

UNITED STATES OF AMERICA
BEFORE THE FOOD AND DRUG ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

In the matter of)
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)
)
LAHAYE CENTER FOR ADVANCED)
EYE CARE OF LAFAYETTE,)
D/B/A LAHAYE TOTAL EYE CARE,)
)
a corporation,)
)
and)
)
LEON C. LAHAYE,)
)
an individual.)

FDA Docket No. 02H-0443

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**JOINT MOTION TO STAY PROCEEDING
TO PERMIT EXECUTION OF SETTLEMENT DOCUMENT**

Pursuant to 21 C.F.R. § 17.32, the United States and Respondents Dr. Leon C. LaHaye and the LaHaye Center for Advanced Eye Care of Lafayette move for an order staying this proceeding for an additional seven days to permit the preparation and execution of a settlement document resolving this proceeding. In support of the motion, the parties aver as follows:

1. The parties conducted a settlement meeting on September 17, 2003. The meeting resulted in agreed terms for a proposed settlement that, when finalized, would resolve this lawsuit. The parties have been negotiating the terms of the settlement document.
2. The proposed stay would afford an opportunity for the parties to finalize the settlement document, while avoiding the time and expense of ongoing litigation. For example, discovery in this action closes on October 22, 2003.¹ Absent a stay, the Government would need

¹ The dates in this motion take into account the prior twenty-one day stay.

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to depose Dr. LaHaye and four of his key employees before this deadline, as a precaution in case the parties' efforts to finalize the settlement failed.² This risks causing both parties to spend time and money on discovery that the settlement would obviate. Likewise, under the current scheduling order, the parties must file dispositive motions by November 24, 2003. Without a stay, the parties would need to begin preparing these motions while attempting to wrap up the settlement.

3. The extension to the prior stay avoids the time and expense associated with these activities. More important, it permits the parties to focus their efforts on preparing and executing a settlement document.

4. The parties seek an additional extension of the stay of seven days. If the parties fail to conclude the settlement within that period, they will provide the Court with a proposed revised scheduling order that will govern the disposition of this proceeding.³ The parties will file the proposed revised scheduling order within seven days of the expiration of this additional stay.

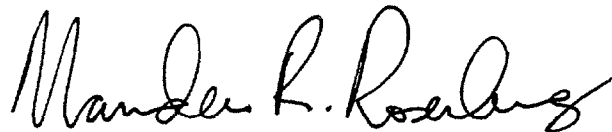
² The Government had scheduled the depositions for September 23-25, 2003, but given the outcome of last week's meeting, the parties agreed to continue the depositions pending resolution of this motion.

³ The proposed scheduling order would provide the parties with time to complete discovery and conduct the other activities remaining under the current scheduling order.

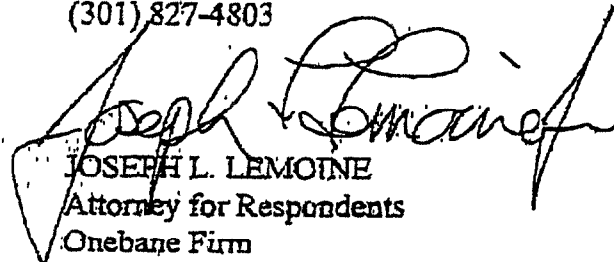
Accordingly, the parties respectfully request the Court to issue an order staying this action for a period of seven days. A proposed Order is attached.

DATED: October 14, 2003

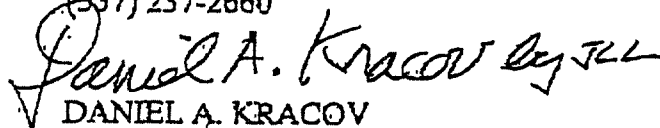
Respectfully submitted,



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ORDER

Pending before the Court is the parties' Joint Motion To Stay Proceeding To Permit Execution of Settlement Document. For good cause shown, it is ORDERED that the motion is GRANTED. It is further ORDERED that this matter is stayed for seven days. It is further ORDERED that, if the parties have not filed a final settlement document within seven days after entry of this ORDER, within seven days thereafter they shall file a proposed revised

scheduling order. The Court will then enter a revised scheduling order that will govern the disposition of this proceeding.

Dated: October _____, 2003

DANIEL J. DAVIDSON
Administrative Law Judge
Food and Drug Administration
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Rockville, MD 20857