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VIA ECF

October 1, 2024

Honorable Mark T. Pittman
501 West 10th Street, Room 401
Fort Worth, Texas 76102-3673

Re: *Public Health & Med. Pros. For Transparency v. Food and Drug Administration*
US District Court for the Northern District of Texas; Case No. 4:21-cv-01058-P

Dear Judge Pittman:

We write on behalf of the plaintiff, PHMPT, in the above-referenced action as a follow-up to our recent telephonic conference. As you are aware, the parties are set to begin briefing the adequacy of search issue on October 17, 2024, with briefing to be completed by December 5, 2024.

Because FDA would not agree to Plaintiff's proposal to bring this case to a resolution within a reasonable period of time, Plaintiff is willing to waive the right to challenge the redactions and withholdings in the production to date. This will allow the parties to brief, and the Court to enter an order concerning, the adequacy of search issue. The Court may then close the case, and the parties can brief attorneys' fees and costs if no agreement is reached.

We do note that if any individual member(s) of PHMPT wishes to challenge a redacted or withheld document from this production, that member may submit a new FOIA request with FDA on his or her behalf (as opposed to on behalf of PHMPT) and go through the normal administrative course to attempt to obtain the document without any redactions. Should the administrative process not provide the desired outcome, that member may then litigate to challenge the redactions or withholdings in a separate litigation from the instant litigation, and if we are counsel, we would seek to relate that case to the instant litigation.

PHMPT's hope is that waiving its right to challenge redactions will allow this litigation to continue more efficiently and to be resolved faster despite the non-cooperation of FDA.

The undersigned has informed FDA of this plan. If there are any other issues the Court would like the parties to address prior to the briefing for adequacy of search is scheduled to begin, the parties welcome addressing those issues and respectfully request advanced notice of same. Thank you for your consideration.

Very truly yours,

/s/ Elizabeth A. Brehm

Elizabeth A. Brehm
745 Fifth Avenue, Suite 500
New York, NY 10151
(888) 747-4529
ebrehm@sirillp.com