

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

NATURAL RESOURCES DEFENSE )  
COUNCIL, INC.; CENTER FOR SCIENCE )  
IN THE PUBLIC INTEREST; FOOD )  
ANIMAL CONCERNS TRUST; PUBLIC )  
CITIZEN, INC.; and UNION OF )  
CONCERNED SCIENTISTS, INC., )

Plaintiffs,

v.

UNITED STATES FOOD AND DRUG )  
ADMINISTRATION; MARGARET )  
HAMBURG, in her official capacity as )  
Commissioner, United States Food and Drug )  
Administration; CENTER FOR )  
VETERINARY MEDICINE; BERNADETTE )  
DUNHAM, in her official capacity as )  
Director, Center for Veterinary Medicine; )  
UNITED STATES DEPARTMENT OF )  
HEALTH AND HUMAN SERVICES; and )  
KATHLEEN SEBELIUS, in her official )  
capacity as Secretary, United States )  
Department of Health and Human Services, )

Defendants.

11 CIV 3562 (THK)  
ECF Case

**DECLARATION OF  
MITCHELL S. BERNARD**

I, Mitchell S. Bernard, declare as follows:

1. I serve as counsel for plaintiffs in this proceeding. I am a member in good standing of the bar of the State of New York and am admitted to practice before this Court. I have personal knowledge of the facts stated herein.

2. Attached as Exhibit A is a true and correct copy of the U.S. Food and Drug Administration's (FDA's) Final Response to Citizen Petition, New Dkt. No. FDA-1999-P-1286 (Nov. 7, 2011).

3. Attached as Exhibit B is a true and correct copy of FDA's Final Response to Citizen Petition, New Dkt. No. FDA-2005-P-0007 (Nov. 7, 2011).

4. Attached as Exhibit C is a true and correct copy of the Comments of the Animal Health Institute on FDA Draft Guidance No. 209, Document No. FDA-2010-D-0094-0403 (Aug. 27, 2010).

5. Attached as Exhibit D is a true and correct copy of the Comments of Alpharma, LLC, on FDA Draft Guidance No. 209, Document No. FDA-2010-D-0094-0392 (Aug. 25, 2010).

6. Attached as Exhibit E is a true and correct copy of the Comments of the American Farm Bureau Federation on FDA Draft Guidance No. 209, Document No. FDA-2010-D-0094-0386 (Aug. 26, 2010).

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge, information, and belief.

Executed on February 21, 2012, at New York, New York.

s/ Mitchell S. Bernard  
Mitchell S. Bernard