachusetts

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United States of America <u>ex rel.</u>)	
Allstate Insurance Co. and)	
Lawrence K. Spitz, M.D.)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No.
)	14-14276-NMG
Millennium Laboratories, Inc.)	
)	
Defendant.)	
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ORDER

GORTON, J.

Relators Allstate Insurance Company ("Allstate") and Lawrence K. Spitz, M.D. ("Dr. Spitz"), move this Court for attorneys' fees and costs (Docket No. 20) pursuant to 31 U.S.C. § 3730(d). For the following reasons, that motion will be denied without prejudice.

An appeal, brought by potential relator Mark McGuire, is currently pending before the First Circuit Court of Appeals ("First Circuit") in the related case, United States et al. ex rel. McGuire et al. v. Millennium Laboratories et al., Docket No. 12-cv-10132. Pursuant to this Court's electronic order dated February 21, 2017 (Docket No. 251), the other relators in that action have been allowed to file their motions for attorneys' fees within 45 days of the First Circuit's decision.

Here, the motion of Allstate and Dr. Spitz is premature. Judicial economy supports a determination of the allocation of attorneys' fees among all relators in the related actions. Cf. Forgione v. AC & R Advert., Inc., 147 F.R.D. 30, 31-33 (S.D.N.Y. 1993).

Accordingly, the motion of relators Allstate Insurance Company and Lawrence K. Spitz, M.D., for attorney's fees and costs (Docket No. 20) is **DENIED** without prejudice. Relators are directed to re-file their motion within forty-five (45) days of the date of the decision by the First Circuit Court of Appeals in the related case, United States et al. ex rel. McGuire et al. v. Millennium Laboratories et al., Docket No. 12-cv-10132.

So ordered.

/s/ Nathaniel M. Gorton
Nathaniel M. Gorton
United States District Judge

Dated February 21, 2017