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FILED

SEP 25 2018

Clerk, U.S. District Court
District Of Montana
Missoula

**ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

**UNITED STATES OF AMERICA,
STATE OF MONTANA, ex rel. JON
MOHATT,**

Relator,

vs.

**HEALTHCENTER NORTHWEST,
LLC; FLATHEAD PHYSICIAN
GROUP, LLC; NORTHWEST
HORIZONS, LLC; NORTHWEST
ORTHOPEDICS & SPORTS
MEDICINE, LLC; APPLIED HEALTH
SERVICES, INC.; and JOHN DOES 1 -
100,**

Defendants.

**Lead Case No.
CV 18-80-M-DWM**

**Member Case No.
CV 16-125-M-DWM**

**UNITED STATES' NOTICE OF
ELECTION TO INTERVENE IN
PART AND TO DECLINE TO
INTERVENE IN PART FOR
SETTLEMENT PURPOSES**

**FILED UNDER SEAL PER
31 U.S.C. § 3730(b)**

Per the Court's Sealed Order dated September 25, 2018, the United States notifies the Court that no parties object to the unsealing of cause numbers CV-16-125-M-DWM and CV-18-80-M-DWM.

THE UNITED STATES' NOTICE OF ELECTION TO INTERVENE IN PART AND TO DECLINE TO INTERVENE IN PART FOR SETTLEMENT PURPOSES

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4), the United States notifies the Court of its decision to intervene in part of these consolidated actions and to decline to intervene in part of these consolidated actions for settlement purposes. The United States intervenes in the Relator's Complaints with respect to the named defendants as to allegations that they submitted and caused to be submitted false claims and statements based on the conduct alleged in the Settlement Agreement ("Agreement") as follows:

Kalispell Regional Hospital ("KRH"), Kalispell Regional Medical Center ("KRMC"), HealthCenter Northwest, LLC ("HC"); Flathead Physicians Group, LLC ("FPG"); Northwest Horizons, LLC ("NH"); Northwest Orthopedics & Sports Medicine, LLC ("NOSM"); [and] Applied Health Services, Inc. ("AHS") knowingly submitted or caused the submission of claims to Medicare for designated health services arising from referrals made by sixty-three physician specialists who received compensation pursuant to direct or indirect financial

relationships with KRMC or HC. The United States and/or the Relator allege the submission of those claims was in violation of the Stark Law because the compensation took into account the volume or value of the physicians' referrals to KRMC or HC and exceeded the fair market value of services the physicians actually performed, and in some instances was provided under an arrangement that was not commercially reasonable in the absence of the physicians' referrals for designated health services and other business generated. The United States and/or Relator allege that by knowingly submitting or causing to be submitted claims to Medicare that violated the Stark Law, KRMC and HC violated the False Claims Act. The United States and Montana further contend that the compensation paid to the sixty-three physician specialists was excessive and not for the provision of covered items or services, but paid in exchange for referrals, in violation of the Anti-Kickback Statute, and that KRH, KRMC, HC, FPG, NWH, NOSM, and AHS knowingly submitted or caused the submission of claims to Medicare, Medicaid, and TRICARE for services and items arising from the referrals induced by the excessive compensation. The sixty-three physician specialists are identified in a letter dated September 21, 2018 from Assistant United States Attorney Megan L. Dishong to Rick

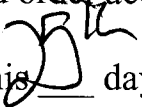
Robinson, counsel for KRH, KRMC, NWH, NOSM, and AHS, and David Robbins, counsel for HC and FPG. Further, the United States and Montana and/or the Relator allege that HC, FPG, NWH, NOSM, and AHS conspired to violate the False Claims Act by improperly inducing referrals to HC from physician investors at FPG and physicians employed by KRH, KRMC, and HC. The inducement took the form of excessive compensation that was not for the provision of covered items or services, but paid in exchange for referrals, and the provision of administrative services by KRH and KRMC to HC at below fair market value to reduce expenses and increase profits distributed to FPG, in violation of the Anti-Kickback Statute.

The United States declines to intervene with respect to the remainder of the allegations in Relator's Complaints. Relator will dismiss all allegations in both Complaints with prejudice as to Relator, and without prejudice to the United States as to the declined allegations.

The United States requests that the Relator's First Amended Complaint in Civil Action 16-125 (Doc. 18) and Complaint in Civil Action 18-80 (Doc. 2), this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in these consolidated actions remain under seal, because in discussing the content and extent of the United States' 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.

DATED this  day of September, 2018.

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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of September, 2018, a copy of the foregoing document was served on the following person by the following means.

- CM/ECF
- 1 Hand Delivery
- 2-7 U.S. Mail
- Overnight Delivery Service
- Fax
- E-Mail

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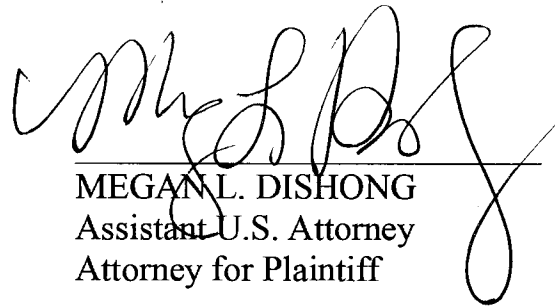
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