

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA *ex rel.*
JOSEPH B. LEE,

Plaintiff,

v.

VICTORY MEMORIAL HOSPITAL,

Defendant.

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Civil Action No.
CV-04-3234

(Ross, J.)
(Pollak, M.J.)

THE UNITED STATES' NOTICE OF PARTIAL INTERVENTION

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4), the United States respectfully notifies the Court of its decision to intervene and proceed in this action, which was commenced by Joseph B. Lee (the “Relator”). Specifically, the United States intervenes in this action to the extent that the action states a claim for relief against defendant Victory Memorial Hospital (“VMH”) based upon the allegations relating to fraudulent cost reports for the years 1996 and 1997, as set forth in paragraphs 43-45, 47-49, 51(a)-(b), and 52-55 of the Relator’s Complaint, and to assert a common law claim for disgorgement.

The United States respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the Relator to maintain his 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 any claim as to which the United States has elected not to intervene be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States respectfully requests that all pleadings filed in this action be served upon the United States. The United States also respectfully requests that orders issued by the Court be sent to counsel for the United States. The United States reserves its right to order any deposition transcripts and to intervene in the Relator's remaining causes of action, for good cause, at a latter date.

Finally, the United States requests that only Relator's Complaint, this Notice, the United States' complaint, and the Court's Order issued in furtherance of this Notice be unsealed. All other contents of the Court's file in this matter (including, but not limited to, applications filed by the United States for an extension of the sixty-day investigative period) should remain under seal and not made public or served upon the defendant.

A proposed order accompanies this Notice.

Dated: Central, New York
December 26, 2006

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