

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

MARY TALLEY BOWDEN,

Plaintiff,

v.

U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES, *et al.*,

Defendants.

Case No. 3:22-cv-184

JUDGE JEFFREY V. BROWN

STIPULATION OF DISMISSAL

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiffs Robert L. Apter; Mary Talley Bowden; and Paul E. Marik,¹ and Defendants U.S. Department of Health and Human Services; Xavier Becerra, in his official capacity as Secretary of Health and Human Services; U.S. Food and Drug Administration (FDA); and Robert M. Califf, in his official capacity as Commissioner of Food and Drugs, stipulate to the dismissal with prejudice of all claims in the above-captioned case because the parties have reached a settlement.

In exchange for Plaintiffs' agreement to dismiss all claims in this case, Defendants agree to, within 21 calendar days:

¹ Dr. Apter and Dr. Marik were dismissed from this case on February 5, 2024, ECF No. 66, but join in this Stipulation of Dismissal.

- Retire FDA’s Consumer Update entitled, *Why You Should Not Use Ivermectin to Treat or Prevent COVID-19*, originally posted on March 5, 2021, and revised on September 7, 2021 (ECF No. 12, Ex. 1), while retaining the right to post a revised Consumer Update.
- Delete and not republish (1) FDA’s Twitter, LinkedIn, and Facebook posts from August 21, 2021 (ECF No. 12, Exs. 4, 5), that read, “You are not a horse. You are not a cow. Seriously, y’all. Stop it.”; (2) FDA’s Instagram post from August 21, 2021 (ECF No. 12, Ex. 6), that reads, “You are not a horse. Stop it with the #ivermectin. It’s not authorized for treating #COVID.”; (3) FDA’s Twitter post from April 26, 2022 (ECF No. 12, Ex. 7), that reads, “Hold your horses, y’all. Ivermectin may be trending, but it still isn’t authorized or approved to treat COVID-19.”; and (4) all other social media posts on FDA accounts that link to *Why You Should Not Use Ivermectin to Treat or Prevent COVID-19* (ECF No. 12, Ex. 1).

FDA has already retired the Frequently Asked Questions (ECF No. 12, Exs. 2, 3) at issue in this case.

All materials will be archived, as required by federal law.

Neither this Stipulation of Dismissal nor the actions described herein shall constitute an admission or evidence of any issue of fact or law, wrongdoing, misconduct, or liability on the part of any party to this litigation.

March 21, 2024

Respectfully submitted,

/s/ Jared M. Kelson

R. Trent McCotter

So. Dist. No. 3712529

Texas Bar No. 24134174

Michael Buschbacher (*pro hac vice*)

D.C. Bar No. 1048432

Jared M. Kelson (*pro hac vice*)

Attorney-In-Charge

D.C. Bar No. 241393

Laura B. Ruppalt

So. Dist. No. 3869876

V.A. Bar No. 97202

Boyden Gray PLLC

801 17th St NW, Suite 350

Washington, DC 20006

(202) 706-5488

tmccotter@boydengray.com

jkelson@boydengray.com

Counsel for Plaintiffs

/s/ Isaac C. Belfer

Isaac C. Belfer

Attorney-In-Charge

D.C. Bar No. 1014909

Oliver McDonald

Of Counsel

N.Y. Bar No. 5416789

Trial Attorneys

Consumer Protection Branch

Civil Division

U.S. Department of Justice

PO Box 386

Washington, DC 20044-0386

(202) 305-7134 (Belfer)

(202) 305-0168 (McDonald)

(202) 514-8742 (fax)

Isaac.C.Belfer@usdoj.gov

Oliver.J.McDonald@usdoj.gov

Counsel for Defendants