



Defendants falsely billed for the presence of physician assistants at coronary bypass surgeries when residents were also present, which is not allowed under government regulations. The Government declines to intervene in that part of the remaining allegations of Relator's Complaint and as to the remaining named defendants. Contemporaneously herewith, the Government is filing an Amended Complaint.

The Government anticipates that this entire action, including both the intervened and non-intervened claims will be resolved in the next few days through a settlement agreement. At that time, the parties will file a joint stipulation of dismissal, which will reflect, as provided in 31 U.S.C. § 3730(b)(1) and N.C. General Statutes § 1-608(b)(1), the Government's consent to the Relator's dismissal of the non-intervened claims. If for some reason the settlement agreement is not effectuated, the Government requests that, should either the relator or the defendant propose at some later date that the part of the action in which the Government has not intervened be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the Government before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3) and N.C. General Statutes § 1-609(f), the Government requests that all pleadings filed in this action, even as to the non-intervened part of this action, be served upon the Government; the Government also requests that all orders issued by the Court be sent to the Government's counsel. The Government reserves its right to order any deposition transcripts and to intervene in the portion of this action in which it is declining to intervene today, for good cause, at a later date.

The Government reserves the right to seek the dismissal of the relator's action or claim on any appropriate grounds, including under 31 U.S.C. §§ 3730(b)(5) and (e)(4), and N.C. General Statutes §§ 1-608(b)(5) and 1-611(d).

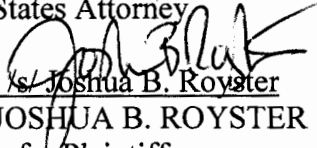
Finally, the Government requests that this Notice, the attached proposed Order, and the Amended Complaint remain sealed pursuant to the Parties' joint motion for extension of the seal period, filed contemporaneously herewith.

The Government requests that all other papers on file in this action remain under seal indefinitely because in discussing the content and extent of the Government' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

Respectfully submitted this 14<sup>th</sup> day of March, 2014.

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THE UNITED STATES OF AMERICA

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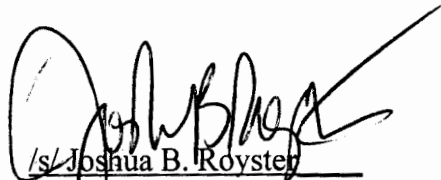
THE STATE OF NORTH CAROLINA

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Government's Notice of Election to Intervene in Part and to Decline in Part was mailed, postage prepaid, this 14th day of March, 2014 to the below-listed counsel:

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

5:12-CV-822-BO

UNITED STATES OF AMERICA and )  
STATE OF NORTH CAROLINA, )  
EX REL. LESLIE JOHNSON, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
DUKE UNIVERSITY HEALTH SYSTEM, )  
INC.; et al. )  
 )  
Defendants. )

ORDER

The United States of America and the State of North Carolina (the "Government") having partially intervened in this action, pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4) and the North Carolina False Claims Act, N.C. General Statutes § 1-608(b)(4), the Court rules as follows:

IT IS ORDERED that,

1. the Government's Notice of Election to Intervene in Part and to Decline to Intervene in Part, the Government's Amended Complaint and this Order remain sealed pending the Court's ruling on the Parties' joint motion for extension of the seal period;
2. the Government serve a copy of its Amended Complaint and a copy of this Order on the defendants within 5 days of the Clerk's issuance of all necessary summonses; and

3. all other papers or Orders on file in this matter shall remain under seal.

IT IS SO ORDERED THIS \_\_\_ day of \_\_\_\_\_, 2014.

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TERRENCE W. BOYLE  
United States District Judge