

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement ("Agreement") is entered into between the United States of America, acting through the United States Department of Justice. Gary Kirsch ("Kirsch"), and Samuel Armfield, III, M.D. ("Armfield"), Penn Vascular Lab, P.C. ("Penn") and Vascusonics, Inc. (collectively "the Parties").

II. PREAMBLE

1. The United States has intervened as a plaintiff in part of a civil action captioned United States ex rel. Kirsch v. Samuel Armfield, III, M.D., et al., 93-1101, (W.D. Pa.) ("the suit"). Kirsch is the relator in the suit. Armfield, Penn and Vascusonics are defendants in the suit. Defendants have filed a counterclaim against Kirsch that also is pending and a counterclaim in the nature of a setoff against the United States which has been dismissed by the court.

2. In order to avoid the delay, uncertainty, inconvenience, and expense related to further litigation of the suit, and without any Party admitting any fault or liability, the Parties reach a full and final settlement as set forth below.

III. TERMS AND CONDITIONS

3. The parties agree that all the claims set forth in the suit against each other shall be dismissed with prejudice. The parties shall execute the attached Joint Motion for Dismissal with Prejudice and cause it to be filed with the court in the suit.

4. Armfield shall pay the United States \$80,000 ("settlement amount"). The settlement amount shall be paid as follows:

a. \$18,500 shall be paid through an immediate setoff against funds currently withheld from the defendants by the Health Care Financing Administration ("HCFA") or its agent. After the \$18,500 is setoff, the current withholding of Medicare payments owed defendants by HCFA will cease.

b. \$29,500 shall be paid within 30 days from execution of this Agreement by certified check made payable to the Department of Justice and delivered to AUSA Philip O'Connor, Office of the United States Attorney for the Western District of Pennsylvania, 1400 Gulf Tower, Pittsburgh, Pa. 15219 ("USAO").

c. \$10,000 shall be paid within 12 months from the execution of this Agreement by certified check made payable to the Department of Justice and delivered to AUSA Philip O'Connor at the USAO.

d. \$10,000 shall be paid within 24 months from the execution of this Agreement by certified check made payable to the Department of Justice and delivered to AUSA Philip O'Connor at the USAO.

e. \$12,000 shall be paid within 36 months from the execution of this Agreement by certified check made payable to the Department of Justice and delivered to AUSA Philip O'Connor at the USAO.

f. Interest shall accrue at six percent per annum on any sum required to be paid which remains unpaid after 24 months from the execution of this Agreement.

g. If Armfield defaults on any of the above payments, the United States may immediately setoff the amounts still owing under this Agreement against any monies then owing any of the defendants by any Federal government health insurance payor such as

Medicare. Further, in the event of a default, all amounts still owing under this Agreement payments will become immediately due, and interest shall accrue on such amounts from the date of default until paid at the rate set forth in 26 U.S.C. § 6621(b).

5. Kirsch agrees that the settlement is fair, adequate and reasonable and that he will not challenge the agreement pursuant to 31 U.S.C. § 3730(c)(2)(B).

6. The United States shall pay Kirsch 18 percent of the settlement amounts received as Kirsch's share under 31 U.S.C. § 3730 (d) (1). The amounts setoff as provided in paragraph 4a. of this Agreement shall be considered settlement amounts received by the United States for purposes of this paragraph. Payments of relator's share shall be made by check payable to Kirsch and delivered to Kirsch's attorney, Thomas Rhodus, Esquire, Looper, Reed, Mark, & McGraw, 4100 Thanksgiving Tower, 1601 Elm Street Dallas, TX. 75201, tele: 214/922-8924.

7. Kirsch fully and finally releases the United States, its officers, agents and employees, from any liability arising from the filing of the complaint, including any claims to a share of the proceeds pursuant to 31 U.S.C. § 3730(d).

8. Kirsch and defendants fully and finally release each other from any claims for attorneys fees and expenses from each other under 31 U.S.C. § 3730 (d).

9. Defendants fully and finally release the United States, its agencies, employees, servants, and agents from any claims (including attorneys fees, costs, and expenses of every kind and however denominated) which defendants have asserted, could have asserted, or may assert in the future against the United States, its agencies, employees, servants, and agents, related to the

suit and the United States' investigation and prosecution of the suit, as well as the grand jury investigation that preceded the suit.

10. Defendants agree that all costs (as defined in the Federal Acquisition Regulations ("FAR") § 31.205-47 and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395 *et. seq.* and §§ 1396 *et. seq.*, and the regulations promulgated thereunder) incurred by or on behalf of defendants, in connection with (1) the government's investigations, and defendants investigations and defense of the matters covered by this Agreement; (2) the negotiation of this Agreement; (3) any corrective action undertaken by defendants during the relevant period; and (4) the payments made to the United States pursuant to this Agreement, shall be unallowable costs for government contract accounting, Medicaid, and all federal government health care insurance payor reimbursement purposes. These amounts shall be separately estimated and accounted for by defendants, and defendants will not charge such costs directly or indirectly to any contracts with the United States or any State Medicaid program, or to any cost report, cost statement, or information statement submitted by defendants or any of its subsidiaries to the Medicaid, or any federal government health care insurance payor programs.

