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*pro se*

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII**

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LUIS SANCHO, et al.,	)	Civil No. CV08-00136 HG
	)	
Plaintiffs,	)	<b>MOTION FOR PRELIMINARY</b>
	)	<b>INJUNCTION</b>
vs.	)	
	)	
US DEPARTMENT OF ENERGY,	)	
et al.,	)	
	)	Date:
Defendants.	)	Time:
_____	)	Court: Hon. Helen Gillmor

MOTION FOR PRELIMINARY INJUNCTION

Previously this Court ordered that all subsequent pleadings not be filed other than by leave of court, save for those pleadings already contemplated for filing. This Court specifically acknowledged that a motion for preliminary injunction was already contemplated, and thereby exempted from its order.

I

### Facts in a Nutshell

1. Defendants are engaged in an expedited race to complete commissioning of the LHC at energies above the 2 TeV benchmark of the Tevatron, prior to their announced Winter Shutdown at the end of November, 2008. They anticipate being able to engage in collisions at higher energies in mid October or shortly thereafter, for the express purpose of “proving plaintiffs wrong” to the general news media, when in fact such collisions would prove nothing other than the utter arrogance and folly of defendants.

2. Plaintiffs have shown that under most scenarios, any adverse consequences of such collisions would not be detectable for many decades to centuries hence, and thus engaging in such collisions and then telling the news media “see, we’re still here” would be merely a meaningless public relations gesture, while at the same time having crossed the first risk-level detailed in the accompanying affidavit.

3. Defendants do not anticipate conducting any serious search for “new physics” prior to their announced Winter Shutdown and such serious search for “new physics” is anticipated for 2009 with the resumption of commissioning of the LHC at the machine design energy of about 14 TeV for proton-proton collisions, which they seek to obtain circa Spring/Summer, 2009 upon resumption of commissioning. It is at that machine-maximum energy that defendants expect to engage in proton-proton collisions within the LHC experimental chambers in 2009, and lower energies are simply part of the commissioning process to obtain machine maximum energy.

4. Defendants have engaged in numerous prior public relations gestures which were essentially diversionary and misleading. They announced that experimentation was to commence on September 10, 2008 which was widely reported as such in the news media, when in fact the only thing that commenced was commissioning of a fully circularized beam at low energy. The bulk of the news media, however, thereafter mis-reported that event as disproving the plaintiffs’ various adverse scenarios. This is detailed in the Attachment “C” of the accompanying affidavit.

5. They have also reported the old LSAG Report, upon its republication, as being a “new report” showing LHC safety, when in fact it was

simply the old report published anew. Again, this is detailed in the Attachment "C".

6. That conduct of defendants is devious at best, and fraudulent at worst. Defendants are being neither open nor honest with the news media when they claim that no scientists are concerned about the safety of the LHC. In fact, many ethical scientists find the conduct of defendants of ignoring glaring errors of safety to be highly unethical, and a grave disservice to humanity.

7. Serious concerns remain regarding the safety of the proposed experiments, at all energy regimes sought to be explored by defendants. Those concerns are detailed somewhat in the accompanying affidavit and its Exhibits "A-C", and all prior affidavits provided by plaintiffs.

## II

### Preliminary Injunction Required

8. In order to preclude defendants from entering into this new energy frontier in which the first risk for production of dangerous product exists, as detailed in the accompanying affidavit in support, an immediate preliminary injunction is required, or even a temporary restraining order followed by a hearing on a request for preliminary injunction, should the Court believe that further hearing herein is required.

9. In weighing whether to issue a preliminary injunction [or TRO], the court must seek to balance the equities involved. Here, defendants claim that there is no risk, and that any delay in experimentation would work a substantial harm to them. However, they have certainly not proven that there is no risk, nor have they shown that there would be any harm in delaying entering into a new energy frontier while the scientific community more thoroughly examines the risk issues detailed in the accompanying affidavit.

10. Conversely, plaintiffs have shown the existence of substantial risk, not only as detailed in the accompanying affidavit in support, and all prior affidavits filed by plaintiffs, but even in the belated effort by alleged *amici* who unsuccessfully sought to file herein, in which they acknowledged that the best they could assert was that they believed that creation of dangerous strangelets was “*unlikely*”, but not impossible.

11. Further, plaintiffs have shown that a temporary delay of proton-proton collisions at energies greater than 2 TeV would have substantially no effect on defendants, in that they do not intend to engage in actual design experimentation at 14 TeV until sometime in Spring or Summer of 2009, sometime around the trial date in June, 2009. Accordingly, issuance of a preliminary injunction, absent a voluntary moratorium by defendants, is not only necessitated by the circumstances, but causing no actual harm or real

delay whatsoever to their efforts to engage in “new physics” at the LHC design energy of 14 TeV.

12. In that the purpose of a preliminary injunctive order is to preserve the “*status quo*” pending a full trial on the merits, it is thereby required that this court issue such, and a short TRO if required by the time restraints for any hearings that this Court might require on this instant preliminary injunction request.

13. Issuance of such a preliminary injunction will insure that defendants do not enter that energy regime wherein the first risk lies at between 2 TeV and 10 TeV [as detailed in the accompanying affidavit]. The plaintiffs should be allowed to continue to obtain scientific evidence in the form of forthcoming science reports, continue to engage in discovery, and otherwise show that the risks of the LHC cannot be disproved. In that defendants have no serious plans to engage in “new physics” until sometime around Spring or Summer, 2009 anyway, any such injunctive order would have minimal impact on defendants, while clearly preserving the *status quo* and plaintiffs’ rights.

14. Accordingly, it is respectfully requested that this Court issue a preliminary injunction preserving the *status quo* mandating that defendants do not exceed the energy regime previously explored by the Tevatron. Should

this Court require a hearing on this motion, it is requested that this Court issue a TRO pending such hearing, in light of the expedited effort on the part of defendant to “prove plaintiffs wrong” in the public eye, even though in fact such efforts would prove nothing other than their own folly.

Dated: September 18, 2008

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Luis Sancho

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Walter L. Wagner

**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.5**

Pursuant to LR 7.5, I hereby certify that this *Motion for Preliminary Injunction* contains 1229 words, inclusive of the caption, signature block, and the instant certificate of compliance. I further state that I relied upon Microsoft Word software to obtain the foregoing word count.

DATED: September 18, 2008

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Walter L. Wagner