UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BENJAMIN BECKER, et al.,	)	
Plaintiffs,	)	
v.	)	Civil Action No. 01-0811 (PLF-JMF)
DISTRICT OF COLUMBIA, et al.,	)	
Defendants.	)	

MEMORANDUM OPINION AND ORDER

The Court has before it Magistrate Judge Facciola's Report and Recommendation of February 28, 2008, as well as defendants' objections and plaintiffs' responses thereto. As the parties well know, this case — involving mass demonstrations and arrests in conjunction with meetings of the International Monetary Fund and the World Bank in April of 2000 — has been in litigation for many years. In previous written orders, both the undersigned and Judge Facciola have urged the parties to attempt to resolve this case by settlement rather than continued litigation. Indeed, following the issuance of the Report and Recommendation, the Court issued an Order which stated:

> Reading the facts as described by Magistrate Judge Facciola is like "de ja vu all over again" for those who remember the anti-war demonstrations of the early 1970's, when thousands of demonstrators were arrested on a theory of "group" probable cause on the steps of the Capitol, in West Potomac Park, and on the streets of the District of Columbia. . . . This Court, of course, is prepared to accept yet another round of briefing on objections to Magistrate Judge Facciola's conclusions and to view the matter afresh under the standards of Rule 72 of the Federal Rules of Civil Procedure. But Magistrate Judge Facciola's assessment of the

> undisputed evidence in this case suggests that it is time to put this chapter behind us without further litigation — and to do so now.

Memorandum Opinion and Order at 1-2, Dkt. No. 324 (D.D.C. Mar. 3, 2008). The Court then urged the parties to agree to stay the case and proceed to mediation, which they did. Mediation having been unsuccessful, the parties then briefed the defendants' objections to the Report and Recommendation.

The Court is aware of developments in the related cases, Chang v. United States, Civil Action No. 02-2010, and Barnham v. Ramsey, Civil Action No. 02-2283, which are currently pending before Judge Sullivan. In particular, the Court has reviewed the declarations of District of Columbia Attorney General Peter J. Nickles and Senior Assistant Attorney General Thomas L. Koger, who is also lead counsel of record in the instant case, which were filed on August 12, 2009. Both Mr. Nickles and Mr. Koger describe, in Mr. Nickles's words, the "failures in discovery and the problems with preservation of evidence" by the District of Columbia in those cases, cases which, as Mr. Koger points out, are similar in subject matter to Becker v. District of Columbia. See Chang v. United States, Notice of Filing Declaration of Peter J. Nickles, Declaration of Peter J. Nickles at 2 and Declaration of Thomas J. Koger at 3, Dkt. No. 490 (D.D.C. Aug. 12, 2008). The declarants also both emphasize the District of Columbia's commitment to settlement in those cases. See Declaration of Peter J. Nickles at 13-14; Declaration of Thomas J. Koger at 11-13.

In light of the history of this case as well as the developments in Chang v. United States and Barnham v. Ramsey, the Court believes now would be an appropriate time for the parties to consult with each other and to reconsider the prospects for settlement, and to report to the Court the results of their preliminary discussions at a status conference. If at that point the

parties represent to the Court that further engagement in settlement discussions would be useful, the Court could refer the matter to a mediator or a magistrate judge. If not, the Court will promptly proceed to resolution of the defendants' objections to the Report and Recommendation on the merits. In light of the foregoing, it is hereby

ORDERED that counsel shall appear for a status conference before this Court on September 18, 2009 at 11:00 a.m.

SO ORDERED.

_/s/_____
PAUL L. FRIEDMAN
United States District Judge

DATE: August 20, 2009