11. Each party to this Agreement will bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

12. This Agreement is intended to be for the benefit of the Parties, only, and by this instrument the Parties do not release any claims against any other person or entity. The United States' rights against other tortfeasors are expressly reserved.

13. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or are all of the following:

a. Any civil, criminal or administrative claims arising under Title 26, U.S. Code (Internal Revenue Code);

b. Any criminal liability;

c. Any claims based upon such obligations as are created by this Agreement.

14. Defendants and Kirsch represent that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever, and that they have done so under advice of counsel.

15. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement will be the United States District Court for the Western District of Pennsylvania.


16. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties. The undersigned United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

17. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same agreement.

18. This Agreement is effective on the date of signature of the last signatory to the Agreement.

UNITED STATES OF AMERICA

BY:



RICHARD G. VARTAIN
Trial Attorney
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
May 16, 2000

GARY KIRSCH
April __, 2000

THOMAS RHODUS, Esquire
Looper, Reed, Mark, & McGraw,
Attorney for Gary Kirsch
April __, 2000

PENN VASCULAR LAB, P.C.

BY:

SAMUEL ARMFIELD, III, M.D.
April __, 2000

VASCUSONICS, INC.

BY:

SAMUEL ARMFIELD, III, M.D.
April __, 2000

SAMUEL ARMFIELD, III, M.D.
April __, 2000

JAMES LIEBER, Esquire
Lieber & Hammer
Attorney for defendants
April __, 2000

EDWARD A. OLDS, Esquire
1007 Mt. Royal Blvd.
Pittsburgh, Pa. 15223
Attorney for defendants
April __, 2000

UNITED STATES OF AMERICA

PENN VASCULAR LAB, P.C.

BY:

RICHARD G. VARTAIN
Trial Attorney
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
April __, 2000

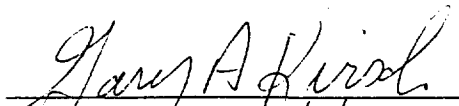
BY:

SAMUEL ARMFIELD, III, M.D.
April __, 2000

VASCUSONICS, INC.


BY:

SAMUEL ARMFIELD, III, M.D.
April __, 2000



GARY KIRSCH
April __, 2000 *5/2/2000*

SAMUEL ARMFIELD, III, M.D.
April __, 2000



G. TOMAS RHODUS, Esquire
Looper, Reed, Mark, & McGraw,
Attorney for Gary Kirsch
April __, 2000
May 8, 2000

JAMES LIEBER, Esquire
Lieber & Hammer
Attorney for defendants
April __, 2000

EDWARD A. OLDS, Esquire
1007 Mt. Royal Blvd.
Pittsburgh, Pa. 15223
Attorney for defendants
April __, 2000

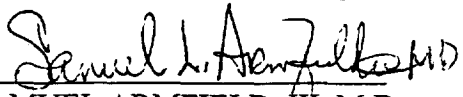
UNITED STATES OF AMERICA

PENN VASCULAR LAB, P.C.

BY:

RICHARD G. VARTAIN
Trial Attorney
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
April __, 2000

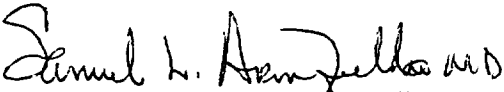
BY:



SAMUEL ARMFELD, III, M.D.
April 22, 2000

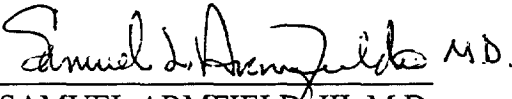
VASCUSONICS, INC.

BY:




SAMUEL ARMFELD, III, M.D.
April 21, 2000

GARY KIRSCH
April __, 2000

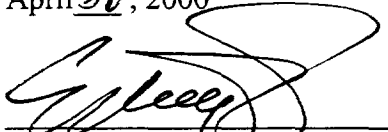


SAMUEL ARMFELD, III, M.D.
April 22, 2000

THOMAS RHODUS, Esquire
Looper, Reed, Mark, & McGraw,
Attorney for Gary Kirsch
April __, 2000



JAMES LIEBER, Esquire
Lieber & Hammer
Attorney for defendants
April 30, 2000



EDWARD A. OLDS, Esquire
1007 Mt. Royal Blvd.
Pittsburgh, Pa. 15223
Attorney for defendants
April 30, 2000