

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

JOHN DOE DJ,)
)
 Plaintiff,)
)
 v.)
)
 UNITED STATES OF AMERICA and)
 MARK WISNER,)
)
 Defendants.)

Case No. 18-2579

MEMORANDUM AND ORDER

Plaintiff John Doe DJ brings this case against defendants United States of America and Mark Wisner, pursuant to the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 1346(b), 2671 and 38 U.S.C. § 7316(a), (f), alleging that Wisner conducted improper and/or unnecessary physical examinations of plaintiff and elicited unnecessary private information. Plaintiff also alleges state law claims. This matter is before the court on defendant United States of America’s Motion to Dismiss or, in the Alternative, for Summary Judgment (Doc. 3). Defendant argues that plaintiff’s complaint should be dismissed because it is barred by the statute of limitations.

After this motion was fully briefed, the court received notice that defendant United States of America has settled cases with plaintiffs represented by Brown & Curry, LLC and/or McKee Law, LLC. (Doc. 10.) Brown & Curry, LLC represents plaintiff John Doe DJ in this case. In light of the settlement notice, the court will deny the pending motion as moot, but without prejudice to refile if the case is not eventually dismissed as a result of the settlement. In this ruling, the court does not consider the merits of the motion. Moreover, upon request, leave will be granted to refile the motion, with expedited briefing, if the settlement does not occur.

IT IS THEREFORE ORDERED that defendant United States of America's Motion to Dismiss or, in the Alternative, for Summary Judgment (Doc. 3) is denied without prejudice to refile if this case is not eventually dismissed as a result of the settlement.

Dated this 9th day of August, 2019, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge