

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

**RECEIVED**

JUL - 8 2011

Chief Judge James F. Holderman  
United States District Court

UNITED STATES OF AMERICA, *ex rel.* )  
*Bernard Lisitza, et al.*, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
PAR PHARMACEUTICAL )  
COMPANIES, INC., ALPHAPHARM )  
PTY LTD., and GENPHARM ULC, )  
 )  
Defendants. )

No. 06 C 6131

Judge Holderman

**THE UNITED STATES' NOTICE OF ELECTION  
TO INTERVENE IN PART AND TO DECLINE IN PART**

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 this action and to decline to intervene in part of this action. The United States intervenes in that part of the action against Par Pharmaceutical Companies, Inc.; the United States declines to intervene in that part of the action against Alphapharm Pty. Ltd. and Genpharm ULC.

Although the United States declines to intervene in a portion of the action, 31 U.S.C. § 3730(b)(1) allows the relator to maintain the declined portion of 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 the part of the action in which the United States has not intervened be dismissed, settled, or otherwise discontinued, this court solicit the written consent of the United States before ruling or granting its approval.

The United States reserves its right to order any deposition transcripts and to intervene in the portion of this action in which it is declining to intervene, for good cause, at a later date.

The United States reserves the right to seek the dismissal of the relator's action or claim, at the appropriate time, under 31 U.S.C. § 3730(e)(4), on the ground that substantially the same allegations or transactions as alleged in the action or claim were publicly disclosed and that the relator does not qualify as an original source.


The state plaintiffs have sought a 30-day extension of the seal date and the United States does not object to the case remaining under seal until the expiration of that period. Once that time period has expired, the United States requests that the relator's Second Amended Complaint, this notice, and the attached proposed order be unsealed. The United States requests that all other papers on file 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.

Respectfully submitted,

PATRICK J. FITZGERALD  
United States Attorney

Dated: 7/8/11

By:   
LINDA A. WAWZENSKI  
Assistant United States Attorney  
219 South Dearborn Street  
Chicago, Illinois 60604  
(312) 353-1994  
linda.wawzenski@usdoj.com

**CERTIFICATE OF SERVICE**

Carolyn J. Fiebig hereby certifies that she is employed with the office of the United States Attorney for the Northern District of Illinois and that on July 8, 2011, she caused copies of:

**THE UNITED STATES' NOTICE OF ELECTION TO  
INTERVENE IN PART AND TO DECLINE IN PART  
and ORDER**

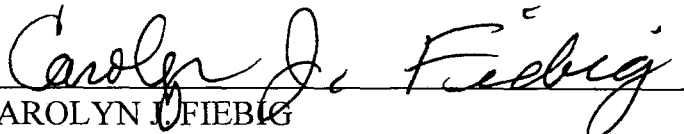
to be served to the following named individual:

Thomas S. Marks  
Assistant Attorney General  
Health Care Fraud Division  
State of Michigan  
P.O. Box 30218  
Lansing, Michigan 48909

Michael I. Behn  
Linda Wyetzner  
William W. Thomas  
Behn & Wyetzner, Chartered  
500 North Michigan Avenue  
Suite 850  
Chicago, IL 60611

I declare under penalty of perjury that the foregoing is true and correct. Executed this

8th day of July, 2011.

  
CAROLYN J. FIEBIG

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, *ex rel.* )  
*Bernard Lisitza, et al.*, )  
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Plaintiff, )  
 )  
v. ) No. 06 C 6131  
 )  
PAR PHARMACEUTICAL ) Judge Holderman  
COMPANIES, INC., ALPHAPHARM )  
PTY LTD., and GENPHARM ULC, )  
 )  
Defendants. )

**ORDER**

The United States having intervened in part of this action and having declined to intervene in part of this action pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4), and the court rules as follows:

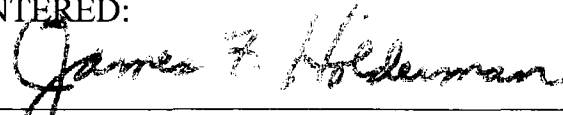
IT IS ORDERED that,

1. the second amended complaint, the United States' notice of election to intervene in part and to decline to intervene in art, and this order will be unsealed when the seal extension sought by the state plaintiffs expires;
2. the second amended complaint be served on the defendants, together with this order, within 14 days of the unsealing;
3. all other papers or orders on file in this matter shall remain under seal;
4. the United States may order any deposition transcripts and is entitled to intervene in the declined part of this action for good cause at any time;
5. should the relator or the defendants propose that the part of the action in which

the United States has declined to intervene be dismissed, settled, or otherwise discontinued, the court will solicit the written consent of the United States before ruling or granting its approval.

Dated: JUL -8 2011

ENTERED:

A handwritten signature in cursive script that reads "James F. Holderman". The signature is written in dark ink and is positioned above a horizontal line.

JAMES F. HOLDERMAN  
Chief Judge