

1 JEFFERSON BILLINGSLEY  
County Counsel CBN 233776  
2 825 FIFTH STREET, ROOM 110  
EUREKA, CALIFORNIA 95501  
3 Telephone: (707) 445-7236  
Email: Countycounsel@co.humboldt.ca.us

4  
5 Attorneys for Defendant  
HUMBOLDT COUNTY

6  
7 PHILLIP E. BENSON, CBN 97420  
philbenson@warrenbensonlaw.com  
DONALD R. WARREN, CBN 138933  
8 donwarren@warrenbensonlaw.com  
WARREN - BENSON LAW GROUP  
9 620 NEWPORT CENTER, DR. STE. 1100  
NEWPORT BEACH, CA 92660  
10 Telephone: (949)721-6636  
Facsimile: (858) 454-5878

11  
12 Attorneys for Qui Tam Plaintiff Doe  
13

14  
15 **UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
16 **EUREKA DIVISION**

17  
18 UNITED STATES OF AMERICA, *ex rel.*  
Doe,

19 Plaintiff,

20 vs.

21 HUMBOLDT COUNTY,

22 Defendant.  
23  
24

Case No. 17-cv-05090-RMI

**STIPULATION AND REQUEST  
FOR DISMISSAL OF ACTION  
WITHOUT PREJUDICE  
PURSUANT TO FEDERAL RULE  
OF CIVIL PROCEDURE 41(a)(1)(A)**

**[PROPOSED] ORDER  
DISMISSING ACTION WITHOUT  
PREJUDICE**

25 Doe, the Plaintiff and Relator for the United States, and Humboldt County  
26 (“County”), the Defendant, through their undersigned counsel, hereby stipulate to the  
27 dismissal of this action without prejudice and request that the Court enter the attached

1 Order dismissing this action without prejudice. In support of this stipulation, the parties  
2 state as follows:

3 1. The relator filed the original complaint in this action under seal pursuant to  
4 the *qui tam* provisions of the federal False Claims Act (FCA), 31 U.S.C. § 3729 *et seq.*,  
5 on August 31, 2017. An amended Complaint was thereafter filed by the relator on June  
6 3, 2019. The relator has been identified only as Doe in this action pursuant to the  
7 Court's Order granting the relator's request to proceed under the Doe pseudonym.

8 2. The Defendant has been served the Amended Complaint. No answer or  
9 motion for summary judgment have been served and no counterclaims have been pled.

10 3. The Plaintiff has not previously dismissed any federal or state-court action  
11 based on or including any of the claims alleged in this action.

12 4. In the Amended Complaint, the Relator has alleged that the County violated  
13 the FCA by, *inter alia*, providing to the FAA false certifications of compliance with  
14 FAA grant assurances 24 and 25, which requires self-sustainability measures and  
15 prohibits revenue diversion in the use of its airport land and property, in order to obtain  
16 more than \$30 million dollars in grant funds from the United States Government under  
17 the FAA's Airport Improvement Program (AIP).

18 5. Pursuant to 31 U.S.C. § 3730(a) of the FCA, the United States Government  
19 was served a copy of the sealed complaint and written disclosure of substantially all  
20 material evidence and information possessed by the relator.

21 6. Upon receipt of the sealed complaint and pursuant to the FCA, the  
22 Department of Justice, assisted by the Office of the Inspector General for the  
23 Department of Transportation and the FAA, initiated an investigation of the allegations  
24 in the complaint.

25 7. In August 2018, while the complaint remained sealed, FAA compliance  
26 personnel conducted a land-use inspection of the six airports owned by the County. The  
27 inspection consisted of a review of aeronautical and non-aeronautical leases, an airport  
28

1 property tour, and an airport safety inspection.

2 8. On December 13, 2018, the FAA issued a report (the “FAA Inspection  
3 Report”) with conclusions, recommendations and action items based on its land-use  
4 inspection and submitted it to the Director of the County’s Department of Aviation.

5 9. The FAA Inspection Report concluded that the County’s land uses were not  
6 in accordance with its AIP grant assurances. The FAA directed the County to submit a  
7 corrective action plan as to each of the action items listed in the FAA Inspection Report.

8 10. On March 18, 2019, the County submitted a corrective action plan to the  
9 FAA. In its plan, among other items, the County agreed to do the following:

10 (a) Review all its airport property use agreements and leases and amend all  
11 leases and airport property use agreements to ensure compliance with FAA  
12 requirements.

13 (b) Inventory all non-aeronautical uses of airport land at all six  
14 County-owned airports, provide the list of non-aeronautical uses to the FAA for  
15 acknowledgment and approval, identify all such uses in the Airport Layout Plan and  
16 submit all proposed non-aeronautical uses of airport land to the FAA for review and  
17 approval.  
18 approval.

