

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

INFORMED CONSENT ACTION NETWORK,

Plaintiff,

v.

NATIONAL INSTITUTES OF HEALTH,

Defendant.

21 Civ. 7331 (LJL)

STIPULATION OF DISMISSAL

WHEREAS, on August 20, 2021, Informed Consent Action Network (“ICAN”) submitted a Freedom of Information Act request (the “FOIA Request”) to the National Institutes of Health (“NIH”), which was assigned case number 56917, that sought the following records (footnotes omitted):

At a July 20, 2021 Senate hearing at which Dr. Anthony Fauci (“Dr. Fauci”) appeared and had an exchange with Senator Rand Paul (“Senator Paul”) regarding a paper titled *A SARS-like cluster of circulating bat coronaviruses shows potential for human emergence* (the “paper”), Dr. Fauci stated: “This paper that you are referring to was judged by qualified staff up and down the chain as not being gain-of-function.”

Please provide any and all documents reflecting the judgment and/or conclusions by the “qualified staff” to which Dr. Fauci was referring which concluded that the paper is “not ... gain-of-function.”

WHEREAS, on August 31, 2021, ICAN filed a Complaint for Declaratory and Injunctive Relief in the United States District Court, Southern District of New York against NIH seeking expedited processing and production of records, if any, responsive to the FOIA Request;

WHEREAS, the parties agreed that the paper referred to by Dr. Fauci at the July 20, 2021, Senate hearing, which is the subject of the FOIA Request, is entitled “Discovery of a rich gene

pool of bat SARS related coronaviruses provides new insights into the origin of SARS coronavirus,” published on or about November 30, 2017, in PLOS Pathogens, *see* Dkt. No. 15;

WHEREAS, NIH has released records in response to the FOIA Request on November 2, 2021, January 10, 2022, and January 14, 2022;

WHEREAS, ICAN believes the above-described response from NIH now resolves all claims asserted in this action;

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

1. Plaintiff hereby releases and discharges NIH and the United States of America, including its agencies, departments, officers, employees, servants, and agents, from any and all claims and causes of action that Plaintiff asserted, or could have asserted, in this litigation arising out of the FOIA Request.

2. That 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;


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

4. That this stipulation may be signed in counterparts, and that electronic (PDF) signatures may be deemed originals for all purposes.

* * *

Dated: February 2, 2022
New York, New York

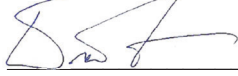
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Dated: February 2, 2022
New York, New York

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SO ORDERED:



HON. LEWIS J. LIMAN, U.S.D.J.

Dated: New York, New York
February 10, 2022