

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:06-cv-1913-MSK-MEH

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

v.

MEDEGEN MEDICAL PRODUCTS, LLC,

Defendant.

**NOTICE OF SETTLEMENT AND
JOINT MOTION FOR APPROVAL OF STIPULATED DISMISSAL**

Rule 7.1 Certification: The Parties, through Defendant's counsel Jonathan E. Kaplan and Plaintiff EEOC's counsel Nancy Weeks, respectfully request that the Court enter an Order approving the attached Stipulation for Dismissal with Prejudice.

In support thereof, the Parties state:

1. The parties have successfully resolved this matter and submit the attached Settlement Agreement for the Court's review.
2. As the parties have resolved the issues to their satisfaction, they jointly request that the Court sign the Stipulation for Dismissal with Prejudice.

Dated: October 11, 2006

Respectfully submitted,

MARY JO O'NEILL
Regional Attorney

s/ Nancy A. Weeks
NANCY A. WEEKS
Supervisory Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION

Denver Field Office
303 E. 17th Avenue, Suite 510
Denver, Colorado 80203
Telephone: (303) 866-1947
Facsimile: (303) 866-1375
nancy.weeks@eeoc.gov

Attachment B
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:06-cv-1913-MSK-MEH

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

v.

MEDEGEN MEDICAL PRODUCTS, LLC,

Defendant.

STIPULATION FOR DISMISSAL WITH PREJUDICE

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii), it is hereby stipulated by the parties that all of Plaintiff's claims in the above-captioned action against Defendant shall be dismissed with prejudice, each party to bear their own costs, attorneys' fees, and expenses, provided that the parties further stipulate that the Court shall retain jurisdiction over this matter solely to enforce the terms of the attached Settlement Agreement, should such be necessary.

SO ORDERED this _____ day of _____, 2006.

United States District Judge

STIPULATED AND APPROVED:

Nancy A. Weeks
Supervisory Trial Attorney
EEOC Denver Field Office
303 East 17th Avenue, Suite 510
Denver, CO 80203
(303) 866-1947
nancy.weeks@eeoc.gov
Attorney for Plaintiff EEOC

Jonathan E. Kaplan
Kiesewetter Wise Kaplan Prather PLC
3725 Champion Hills Drive, Suite 3000
Memphis, Tennessee, 28125
(901) 795-6695

Attorneys for Defendant

Attachment A
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:06-cv-1913-MSK-MEH

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

v.

MEDEGEN MEDICAL PRODUCTS, LLC,

Defendant.

SETTLEMENT AGREEMENT

This Settlement Agreement (hereafter “Agreement”) is willingly and voluntarily entered into between the Equal Employment Opportunity Commission (hereafter “Commission” or “EEOC”), an agency of the United States government, and Medegen Medical Products, LLC (hereafter “Medegen” or the “Company”).

In January, 2003, Medegen laid off a number of employees from its Colorado facilities, including Robert Marshall, Robert Esselborn, Cathy Schnabel, Irene Price, Sherrie Neil, Ronald Bracey, Donald Gibson, and Gregory Woznicki.

On or about September 9, 2003, Robert Marshall (EEOC Charge No. 320-2003-02029), Robert Esselborn (EEOC Charge No. 320-2003-02030), Cathy Schnabel (EEOC Charge No. 320-2003-02031), Irene Price (EEOC Charge No. 320-2003-02032), Sherrie Neil (EEOC Charge No. 320-2003-02033), and Ronald Bracey (EEOC Charge No. 320-2003-02034) (hereafter collectively “Charging Parties”) filed Charges of Discrimination with EEOC alleging that

Medegen discriminated against them because of their age by treating them less favorably than younger workers in selecting them for layoff from the Company's Colorado facilities in January, 2003, which Charges were amended on or about May 6, 2005.

EEOC alleges that Medegen discriminated against Robert Marshall, Robert Esselborn, Cathy Schnabel, Irene Price, Sherrie Neil, Ronald Bracey, Donald Gibson, and Gregory Woznicki because of their age by treating them less favorably than younger workers in selecting them for layoff from the Company's Colorado facilities in January, 2003.

Medegen denies that it has discriminated against Robert Marshall, Robert Esselborn, Cathy Schnabel, Irene Price, Sherrie Neil, Ronald Bracey, Donald Gibson, or Gregory Woznicki because of their age or that it treated them less favorably than younger workers in selecting them for layoff in January, 2003.

EEOC filed suit against Medegen in the case of *EEOC v. Medegen Medical Products, LLC*, Civil Action No. 1:06-cv-1913-MSK-MEH, pending in the United States District Court for the District of Colorado (hereafter the "Lawsuit").

Prior to the filing of the Lawsuit, the parties agreed to settle fully, finally, and forever all of the claims that EEOC brought or could have brought against Medegen in the Lawsuit.

Accordingly, in consideration of the terms, conditions, and promises contained in this Agreement, and for other good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged by and for EEOC and Medegen, the parties hereby agree as follows:

1. The parties stipulate that the Court has jurisdiction to enforce the terms of this Agreement.

2. The term of this Agreement shall be eighteen (18) months from the date of execution of this Agreement or until all of the payments under Paragraph 5 below have been made by Medegen, whichever is longer.

3. This Agreement resolves all claims arising out of the issues and claims in the Lawsuit and all individual claims that could be asserted by the employees named herein. This Agreement resolves all claims for equitable relief, damages, or any other type of monetary relief whatsoever that were brought or could have been brought by EEOC in the Lawsuit as well as any other claims that could have been brought by the individual employees named herein. EEOC does hereby fully, finally, and forever release Medegen Medical Products, LLC and its current and former parent, subsidiaries, divisions, and affiliated or related companies, and each of their current and former members, owners, stockholders, officers, directors, predecessors, successors, assigns, agents, representatives, employees, trustees, heirs, executors, administrators, and attorneys, and all persons acting by, through, under, or in concert with any of them (hereafter collectively referred to as "Medegen Released Parties"), of and from any and all complaints, claims, demands, controversies, actions, causes of action, suits, rights, damages, and costs, (including all statutory claims for attorneys' fees or costs), whether in law or equity, arising under the Age Discrimination in Employment Act of 1967, as amended, and regarding any aspect of the January, 2003 reduction in force and layoff at Medegen's Colorado facilities. This Agreement specifically includes, but not by way of limitation, all matters and claims asserted by EEOC against Medegen Released Parties in the Lawsuit, together with any and all matters, rights, or claims which might or could have been asserted by EEOC against Medegen Released Parties in any charge, action, suit, or claim arising under the ADEA and regarding any aspect of the January, 2003 reduction in force and layoff at Medegen's Colorado facilities. EEOC further

agrees not to use any of the above-referenced Charges of Discrimination filed by the Charging Parties as the jurisdictional basis for filing any other lawsuits against Medegen.

4. Contemporaneously with the execution of this Agreement, EEOC and Medegen, by their respective counsel, shall enter into and execute a Stipulation of Dismissal With Prejudice of the Lawsuit pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure in the form attached to this Agreement as Attachment "A," which shall be filed with the Court. It is expressly understood and agreed by the parties that all of the commitments set forth in this Agreement are contingent upon the dismissal with prejudice of all of EEOC's claims against Medegen in the Lawsuit.

5. In full settlement of all monetary claims on behalf of Charging Parties that could have been asserted by the EEOC or by the individuals in their own cases, Medegen will pay the total gross sum of Five Hundred Seventy-Four Thousand Five Hundred Ninety-Five Dollars and Sixty-One Cents (\$574,595.61) to Charging Parties and/or their attorneys, King and Greisen, LLP, as follows:

Medegen will pay to Charging Parties' attorneys, King & Greisen, LLP, the total sum of One Hundred Eighty-Two Thousand Eight Hundred Seventy-Eight Dollars and Sixty-One Cents (\$182,878.61) on or before October 6, 2006.

Medegen will pay directly to Robert Marshall, Robert Esselborn, Cathy Schnabel, Irene Price, Sherrie Neil, and Ronald Bracey the total gross sum of Sixty-Five Thousand Two Hundred Eighty-Six Dollars and Twenty Cents (\$65,286.20) each in installments of the following amounts on or before the following dates:

January 5, 2007	\$9,326.60 to each Charging Party
April 6, 2007	\$9,326.60 to each Charging Party
July 6, 2007	\$9,326.60 to each Charging Party
October 5, 2007	\$9,326.60 to each Charging Party

January 7, 2008	\$9,326.60 to each Charging Party
April 7, 2008	\$9,326.60 to each Charging Party
July 7, 2008	\$9,326.60 to each Charging Party

Medegen will make such withholdings and deductions from these gross payments as directed by each individual in separate Addendum Agreements with Medegen. Pursuant to the terms of these separate Addendum Agreements, Medegen also will pay these individuals an additional total gross sum of Ten Thousand Dollars (\$10,000.00) each.

