

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. EDCV 06-55-GW Date December 13, 2011

Title *United States of America et al v. J-M Manufacturing Company, Inc.*

Present: The Honorable GEORGE H. WU, UNITED STATES DISTRICT JUDGE

Javier Gonzalez

None Present

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None Present

None Present

**PROCEEDINGS: (IN CHAMBERS): COURT ORDER: PLAINTIFF-IN-INTERVENTION  
LOS ANGELES DEPARTMENT OF WATER AND POWER'S MOTION  
FOR DISMISSAL (filed 11/15/11)**

Plaintiff-in-Intervention Los Angeles Department of Water and Power's Motion for Dismissal is currently on calendar for December 15, 2011 at 8:30 a.m. Pursuant to Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7-15, the Court finds that this matter is appropriate for decision without oral argument. The hearing calendared for December 15, 2011 is hereby vacated and the matter is taken off-calendar.

The Court's Ruling is attached hereto. Plaintiff-in-Intervention's motion is **GRANTED**.

Initials of Preparer JG

*United States ex rel. Hendrix v. J-M Mfg. Co., Inc., et al.*, Case No. CV-06-0055

Ruling on Motion of Intervenor Los Angeles Department of Water and Power for Dismissal

Plaintiff-in-Intervention the Los Angeles Department of Water and Power (“DWP”) moves for dismissal of its part of this case because none of the pipe at issue in this case is used in its water system. See Spacht Decl., Exhibit A to DWP’s Motion, Docket No. 519. *Qui tam* plaintiff John Hendrix does not oppose the motion and suggests that it should be decided without the need for oral argument. See Doc. No. 533.

California Government Code section 12652(e) provides that a political subdivision that intervenes and proceeds with an action under the California False Claims Act (“CFCA”) “shall have the primary responsibility for prosecuting the action” (though the *qui tam* plaintiff also has “the right to continue as a full party to the action”) and “may seek to dismiss the action for good cause notwithstanding the objections of the *qui tam* plaintiff if the *qui tam* plaintiff has been notified by the...political subdivision of the filing of the motion and the court has provided the *qui tam* plaintiff with an opportunity to oppose the motion and present evidence at a hearing.” Cal Gov’t Code § 12652(e)(1), (2)(A). As noted, the *qui tam* plaintiff here has had such notice and does not oppose the motion to dismiss. The relative merits of the action is one permissible consideration in determining whether “good cause” has been demonstrated in connection with such a request for dismissal, as are the purposes underlying the False Claims Act and the potential waste of government resources. See *United States v. Shasta Servs.*, 440 F.Supp.2d 1108, 1111 (E.D. Cal. 2006); *Laraway v. Sutro & Co., Inc.*, 96 Cal.App.4th 266, 275-76 (2002). As DWP is concerned, the action has no merit, and its further involvement herein would be a waste of government resources because it does not use the pipes at issues in its water systems.

For the above stated reasons, DWP’s Motion to Dismiss is GRANTED.