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**ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

**MODEL 1911, .45 CALIBER PISTOL,
UNKNOWN MANUFACTURER, SERIAL
NUMBER KTO 03041002;
MODEL AR15, .223 CALIBER FIREARM,
UNKNOWN MANUFACTURER, NO
SERIAL NUMBER;
MODEL 1911, .45 CALIBER PISTOL,
UNKNOWN MANUFACTURER, SERIAL
NUMBER 03041001; and
RIFLE, NO CALIBER, UNKNOWN
MANUFACTURER, NO SERIAL
NUMBER,**

Defendants.

CR 06-85-BU-SEH

**UNITED STATES' VOLUNTARY
MOTION TO DISMISS CIVIL
FORFEITURE PROCEEDING**

The Court has determined that this matter will not be stayed pending the outcome of related criminal charges. As this action would provide an opportunity for discovery which may adversely impact the criminal case in New Hampshire, the United States has determined that further pursuit of this matter as a civil forfeiture is not in the best interests of the United States and therefore moves the Court for its order dismissing this action. Fed. R. Civ. P. 41(a)(2).

Claimant Celata, by and through his attorney, Quentin M. Rhoades, did not give a position on the United States' motion. Although, he does not want to continue further litigation.

A proposed Order accompanies the United States' motion for the Court's convenience.

DATED this 8th day of February, 2007.

WILLIAM W. MERCER
United States Attorney

/s/Paulette L. Stewart
PAULETTE L. STEWART
Assistant U.S. Attorney
United States Attorney's Office
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2007, a copy of the foregoing was served on the following persons by the following means:

1,2 CM/ECF

 Hand Delivery

 Mail

 Overnight Delivery Service

 Fax

 E-mail

1. Clerk, U.S. District Court
2. Quentin M. Rhoades
Sullivan, Tabaracci & Rhoades
Attorney for Claimant Celata

/s/ Paulette L. Stewart
Paulette L. Stewart
Assistant U.S. Attorney
United States Attorney's Office
Attorney for Plaintiff