6. In full settlement of all monetary claims on behalf of Donald Gibson and Gregory Woznicki, Medegen will pay as back pay to Donald Gibson the total gross sum of \$9,189.60, less all applicable deductions for federal and state income taxes, FICA, and Medicare, and will pay as back pay to Gregory Woznicki the total gross sum of \$1,255.85, less all applicable deductions for federal and state income taxes, FICA, and Medicare. Payment of these sums will be made by check within ten (10) business days of the entry of this Agreement and the dismissal of the Lawsuit with prejudice, with copies of the checks sent to EEOC's counsel.

7. Medegen will pay any administrative costs associated with the payment of monetary relief under this Agreement.

8. If, at any time, Medegen fails to timely make any monetary payment required under this Agreement or under the separate Addendum Agreements, judgment for all amounts still remaining due and owed will enter in favor of Robert Marshall, Ronald Bracey, Irene Price, Sherrie Neil, Cathy Schnabel, Robert Esselborn, Don Gibson, and Greg Woznicki.

9. Within thirty (30) days of the entry of this Agreement and the dismissal of the Lawsuit with prejudice, Medegen will provide a plaque to each Charging Party recognizing his or her years of service with Medegen, and a positive letter of reference to each Charging Party

and to Donald Gibson. Medegen will provide a letter to EEOC's counsel confirming its compliance with this Paragraph.

10. The provisions and terms of this Agreement shall apply only to Medegen's Colorado facilities and employees located at 11060 Irma Drive, Northglenn, CO 80233.

11. Medegen denies that it has engaged in any employment practice that discriminates on the basis of age. Medegen will continue to comply with the ADEA during the term of this Agreement.

12. Medegen has not and will not engage in any retaliation of any kind against any person because of such person's opposition to any practice made unlawful under the ADEA, or because of such person's filing of a charge, giving of testimony, or participating in any manner in any investigation, proceeding, hearing, or lawsuit under the ADEA, or because such person is designated in this Agreement.

13. Medegen maintains and posts a comprehensive EEO Policy that prohibits all forms of employment discrimination, including age discrimination and retaliation against any employee who complains about age discrimination or who files a charge alleging age discrimination ("EEO Policy"). Medegen will continue to post its EEO Policy in both English and Spanish during the term of this Agreement in its Colorado facilities where notices to employees and applicants for employment are customarily kept or posted. Within thirty (30) days of the execution of this Agreement and the dismissal of the Lawsuit with prejudice, Medegen will provide a copy of its EEO Policy to all current employees, and to all newly hired employees within ten (10) business days of their hire. Within forty-five (45) days of the execution of this Agreement and the dismissal of the Lawsuit with prejudice, Medegen will

provide EEOC with a copy of its EEO Policy and a letter indicating that the EEO Policy remains posted and has been distributed as provided above.

14. Medegen will conduct training for all its employees on what constitutes unlawful employment discrimination, which will include a review of Medegen's EEO Policy, the procedures for employees to make complaints of discrimination, penalties that can be imposed on persons who engage in discriminatory behavior, and Medegen's no harassment and non-retaliation policy. This training will be at Medegen's expense, and will be conducted by Kiesewetter Wise Kaplan Prather, PLC or another vendor acceptable to EEOC. This training will be conducted in Spanish for those employees who are not English fluent. The training will be conducted as follows:

A. Non-managerial Employees

By December 31, 2006, Medegen will provide non-managerial employees with two (2) hours of training regarding employment discrimination. After December 31, 2006, Medegen will provide this training to newly hired employees within ninety (90) days of their hire.

B. Managers and Supervisors

By December 31, 2006, Medegen will provide managers and supervisors with four (4) hours of training regarding employment discrimination. After December 31, 2006, Medegen will provide this training to employees newly hired or promoted into managerial or supervisory positions within ninety (90) days of their hire or promotion.

C. Human Resource Professionals

Medegen will continue to provide ongoing training on equal employment opportunity and non-discrimination for its Human Resources professionals, which includes at least eight

(8) hours of training each year. Medegen will begin this training process with employees newly hired or promoted into Human Resources professional positions within ninety (90) days of their hire or promotion.

Medegen will provide a letter to EEOC's counsel verifying that the above training has been conducted. Medegen also will provide EEOC's counsel with a confidential copy of any handout materials used in the training for managerial and non-managerial employees prior to the training. EEOC will return these handout materials to Medegen within twenty (20) business days of their receipt, and EEOC will not make, retain, or distribute any copies of such handout materials.

