

FILED ENTERED  
LOGGED RECEIVED

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

MAR 16 2010

AT BALTIMORE  
CLERK, U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA, )  
ex rel. [UNDER SEAL], )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
[UNDER SEAL], )  
 )  
Defendant. )

BY

DEPUTY

FILED UNDER SEAL  
CIVIL NO. RDB-06-2411

FILED UNDER SEAL

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

MAR 16 2010

AT BALTIMORE  
CLERK, U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

UNITED STATES OF AMERICA  
ex rel. DEBRA PARKS

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\*  
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\*

BY

DEPUTY

Plaintiffs

v.

CIVIL ACTION NO. RDB-06-2411  
FILED UNDER SEAL

ALPHARMA, INC., et al.

Defendants

\* \* \* \* \* \*\*\* \* \* \* \*

GOVERNMENT'S NOTICE OF ELECTION TO INTERVENE  
FOR PURPOSES OF SETTLEMENT AND MOTION TO  
PARTIALLY UNSEAL COMPLAINT

The United States of America, by its attorneys, Rod J. Rosenstein, United States Attorney for the District of Maryland, and undersigned counsel, pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4), notifies the Court of its election to **PARTIALLY** intervene for in this action for the purpose of settlement and moves to **PARTIALLY** unseal the complaint in this action.

1. This action was filed on September 18, 2006 by Debra Parks, a former employee of Alpharma Inc. The Complaint alleges *inter alia* that defendant Alpharma Inc. was liable under the False Claims Act for providing remuneration to physicians to induce prescriptions of Alpharma's branded drug, Kadian, a pain medication.

2. On March 16, 2010, Alharma entered into a Settlement Agreement with the United States pursuant to which it had agreed to pay \$42.5 million to settle the claim made in this action. The relator, in turn, agreed, that the Settlement Amount is fair, adequate and reasonable under the circumstances of the case. The relator has also agreed, in consideration of payment of the Settlement Amount to the United States, to dismiss the Complaint in this case against Alharma and co-defendants Alharma Branded Products Division, Inc., Faulding Laboratories, and Purepac Pharmaceutical Company, with the exception of the Section 3730(h) claim, which alleges wrongful termination for protected activities. The Settlement Agreement is attached hereto as Exhibit 1. That Agreement does not resolve the allegations against the fifth defendant in this case, who is not named above (hereafter, Unnamed Defendant), as the United States has not determined, as yet, whether intervention is appropriate with respect to the Unnamed Defendant.

3. The United States respectfully moves for a **PARTIAL** unsealing of the Complaint in this action in connection with the settlement between the United States and Alharma. Because the Government's investigation of the Unnamed Defendant continues, the Complaint should not be unsealed as to the allegations against that defendant. For the Court's convenience, the United

States has attached hereto a redacted version of the Complaint that may be unsealed, which eliminates the paragraphs that contain allegations against the Unnamed Defendant. The redacted Complaint is attached hereto as Exhibit 2.

Pursuant to provisions of the False Claims Act and its judicial gloss, once the United States declares its intention to intervene in a False Claims Act case, the seal is lifted. See *Under Seal v. Under Seal*, 326 F.3d 479, 1994 WL 283977 (4<sup>th</sup> Cir. 2003). As long as the Government's investigation continues as to a named defendant or defendants, the seal should remain in place as to those allegations.

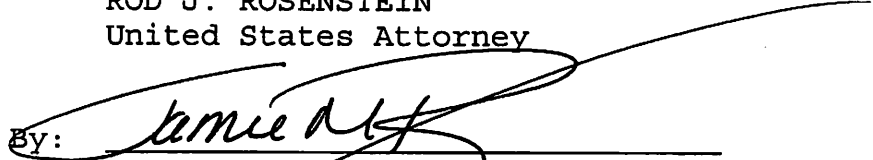
WHEREFORE, the United States respectfully requests that the Court enter an Order PARTIALLY unsealing: (a) this Notice of Election and Motion to Partially Lift Seal, (b) the redacted Complaint that is submitted contemporaneously with this Notice of Election and that contains the allegations against Alpharma Inc., Alpharma Branded Products Division, Inc., Faulding Laboratories, and Purepac Pharmaceutical Company, and (c) the Order Partially lifting the seal. The requested Order would continue the seal over all other documents filed in this case, including: all versions of the Complaint filed prior to the redacted Complaint;

and the Government's requests for extensions of the seal.

Respectfully submitted,

ROD J. ROSENSTEIN  
United States Attorney

By:

  
\_\_\_\_\_  
Jamie M. Bennett  
Assistant United States Attorney  
36 S. Charles Street 4<sup>th</sup> Floor  
Baltimore, Maryland 21201  
(410) 209-4800

Counsel for the United States

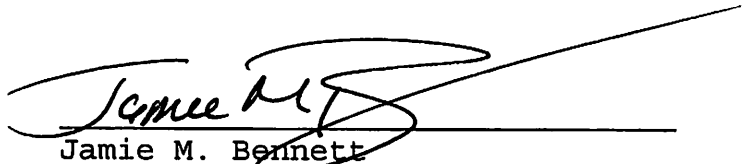
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA :  
ex rel. DEBRA PARKS, :  
 :  
 Plaintiffs, :  
 : FILED UNDER SEAL  
 v. : Civil NO. RDB-06-2411  
 :  
 ALPHARMA, INC., :  
 :  
 Defendants. :  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 16, 2010, a copy of the  
*United States' Notice of Intent to Intervene*, was sent first  
class mail, postage prepaid to

Morgan Carlo Downs & Everton  
Robert C. Morgan, Esq.  
Executive Plaza IV, Suite 100  
11350 McCormick Road  
Hunt Valley, MD 21031

  
\_\_\_\_\_  
Jamie M. Bennett  
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA :  
ex rel. DEBRA PARKS, :  
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 Plaintiffs, :  
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 :  
 ALPHARMA, INC., et al., :  
 :  
 Defendants. :  
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ORDER

Having read and considered the Motion of the United States to intervene and for a partial lifting of the seal, and for good cause shown, it is this \_\_\_\_\_ day of March, 2010, HEREBY:

**ORDERED** that this case shall be partially unsealed as to the allegations against Alpharma, Inc., Alpharma Branded Products Division, Inc., Faulding Laboratories, and Purepac Pharmaceutical Company, as set forth in the redacted Complaint that was filed with this Court on March \_\_\_\_, 2010, and this case shall remain sealed with respect to the allegations against the other remaining defendant in this case; and it is further:

**ORDERED** that this Order and the Government's Notice of Election to Intervene for Purposes of Settlement and Motion to Partially Unseal Complaint shall also be unsealed; and it is further:

ORDERED that the original Complaint and all other pleadings that have been filed in this case prior to the date of this Order, except for those that have been explicitly unsealed by the above provisions of this Order shall remain under seal, and that other subsequent and/or related filings in this case shall be filed under seal, except for the anticipated motion to dismiss defendants Alpharma, Inc., Alpharma Branded Products Division, Inc., Faulding Laboratories, and Purepac Pharmaceutical Company, which may be filed on the public record; and it is further

ORDERED that the Clerk of the Court shall provide an executed copy of this Order to Counsel for the government and counsel for the Relator.

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THE HONORABLE RICHARD D. BENNETT  
United States District Judge