

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOHN DOE #1, et al.,)	
Plaintiffs,)	
)	
v.)	1:03-cv-00707 (EGS)
)	
ROBERT M. GATES,)	
SECRETARY OF DEFENSE, et al.,)	
Defendants.)	
)	

SETTLEMENT AGREEMENT

Plaintiffs, including John Doe No. 1, John Doe No. 2, John Doe No. 3, John Doe No. 4, Jane Doe No.1, and Jane Doe No. 2, and defendants the Commissioner of the Food and Drug Administration (FDA), the Secretary of the Department of Health and Human Services (HHS), and the Secretary of the Department of Defense (DoD) in their official capacities, through their undersigned counsel, enter into this Settlement Agreement for the purposes of settling plaintiffs' claim pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, for an award of attorneys' fees, costs, and litigation expenses in the above captioned action and in the appeal of that action, Rumsfeld v. John Doe No. 1, CA 04-5440 (D.C. Cir.), on the following terms.

1. The FDA and the DoD will pay to plaintiffs in full and final settlement of any and all claims for past, present, or future attorneys' fees, costs, and expenses the sum of \$226,900.00. Payment will be made by wire transfer of this sum to the bank account of McGuire Woods, L.L.P. pursuant to the wiring instructions attached hereto as Appendix A, or if wire transfer is not possible, by check(s) made out to McGuire Woods L.L.P. and sent by overnight mail to the offices of McGuire Woods, L.L.P. , 77 West Wacker Drive, Suite 4100, Chicago, Illinois 60601-

1818, Attn: John J. Michels, Esq. FDA and DoD will each be responsible for payment of 50% of the total \$226,900.00 payment. Neither defendant is responsible for the payment of the other defendant's share. Subject to the direction of plaintiffs, McGuire Woods will be responsible for allocating the total payment between all plaintiffs' counsel, expert witnesses, or any other individuals that may have a claim for all or part of this sum. FDA and DoD will use their best efforts to obtain payment as promptly as reasonably possible.

2. The payment described in paragraph 1 is in full and complete satisfaction of any and all claims for attorneys' fees, costs, and expenses incurred by plaintiffs for all of the work performed and costs and expenses incurred by plaintiffs or counsel for plaintiffs in the above captioned case and in the appeal of that case, Rumsfeld v. John Doe No. 1, CA 04-5440 (D.C. Circuit).

3. Plaintiffs, their heirs, administrators, successors, and assigns hereby release each defendant, any department, agency, or establishment thereof, and any former or current officials, officers, employees, agents, or successors thereof from any past, present, or future claims for attorneys' fees, costs, and expenses paid or incurred by plaintiffs relevant to the district court civil action or to its appeal referred to in paragraph 2.

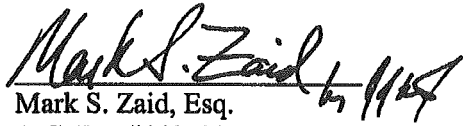
4. Within ten days of execution of this agreement by counsel for plaintiffs and defendants, the parties, by their attorneys, will execute and file, pursuant to Rule 41(a)(1)(ii), Fed. R. Civ. P., a stipulation of dismissal of this matter with prejudice due to the settlement of all plaintiffs' claims for attorneys' fees, expert fees, and costs incurred in the district court and appellate court cases referred to in paragraph 2. A copy of this stipulation is attached as Attachment B.

5. This Settlement Agreement does not constitute an admission by any defendant that a specific amount of attorneys' fees, costs, or expenses is required to be paid, or that its position with respect to any aspect of this case was not substantially justified. Nor does this Settlement Agreement constitute an admission of liability by any defendant on any aspect of this case.

Notwithstanding any other provisions herein, compliance with all applicable federal, state, and local tax requirements shall be the sole responsibility of plaintiffs and their attorneys.

6. The terms of this Settlement Agreement constitute the entire agreement of the parties as to attorneys' fees, costs, and/or expenses paid or incurred by plaintiffs relevant to the district court civil action or to the appeal of that civil action (as referred to in paragraph 2 above), and no prior statement, representation, agreement or understanding, oral or written, that is not contained herein, shall have any force or effect.

7. The below-signed counsel are authorized to enter into this Settlement Agreement on behalf of their respective clients. This Settlement Agreement may be executed by counsel in counterparts.



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Date: February 25, 2008



John J. Michels, Jr., Esq.
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Attorneys for the Plaintiffs

Date: February 25, 2008



RONALD J. WILTSIE
Civil Division
U.S. Department of Justice
P.O. Box 883
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(202) 307-1401
Attorney for the Defendants

Date: 28 Feb 2008

APPENDIX A

Wire instructions to McGuire Woods L.L.P.'s account:

WACHOVIA BANK, N.A. - Richmond, VA
1. ABA: 051400549 (Domestic Wires)
Swift Code: PNBPUS33 (International Wires)
Credit: McGuireWoods LLP Attorney's Account
Account Number: 2000002893857
Reference: John Michels, Jr--Client matter 7000000-0015
McGuireWoods Accounting Contact: Julia Aaron (804) 775-1224

IN THE UNITED STATES DISTRICT COURT
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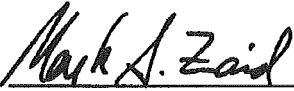
JOHN DOE #1, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 03-707 (EGS)
)	
ROBERT M. GATES, et al.,)	
)	
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STIPULATION OF DISMISSAL

The parties hereby stipulate to the dismissal of this civil action with prejudice pursuant to Rule 41(a)(1)(ii), Fed. R. Civ. P.

Date: February 25, 2008


Respectfully submitted,



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