

2. It is hereby **ORDERED** that Defendant's Motion to Dismiss (Docket No. 5) is **GRANTED** as to Count II of the complaint and otherwise **DENIED**.

/s/George Z. Singal
Chief U.S. District Judge

Dated: August 27, 2008

Plaintiff

IVAN SUZMAN

represented by **ROSS A. DOERR**
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V.

Defendant

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DEPARTMENT OF HEALTH
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