

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

Justin SHARRATT,)	
)	
Plaintiff,)	CIVIL ACTION NO. 3:08-229
)	
v.)	
)	JUDGE GIBSON
John MURTHA,)	
)	Electronically Filed
Defendant.)	

UNITED STATES' MOTION FOR SUBSTITUTION OF PARTY

The United States of America, by its attorneys and pursuant to the Federal Employees Liability Reform and Tort Compensation Act of 1988 §§ 5, 6, Pub. L. No. 100-694, 102 Stat. 4563 (1988) (codified at 28 U.S.C. § 2679) ("Westfall Act"), respectfully moves the Court to issue an order substituting the United States for Congressman John Murtha with respect to Plaintiff's state law causes of action, Counts IV-VI, inclusive. For these counts, the United States respectfully submits that Congressman Murtha should be dismissed from this action with prejudice. Under the Westfall Act, the United States is the only permissible defendant for state law claims against federal officials for actions occurring within the scope of their employment. 28 U.S.C. § 2679(b). In further support of this motion, the United States relies upon its supporting memorandum and Exhibit 1 thereto, which is being filed concurrently with this motion. A proposed order also accompanies this motion.

Dated: April 21, 2009

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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Dated: April 21, 2009

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