

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

<p>SPECIALIST JEREMY HALL, <u>et al.</u>,) Plaintiffs,) v.) MAJOR FREDDY J. WELBORN, <u>et al.</u>,) Defendants.)</p>) Case No. 08-2098-JWL-DJW))
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**JOINT MOTION TO CONTINUE SCHEDULING CONFERENCE
AND TO STAY ALL PRETRIAL AND RULE 26 PROCEEDINGS
PENDING RESOLUTION OF DEFENDANTS' MOTION TO DISMISS**

Plaintiffs, Jeremy Hall and the Military Religious Freedom Foundation, and Defendants, Robert Gates and Freddy J. Welborn, in their official capacities, by and through undersigned counsel, hereby move the Court to continue the scheduling conference now set for October 7, 2008, and to stay all pretrial and Rule 26 proceedings, until Defendants' motion to dismiss has been resolved. In support of this motion, the parties state as follows:

1. The Court has set a scheduling conference in this matter for October 7, 2008, at 3:00 p.m. See Dkt. # 12. The Court has also directed the parties to file a report of their Rule 26(f) planning conference by September 30, 2008. Id.
2. Pending before the Court is a motion to dismiss filed by Defendants on July 8, 2008. See Dkt. #8. In that motion, Defendants assert that this case should be dismissed in its entirety pursuant to Rule 12(b)(1) because Plaintiffs lack standing, have failed to exhaust intramilitary remedies, and assert claims that are nonjusticiable. Id.
3. Plaintiffs' response to Defendants' motion to dismiss is currently due on October 15, 2008. See Dkt. #14.

4. The parties expect that Defendants' motion to dismiss, if granted, will dispose of all legal issues and result in dismissal of this action. Accordingly, to conserve judicial resources and minimize litigation costs, there is good cause to defer the scheduling conference, and to stay all pretrial and Rule 26 proceedings, until Defendants' motion to dismiss has been resolved.

5. All parties join in this motion and consent to the relief requested herein.

WHEREFORE, the parties respectfully request that the Court continue the scheduling conference now set for October 7, 2008, and stay all pretrial and Rule 26 proceedings, until Defendants' motion to dismiss has been resolved.

Dated: September 24, 2008

Respectfully submitted,

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ELECTRONICALLY FILED

CERTIFICATE OF SERVICE

I hereby certify that on this date, September 24, 2008, the foregoing was electronically filed with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following:

Counsel for Plaintiffs:

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I further certify that on this date the foregoing document and the notice of electronic filing were mailed by first-class mail to the following non-CM/ECF participants:

None.

/s/ Eric B. Beckenhauer
ERIC B. BECKENHAUER
Trial Attorney
U.S. Department of Justice
