

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF  
AMERICA, *ex rel.* MATTHEW  
DECKER,

Plaintiff,

v.

PENNSYLVANIA STATE  
UNIVERSITY,

Defendant.

CIVIL ACTION NO. 22-3895  
(PSD)

**NOTICE OF THE UNITED STATES OF AMERICA  
THAT IT IS NOT INTERVENING AT THIS TIME**

In its last Order (Doc No. 16), dated August 28, 2023, the Court indicated that the United States must make its intervention decision by September 29, 2023, and that no further extensions of time would be granted. The United States' investigation has not been completed, and it is therefore unable to decide, as of the Court's deadline, whether to proceed with the action. Accordingly, the United States hereby notifies the Court that it is not intervening at this time.

The United States' investigation remains active and will continue. As part of its investigation, the United States issued Civil Investigative Demands ("CIDs") pursuant to the False Claims Act, 31 U.S.C. § 3733(j)(1). The United States is still obtaining and reviewing information produced pursuant to the CIDs. Depending on

the outcome of that review, the United States may need to take further investigatory actions before it is in a position to determine whether to proceed with the action.

Although the United States is not intervening at this time, it respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; providing, however, that the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” *Id.* Therefore, the United States requests that, should either the relator or the defendant propose that this action be settled or otherwise discontinued, this Court solicit the written consent of the United States before ruling on that request. Likewise, to the extent that there is an opposed motion to dismiss, the United States respectfully requests that the Court permit it to be heard before the Court rules.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon it; the United States also requests that orders issued by the Court be sent to the United States’ counsel. The United States reserves its right to order any deposition transcripts, to intervene in this action for good cause at a later date, and to seek the dismissal of the relator’s action or claims. The United States also requests that it be served with all notices of appeal.

Respectfully submitted,

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Dated: September 29, 2023

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Defendant.

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**FILED UNDER SEAL**

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2023, the United States having notified the Court, under the False Claims Act (31 U.S.C. § 3730(b)(4)), that, because the government's investigation is active and continuing, the United States is not intervening in this *qui tam* action at this time, IT IS ORDERED THAT:

1. The parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time;
2. The parties shall serve all notices of appeal on the United States;
3. All orders of this Court will be sent to the United States;

4. Should the relator or defendant or any later-named defendant(s) propose that this action be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States before ruling or granting its approval.

BY THE COURT:

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PAUL S. DIAMOND  
United States District Judge

**CERTIFICATE OF SERVICE**

I certify that the above document has been served on all counsel of record via electronic filing, and is available for viewing and downloading from the ECF System.

/s/ Peter Carr  
PETER CARR  
Assistant United States Attorney

Dated: September 29, 2023