

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

DR. MARK GEIER, *et al.*,

Plaintiffs,

vs.

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES, *et al.*,**

Defendants.

Case No. 05-CV-1749(TFH)

**AMERICAN ACADEMY OF PEDIATRICS' OPPOSITION TO
PLAINTIFFS' MOTION TO DISMISS WITHOUT PREJUDICE**

American Academy of Pediatrics ("AAP"), previously a defendant in this case, files this opposition to Plaintiffs' Motion to Dismiss Without Prejudice for the purpose of noting that the Court previously dismissed this action as against AAP *with* prejudice. *See* Mar. 10, 2006 Order (Dkt. No. 29). Accordingly, AAP respectfully requests that any order of dismissal without prejudice that the Court may elect to enter make clear that it relates only to the remaining defendants.

In addition, AAP notes that plaintiffs attached to their motion a memorandum of points and authorities in support of their third consent motion for an enlargement of time to file an opposition to AAP's motion to dismiss and/or for summary judgment. This is a duplicate of a memorandum previously filed with the Court, *see* Dkt. No. 27, and presumably was filed in error by plaintiffs. In an abundance of caution, AAP points out that, its motion to dismiss having been granted, there is no deadline to extend as to AAP's motion.

Dated: April 17, 2006

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.

By: /s/ Jay Ward Brown

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CERTIFICATE OF SERVICE

I hereby certify that on April 17, 2006, I caused true and correct copies of the foregoing American Academy of Pediatrics' Opposition to Plaintiffs' Motion to Dismiss Without Prejudice, to be served by the Court's Electronic Case Filing System upon all parties scheduled for electronic notice, and on the following counsel via first-class mail:

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/s/ Adam J. Rappaport
Adam J. Rappaport