

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Boyd N. Boland

Civil Action No. 09-cv-00411-WYD-BNB

REGENERATIVE SCIENCES, INC.

Plaintiff,

v.

UNITED STATES FOOD AND DRUG ADMINISTRATION;
FRANK TORTI, M.D., in his Official Capacity as Commissioner of the United States Food and Drug Association;
MARY A. MALARKEY, in her Official Capacity as Director of the Office of Compliance and Biologics Quality Center for Biologics Evaluation and Research;
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES;
CHARLES E. JOHNSON, in his Official Capacity as Acting Secretary of the United States Department of Health and Human Services;

Defendants.

ORDER

Counsel appeared this morning for a scheduling conference. The defendants contend that this is an action for review on an administrative record and is exempt under Fed. R. Civ. P. 26(a)(1)(B)(i) from the initial disclosure requirements and under D.C.COLO.LCivR 16.2(B)(2) from the entry of a scheduling order for discovery. The plaintiff contends that there are factual matters and matters subject to the development of expert testimony which must be developed for presentation at a trial.

IT IS ORDERED that on or before **May 20, 2009**, the defendants shall file a motion seeking to exempt this case disclosures, discovery, and expert witnesses under Fed. R. Civ. P.

26(a)(1)(B)(i) and D.C.COLO.LCivR 16.2(B)(2). The plaintiff shall file a response on or before **June 1, 2009**.

Dated May 5, 2009.

BY THE COURT:

s/ Boyd N. Boland
United States Magistrate Judge