15. Within ten (10) business days of the execution of this Agreement and the dismissal of the Lawsuit with prejudice, Medegen will post in its Colorado facilities where notices to employees and applicants for employment are customarily kept or posted, the Notice attached as Attachment B to this Agreement. The Notice will be posted in both English and Spanish, and will remain posted for a period of one (1) year. If this Notice becomes defaced or illegible, Medegen will replace it with a clean copy. Medegen will certify to EEOC in writing that this Notice has been and remained properly posted in both English and Spanish within ten (10) business days of the date it is first posted and the date it is removed.

16. Within one hundred twenty (120) days of the execution of this Agreement and the dismissal of the Lawsuit with prejudice, Medegen will obtain Spanish-language translations for its employee handbook and all other presently existing personnel policies that are provided to employees or posted for employees to see. All documents published to employees by way of posting will be posted in both English and Spanish.

17. During the term of this Agreement, Medegen will notify EEOC if it receives any internal complaint of age discrimination within sixty (60) days of its receipt of such complaint.

This notification will include the name, address, and telephone number of the person making the internal complaint, together with a brief summary of the substance of the complaint (including the date, name(s) of the individual(s) who allegedly engaged in any alleged discriminatory conduct, Medegen's response to the complaint, name(s) of the person(s) who investigated or responded to the complaint, and what resolution was reached), together with copies of all non-privileged documents memorializing or referring to the complaint, investigation, and/or resolution thereof. To the extent that any privileged documents are withheld, Medegen will provide a privilege log of documents withheld. The term "complaint of age discrimination" refers to any written or verbal complaint made pursuant to Medegen's EEO Policy to a Medegen official or manager that alleges discrimination based on age, or that alleges conduct that Medegen reasonably recognizes as presenting an allegation of age discrimination.

18. The Court shall retain jurisdiction of the Lawsuit for the sole purpose of compliance with this Agreement. The parties stipulate that the Court retains all of its inherent powers to enforce this agreement and to issue an appropriate order if the Court determines that there has been non-compliance with this Agreement.

19. There is no private right of action for any non-party to enforce any of Medegen's or EEOC's obligations under this Agreement, but only EEOC or Medegen may enforce compliance with the terms of this Agreement. Either party may enforce the terms of this Agreement by petitioning the Court for enforcement. In any such enforcement proceeding, the parties shall be entitled to procedural due process rights to conduct discovery, present witness testimony, documents, and other evidence at an evidentiary hearing, confront and cross-examine any witnesses, documents, or other evidence presented by the opposing party, submit written briefs, and appeal any adverse decisions.

20. With respect to matters or charges outside the scope of this Agreement, this Agreement shall in no way limit the powers of EEOC to seek to eliminate employment practices or acts made unlawful by any of the statutes over which EEOC has enforcement authority, and are unrelated to the claims asserted in this lawsuit.

21. The parties understand, acknowledge, and agree that they are each solely responsible for all expenses incurred by them or on their behalf in connection with the Charges of Discrimination and/or the Lawsuit, including, but not limited to, their respective attorneys' fees and costs in prosecuting and/or defending the Charges of Discrimination and/or the Lawsuit.

22. The terms and conditions of this Agreement are in compromise settlement of disputed claims, the validity, existence, or occurrence of which are expressly denied by Medegen. It is understood and agreed by the parties that this Agreement does not constitute, and shall not in any way be construed as, an admission by Medegen of any violation of the Age Discrimination in Employment Act, any other federal, state, or local constitution, statute, law, ordinance, or regulation, or any common law duty, or an admission that Medegen has acted wrongfully in any way with respect to Robert Marshall, Robert Esselborn, Cathy Schnabel, Irene Price, Sherrie Neil, Ronald Bracey, Donald Gibson, or Gregory Woznicki, and Medegen specifically disclaims any such liability.

23. This Agreement contains all of the terms, promises, representations, and understandings between EEOC and Medegen, and as such, fully supercedes any and all prior communications, drafts, discussions, or agreements (written or verbal) pertaining to the subject matters addressed. This Agreement shall bind and inure to the benefit of EEOC and Medegen and their respective successors, assigns, heirs, and legal representatives. This Agreement may

not be amended, modified, or changed orally, but only by agreement in writing and signed by both parties.

