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17 **UNITED STATES DISTRICT COURT**

18 **NORTHERN DISTRICT OF CALIFORNIA**

19 **SAN FRANCISCO DIVISION**

20 UNITED STATES *ex rel.* JEFFREY A. SMITH,)
 21 Plaintiff,)
 22 v.)
 23 SCIOS, INC. and JOHNSON & JOHNSON,)
 24 Defendants.)
 25

No. C 05-4055 CRB

**UNITED STATES' AND RELATOR'S
 STIPULATION OF DISMISSAL;
 [PROPOSED] ORDER**

1 Subject to the Court's approval, Plaintiff-Relator Jeffrey A. Smith and the United
2 States of America hereby stipulate to the dismissal of this action without prejudice under Fed. R.
3 Civ. P. 41(a)(1). No answer has been served or filed, and no parties other than the United States
4 and the Relator have appeared in this action.

5 Respectfully submitted,

6 MICHAEL F. HERTZ
7 Deputy Assistant Attorney General

8 JOSEPH P. RUSSONIELLO
9 United States Attorney

10 Dated: May 13, 2009

By:

Sara Winslow
11 SARA WINSLOW
12 JULIE A. ARBUCKLE
13 Assistant United States Attorneys

14 Dated: May 13, 2009

By:

Joyce R. Branda
15 JOYCE R. BRANDA
16 PATRICIA R. DAVIS
17 RENÉE S. ORLEANS
18 Civil Division, U.S. Department of Justice

19 Attorneys for the United States

20 BREMER WHYTE BROWN & O'MEARA LLP

21 Dated: May 12, 2009

By:

Kenn G. Bremer
22 KENN G. BREMER
23 Attorneys for *Qui Tam* Plaintiff Jeffrey Smith

24 **[PROPOSED] ORDER**

25 PURSUANT TO STIPULATION, IT IS HEREBY ORDERED that this action is
26 dismissed without prejudice under Fed. R. Civ. P. 41(a)(1).

27 IT IS SO ORDERED.

Dated: May 14, 2009

HON. CHARLES R. BREYER
United States District Court

