

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

INFORMED CONSENT ACTION NETWORK,

Plaintiffs,

-against-

CENTERS FOR DISEASE CONTROL AND
PREVENTION,

Defendant.

**STIPULATION
& ORDER**

1:20-cv-01453 (ALC)

WHEREAS, the Centers for Disease Control and Prevention’s (“**CDC**”) Immunization Safety Office (“**CDC’s Safety Office**”), whose Director is Frank DeStefano, plays a role in ensuring the safety of administering the vaccines on the CDC’s Child and Adolescent Immunization Schedule;

WHEREAS, on June 8, 2018, Informed Consent Action Network (“**ICAN**” or “**Plaintiff**”) submitted a Freedom of Information Act (“**FOIA**”) request to the CDC as follows:

1. Any communications sent or received by Frank DeStefano to or from representatives, directors, officers, or employees of GlaxoSmithKline while the Acting Director or the Director of the Immunization Safety Office.
2. Any communications sent or received by Frank DeStefano to or from representatives, directors, officers, or employees of Sanofi while the Acting Director or the Director of the Immunization Safety Office.
3. Any communications sent or received by Frank DeStefano to or from representatives, directors, officers, or employees of Merck & Co. while the Acting Director or the Director of the Immunization Safety Office.

WHEREAS, on September 12, 2018, the CDC produced 281 pages of which 81 pages were fully withheld pursuant to Exemption (b)(5) which protects inter-agency or intra-agency

memorandums and letters including the deliberative process, and certain other pages contained redactions pursuant to Exemption (b)(6) which protects information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

WHEREAS, on February 19, 2020, Plaintiffs commenced a lawsuit in the United States District Court, Southern District of New York against the CDC demanding that it produce the communications responsive to the foregoing FOIA Requests;

WHEREAS, in the interests of resolving the litigation, the CDC produced a Vaughn Index referencing 289 pages on July 23, 2020, and 27 additional pages on August 4, 2020, reproduced pages that had previously contained Exemption (b)(5) redactions, produced copies of the 81 pages it had previously fully withheld pursuant to Exemption (b)(5) as well as any other pages or portions of pages it withheld pursuant to Exemption (b)(5), and continued to withhold information pursuant to Exemption (b)(6).

IT IS HEREBY STIPULATED AND AGREED, by and between the parties by and through their respective counsel that:

1. Pursuant to the CDC's representations that (a) the foregoing constitutes the complete universe of responsive documents (any and all email communications sent to or received from Frank DeStefano, while Director of the Immunization Safety Office, to or from GlaxoSmithKline, Sanofi, or Merck & Co. representatives, officers, directors, or employers), (b) discovered after an adequate search, the above-captioned action is voluntarily dismissed, with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), each side to bear its own costs, attorney fees, and expenses;

2. ICAN reserves all rights to seek additional documents, whether or not related to this request, through pending or future FOIA requests to the CDC or any other governmental agency as appropriate and nothing herein shall restrict such right; and

3. This stipulation may be signed in counterparts and electronic (PDF) or fax signatures may be deemed originals for all purposes.

Dated: November 20, 2020
New York, New York

SIRI & GLIMSTAD LLP
Attorney for Plaintiffs

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(Signature with permission)

Dated: November 20, 2020
New York, New York

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SO ORDERED:

ANDREW L. CARTER, JR. U.S.D.J.

Dated: New York, New York
November __, 2020