24. Should any section or portion of this Agreement be held unreasonable or unenforceable by any court of competent and final jurisdiction, such decision of the court shall apply only to the specific section or portion involved and shall not invalidate the remaining sections or portions of this Agreement. This Agreement shall not be subject to attack on the ground that any or all of the legal theories or factual assumptions used for negotiating purposes are for any reason inaccurate or inappropriate.

25. Any notice, report, or communication required under the provisions of this Agreement shall be sent by certified mail, postage prepaid, to the appropriate parties as follows:

Regional Attorney
Denver Field Office
Equal Employment Opportunity
Commission
303 East 17th Avenue, Suite 510
Denver, CO 80203

Michael E. Stanley
Medegen Medical Products, LLC
10617 N. Hayden Road, Suite B100
Scottsdale, AZ 85260

In witness whereof, the undersigned have hereunto set their hands and seals on the dates indicated:

Equal Employment Opportunity Commission

Medegen Medical Products, LLC

By: s/ Mary Jo O'Neill
Mary Jo O'Neill
Regional Attorney
Date: October 10, 2006

By: s/ William M. Dorris
William M. Dorris, President
Date: October 10, 2006

By: s/ Nancy A. Weeks
Nancy A. Weeks
Supervisory Trial Attorney
EEOC Denver Field Office
(303) 866-1947
Date: October 11, 2006

By: s/ Jonathan E. Kaplan
Jonathan E. Kaplan
Kiesewetter Wise Kaplan Prather
PLC
3725 Champion Hills Dr., Suite 3000
Memphis, Tennessee, 28125
(901) 795-6695
Date: October 10, 2006

By: s/ Paula Greisen
Paula Greisen
King & Greisen, LLC
(303) 298-9878
Attorney for Charging Parties
Date: October 10, 2006

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:06-cv-1913-MSK-MEH

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

v.

MEDEGEN MEDICAL PRODUCTS, LLC,

Defendant.

STIPULATION FOR DISMISSAL WITH PREJUDICE

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(ii), it is hereby stipulated by the parties that all of Plaintiff's claims in the above-captioned action against Defendant shall be dismissed with prejudice, each party to bear their own costs, attorneys' fees, and expenses, provided that the parties further stipulate that the Court shall retain jurisdiction over this matter solely to enforce the terms of the attached Settlement Agreement, should such be necessary.

SO ORDERED this _____ day of _____, 2006.

United States District Judge

STIPULATED AND APPROVED:

s/ Nancy A. Weeks

Nancy A. Weeks
Supervisory Trial Attorney
EEOC Denver Field Office
303 East 17th Avenue, Suite 510
Denver, CO 80203
(303) 866-1947

nancy.weeks@eeoc.gov

Attorney for Plaintiff EEOC

s/ Jonathan E. Kaplan

Jonathan E. Kaplan
Kiesewetter Wise Kaplan Prather PLC
3725 Champion Hills Drive, Suite 3000
Memphis, Tennessee, 28125
(901) 795-6695

Attorneys for Defendant

Attachment C

NOTICE

Management of Medegen Medical Products, LLC wishes to emphasize the Company's fundamental policy of providing equal employment opportunity in all of its operations and all its employment practices, and to ensure that there is no discrimination against any employee or applicant for employment on the basis of race, color, religion, sex, pregnancy, national origin, age, or disability. This policy includes insurance benefits and all other terms, conditions, and privileges of employment.

The Age Discrimination in Employment Act (ADEA), as amended, makes it unlawful for an employer to discriminate against an employee or job applicant because they are age 40 or over. It also is unlawful for any employer to retaliate against an employee because he or she has opposed discriminatory employment practices, including age discrimination, or because he or she has filed a charge of discrimination with any municipal, state, or federal equal employment opportunity agency, or because he or she has participated in an investigation of a charge of discrimination.

Medegen respects the right of its employees and applicants for employment to work in an environment free from discrimination. Medegen reaffirms its commitment to comply with the ADEA, and our long-standing EEO Policy prohibits any discrimination in hiring, promotion, compensation, benefits, discipline, or discharge because of being age 40 or over.

Any employee who believes he or she has suffered discrimination on the basis of age, race, color, religion, sex, pregnancy, national origin, or disability, has the right to contact the Equal Employment Opportunity Commission (EEOC) directly. In compliance with federal law, no Medegen official will retaliate against an employee who makes an internal complaint of discrimination or who contacts the EEOC or its state counterpart.

Medegen Medical Products, LLC

By: _____