

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DEFENDANT'S MOTION TO DISMISS

The United States, by its attorney, John R. Lausch, Jr., United States Attorney for the Northern District of Illinois, moves to dismiss the complaint pursuant to Rules 12(b)(1) and 12(b)(6). In support of its motion, the United States avers as follows:

1. Plaintiff David Bourke is a federal employee who brings claims against the United States arising from allegedly negligent care that he received for treatment of his workplace injuries.
2. This court lacks subject matter jurisdiction over Bourke's claims because they are subject to the Federal Employees Compensation Act. Furthermore, Bourke has failed to state a claim because he did not file his complaint within Illinois's four year statute of repose for medical malpractice actions.

Respectfully submitted,

JOHN R. LAUSCH, Jr.
United States Attorney

By: s/ Virginia O. Hancock
VIRGINIA O. HANCOCK
Assistant United States Attorney
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-1998
virginia.hancock@usdoj.gov