

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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| Richard A. Horn, |) | |
| |) | |
| |) | |
| Plaintiff, |) | No. 1:94-CV-1756 (RCL) |
| |) | |
| v. |) | |
| |) | |
| Franklin Huddle, Jr. |) | |
| and Arthur Brown, |) | |
| |) | |
| Defendants. |) | |
| |) | |

**UNITED STATES’ MEMORANDUM SUPPORTING THE REQUEST TO VACATE
THIS COURT’S JANUARY 15 AND FEBRUARY 6 OPINIONS AND ORDERS**

For reasons similar to those already identified in the United States’ motion to vacate, *see* Dkt. 508, the United States strongly supports the vacatur of this Court’s January 15, 2009 and February 6, 2009 Orders and accompanying opinions. Separate from the reasons identified by the movant, the vacatur of those orders is in the interests of the United States and the public interest. Accordingly, the United States supports the motion for the reasons set forth below.

The Court’s February 6, 2009 Order invited Plaintiff to seek sanctions for alleged misconduct. Likewise, the January 15, 2009 Order resolved Plaintiff’s earlier effort to impose sanctions. The continuation of any sanctions proceedings in this action could require litigation over access to classified and other privileged materials. Consistent with the obligation of the Executive branch to protect unauthorized access to classified national security information, the United States strongly supports vacating the January and February orders and accompanying opinions so as to ensure that all proceedings associated with this case are concluded, which would thereby reduce the risk of unauthorized disclosure of classified information and

information possibly subject to the United States' assertion of the state secrets privilege. In addition to furthering the government's interest, vacatur and the resulting protection of such classified and privileged information from unauthorized disclosure is also manifestly in the public interest.

In light of the settlement of this action by the parties and the United States, the Government believes that any ancillary proceedings arising out of the now settled case should also come to an end and the underlying orders and accompanying opinions should be vacated to further the parties' global resolution of this matters. Vacatur would indeed permit the parties and the United States to achieve the complete and final global resolution of this matter that the settlement envisions. And Plaintiff's withdrawal of his sanctions motion reflects the concerted effort of the parties to achieve closure of all issues raised in this case. Plaintiff's withdrawal also confirms that he had sought only sanctions for civil contempt.

For the foregoing reasons as well as those identified in the United States' separate motion for vacatur of the July and August orders and opinions, the Court should vacate the January and February orders and opinions to assist the parties in effectuating the settlement and to further the public interest.

Dated: November 3, 2009

Respectfully submitted,

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