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FILED

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

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UNITED STATES OF AMERICA

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

UNITED STATES OF AMERICA,
ex rel.
JON MOHATT,

Relator,

vs.

KALISPELL REGIONAL
HEALTHCARE; KALISPELL
REGIONAL MEDICAL CENTER;

CV 16-125-M-DWM

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

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

and JOHN DOES 1-100,**Defendants.**

In its Order (doc. 23), dated June 19, 2017, the Court indicated that the Government must make its intervention decision on or before September 21, 2017, and that no further extensions of time would be granted. As the United States informed the Court at the September 26, 2017 status conference, its investigation is not complete and, as such, the United States is not able 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. However, the Government's investigation will continue.

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.* The United States Court of Appeals for the Ninth Circuit has held that, notwithstanding this language, the United States has the right only to a hearing when it objects to a settlement or dismissal of the action. *U.S. ex rel. Green v. Northrop Corp.*, 59 F.3d 953, 959 (9th Cir. 1995); *U.S. ex rel. Killingsworth v. Northrop Corp.*, 25 F.3d 715, 723-25 (9th Cir. 1994). Therefore, the United States requests that, should either the Relator or the Defendants propose that this action be dismissed, settled, or

otherwise discontinued, this Court provide the United States with notice and an opportunity to be heard before ruling or granting its approval.

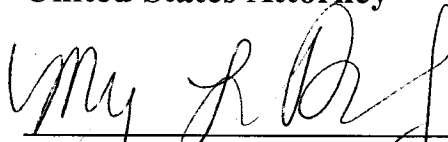
Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any 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 claim. The United States also requests that it be served with all notices of appeal.

The United States further notes that, per the Court's September 26, 2017 Order (doc. 30), the action will remain under seal for 90 days pending formal service by relator of the first amended complaint on Defendants. Upon service, the United States requests that the Relator's first amended complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers currently filed in this action 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.

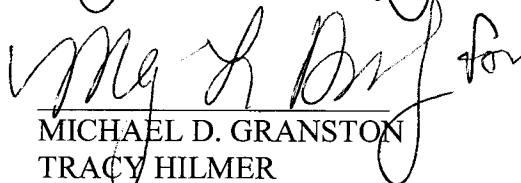
A proposed order accompanies this notice.

DATED this 27th day of September, 2017.

KURT G. ALME
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CERTIFICATE OF SERVICE

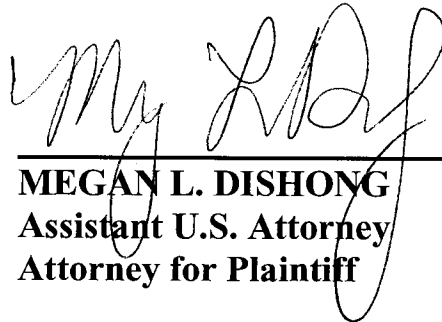
I hereby certify that on the 27th day of September, 2017, a copy of the foregoing document was served on the following person by the following means.

_____	CM/ECF
<u> 1 </u>	Hand Delivery
<u> 2, 3 </u>	U.S. Mail
_____	Overnight Delivery Service
_____	Fax
_____	E-Mail

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