

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

UNITED STATES OF AMERICA,  
*ex rel.* MITCHELL D. POTTERF IV,

Plaintiff-Relator,

v.

OHIO STATE UNIVERSITY, et al.,

Defendants.

Case No. 2:15-CV-703

**FILED UNDER SEAL**

Judge Frost  
Magistrate Judge King

**THE GOVERNMENT'S NOTICE OF ELECTION TO DECLINE INTERVENTION**

The United States, pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), hereby notifies the Court of the decision not to intervene in this action.

Although the United States declines to intervene, we respectfully refer 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, the action may be dismissed only if the Attorney General gives written consent to the dismissal and the reasons for consenting. Therefore, the United States requests that, should either the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the undersigned counsel for the United States 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, and all orders issued by the Court be served upon the undersigned counsel for the United States. The United States reserves the 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.

Finally, the United States requests that the filing of this case, relator's Complaint, this Notice, the attached proposed Order, and any pleadings filed subsequent to this Notice be unsealed. A proposed order accompanies this notice.

Respectfully submitted,

CARTER M. STEWART  
United States Attorney

s/Andrew M. Malek

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Counsel for the United States of America

Dated: May 5, 2015

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Election to Decline Intervention was served on May 5, 2015, by regular U.S. Mail on:

Counsel for Relator:  
Kenneth R. Donchatz  
Donchatz Law  
15 ½ State Street  
Westerville, Ohio 43081

s/Andrew M. Malek  
\_\_\_\_\_  
ANDREW M. MALEK (0061442)  
Assistant United States Attorney

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**ORDER**

The United States, having declined to intervene in this action pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the Court rules as follows:

IT IS ORDERED that,

1. the complaint be unsealed and served upon the defendant by the relator;
2. all other contents of the Court file in this action remain under seal and not be made public or served upon the defendants, except for the filing of this case, this Order, and the Government's Notice of Election to Decline Intervention, which the relator will serve upon the defendant only after service of the complaint;
3. the seal be lifted as to all other matters occurring in this action after the filing of the Government's Notice of Election to Decline Intervention;

4. 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 are entitled to intervene in this action, for good cause, at any time;

5. the parties shall serve all notices of appeal upon the United States; and

6. should the relator or the defendant 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.

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UNITED STATES MAGISTRATE JUDGE

Dated: \_\_\_\_\_