

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
DISTRICT OF NEVADA

CECILIA GUARDIOLA, v. UNITED STATES OF AMERICA, Defendant.	* * * Plaintiff, ORDER Defendant.	Case No. 3:12-cv-00295-LRH-VPC
---	--	--------------------------------

Plaintiff Cecilia Guardiola sued Renown Health, Renown Regional Medical Center, and Renown South Meadows Medical center in a qui tam suit under the False Claims Act on behalf of the United States of America. ECF Nos. 1, 17, 107. Guardiola and the United States (a nonparty) settled the underlying claims with the Renown defendants. ECF No. 183, Ex. 1. The settlement agreement reserved Guardiola’s right to seek a share of any recovery made by the United States from the Renown defendants, including any recovery received from an “alternate remedy”—a remedy process other than this civil suit. *Id.* The parties then stipulated to the dismissal of the Renown defendants, which the court approved.¹ See ECF No. 182, 183, 190.

Guardiola moved for a share of the recovery received from an alternate remedy by the United States. ECF No. 179. However, the court denied the motion for lack of jurisdiction over the United States. ECF No. 190. Guardiola then moved for leave to file a third amended complaint. ECF No. 191. The court denied the motion as futile based on the United States’ argument for sovereign immunity. ECF No. 197. The United States has since changed its

¹ The court approved of the parties’ stipulation in ECF No. 190. See ECF No. 190. The court then granted Guardiola relief from ECF No. 190. ECF No. 208. To the extent that the order contained in ECF No. 208 unwound the court’s approval of the stipulation, the court now clarifies that the stipulation and the court’s approval remains valid.

1 position, resulting in the court vacating the order that denied Guardiola's motion for leave to file
2 a third amended complaint. See ECF No. 208. Given the government's change in its position, the
3 court now grants Guardiola's motion for leave to file a third amended complaint.

4 IT IS THEREFORE ORDERED that Cecilia Guardiola's motion for leave to file a third
5 amended complaint (ECF No. 191) is **GRANTED**. The court orders the clerk of the court to file
6 the third amended complaint at ECF No. 191, Exhibit A, and to make the following changes to
7 the parties: list Cecilia Guardiola as the sole plaintiff and list the United States of America as the
8 sole defendant. The United States of America may file a dispositive motion under Federal Rule
9 of Civil Procedure 12(b)(6) within twenty-one days of the filing of the third amended complaint.

10 IT IS FURTHER ORDERED that this matter is **REFERRED** to Magistrate Judge Cooke
11 for the purpose of a scheduling conference.

12 IT IS FURTHER ORDERED that the caption in this matter shall now read: Cecilia
13 Guardiola, plaintiff, v. United States of America, defendant.

14
15 IT IS SO ORDERED.

16 DATED this 14th day of November, 2017.

17
18 
19 _____
LARRY R. HICKS
UNITED STATES DISTRICT JUDGE