19 (c) Annually inspect and ensure that all hangars are used primarily for  
20 aircraft storage and/or aeronautical uses in accordance with FAA Hangar Use Policy.  
21 aircraft storage and/or aeronautical uses in accordance with FAA Hangar Use Policy.

22 (d) Complete appraisals of all approved non-aeronautical uses of airport  
23 property and adjust lease rates to the Fair Market Values identified in the appraisals; and  
24 property and adjust lease rates to the Fair Market Values identified in the appraisals; and

25 (e) Complete appraisals of aeronautical leases and set appropriate lease  
26 rates.  
27 rates.

1 11. Following the submission of the County's corrective action plan, on June 5,  
2 2019, the Department of Justice notified the Court that it was electing not to intervene in  
3 this *qui tam* case. The Government further requested that should the relator or the  
4 defendant propose that this action be dismissed, settled, or otherwise discontinued that  
5 the Court provide the United States with an opportunity to be heard before ruling or  
6 granting its approval.  
7

8  
9 12. On July 17, 2019, the Court unsealed the First Amended Complaint and  
10 directed that it be served. Following service of the Complaint, the parties submitted  
11 three successive stipulations to the Court to stay the action, all of which were granted.  
12 The purpose of the requested stay was to prevent overlap between the FCA action and  
13 the County's efforts to resolve its compliance issues with the FAA, to allow the County  
14 the opportunity to mitigate, offset or otherwise provide restitution for any FCA damages  
15 and to redirect the expenses and costs of defending the FCA action to correcting its state  
16 of non-compliance as stated in the 2018 FAA Land Use Inspection Report. Pursuant to  
17 the Court's orders granting the stay, the parties have filed five successive joint status  
18 reports regarding the County's compliance efforts in response to the FAA's action items.  
19  
20  
21

22 13. The stay of this action expired on December 31, 2021.

23  
24 14. As of the date of this stipulation, the County has reported that it has  
25 substantially remedied the conditions giving rise to the FCA allegations and the related  
26 non-compliant conditions identified in the 2018 FAA Land Use Inspection Report.  
27

1           15. Specifically, the County has reported that rent studies and appraisal reports  
2 of the County's airports have been completed by Aviation Management Consulting  
3 Group (AMCG), the County's retained consultant, and that it has reviewed and is in the  
4 process of amending, as necessary, all airport leases and property use agreements. The  
5 County's review and lease amendment process has included the completion of an  
6 inventory of all non-aeronautical uses of airport land and appraisals of non-aeronautical  
7 leases at the California Redwood Coast – Humboldt County Airport (ACV), Murray  
8 Field (EKA), Garberville Airport (O16) and Rohnerville Airport. It has also included the  
9 completion of rent studies and appraisals of aeronautical properties and facilities and the  
10 updating of the County's Schedule of Fees and Charges to reflect reasonable rates for  
11 these airport properties. New lease templates, to be used in all airport tenant leases, were  
12 approved by the County Board of Supervisors on December 15, 2021.  
13  
14  
15  
16

17           16. The County further reports that it is adjusting all non-aeronautical lease  
18 rates to Fair Market Value and that it has submitted a proposed rent adjustment schedule  
19 to the FAA which has received informal approval. It further reports that it is working on  
20 "Year 2" updates to the County Fee Schedule for aeronautical properties to reflect  
21 stepped-up rent increases. When the Board of Supervisors approves this second stepped-  
22 up increase, the County believes at least 70% of its general aviation leases will be at  
23 their appraised values, and after the 2022-2023 fee schedule, approximately 90% will be  
24 at appraised value.  
25  
26  
27  
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(A) That this action be dismissed without prejudice;

(B) That each party shall bear its own attorney’s fees, expenses and costs;

(C) That the Relator shall continue to be referred to by the Doe pseudonym;

and


(D) That the Order dismissing this case without prejudice shall not become final until 10 days after the Court’s signature to allow the United States a reasonable opportunity to object.

**IT IS SO STIPULATED.**

Dated: January 13, 2022

  
\_\_\_\_\_  
Phillip E. Benson  
Attorney for Relator Doe

Dated: January 13, 2022

  
\_\_\_\_\_  
Jefferson Billingsley  
County Counsel  
Attorney for Defendant  
Humboldt County

**[PROPOSED] ORDER DISMISSING ACTION WITHOUT PREJUDICE**

IT IS HEREBY ORDERED THAT:

A. This action is dismissed without prejudice;

B. Each party shall bear its own attorney’s fees, expenses, and costs;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

C. The Relator shall continue to be referred to by the Doe pseudonym; and

D. This Order dismissing the case without prejudice shall not become final until 10 days after the Court's signature to allow the United States a reasonable opportunity to object.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_, 2022

\_\_\_\_\_  
Robert M. Illman  
United States Magistrate Judge