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International Association of Lawyers Against Nuclear Arms For Immediate Release: October 31, 2002

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Oral Argument Held in Lawsuit to Block President Bush's Withdrawal from ABM Treaty

Oral argument in Kucinich v. Bush on Plaintiffs' Motion for Summary Judgment and Defendants' Motion to Dismiss took place Thursday in U.S. District court in Washington, DC. A written decision by U.S. District Judge John Bates is expected in the next few weeks.

Thirty-two Members of Congress led by Congressman Dennis J. Kucinich filed the lawsuit on June 11, 2002 to block the President from withdrawing from the 1972 Anti-Ballistic Missile Treaty.

The lawsuit, which names President George W. Bush, Secretary of State Colin Powell, and Secretary of Defense Donald Rumsfeld as defendants, requests a decision on whether or not the Constitution permits the President to withdraw from the treaty without the consent of Congress.

"By withdrawing from the ABM treaty, the Administration puts global security at risk, by altering the careful balance of nuclear deterrence that has protected the world for 30 years," stated Kucinich.

"The President's termination of the ABM treaty represents an unconstitutional repeal of a law duly enacted by Congress. If the President is allowed to repeal laws at his own instance, it would be destructive of our Constitution. It is our position that the President should respect the Constitution and bring the issue of withdrawing from the ABM treaty back to the Congress from which it originated."

According to attorney John Burroughs, Executive Director of the Lawyers' Committee on Nuclear Policy: "The Members of Congress bringing this lawsuit are reminding the country that the under the Constitution the President is not a king who can rule by fiat. Decisions as momentous as withdrawal from the ABM Treaty must involve Congress if the United States is to remain a democracy."

(more...)

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Co-counsel Michael Veiluva, an attorney with the Western States Legal Foundation, added: "Unilaterally declaring the ABM Treaty defunct was an unconstitutional usurpation of Congress' role in approving and implementing treaties. This usurpation was particularly harmful here because the ABM Treaty is such a cornerstone of American arms control law."

Veiluva concluded: "The President's decision to do away with this 30-year old treaty without Congressional approval is part and parcel of his Administration's attitude with respect to international law and international relations -- namely to go it alone. The Bush administration across-the-board methodology in abolishing treaties and undertaking unilateral military action is almost eerie."

The thirty-one Members of Congress bringing the lawsuit are: **Dennis Kucinich**, D-10-Ohio; **James Oberstar**, D-8-MN; **Patsy Mink**, D-2-HI; **Tammy Baldwin**, D-2-WI; **Peter DeFazio**, D-4-OR; **John Olver**, D-1-MA; **Sam Farr**, D-17-CA; **Barbara Lee**, D-9-CA; **Maurice Hinchey**, D-26-NY; **John Conyers**, D-14-MI; **Hilda Solis**, D-31-CA; **Janice Schakowsky**, D-9-IL; **Alcee Hasting**, D-23-FL; **Fortney (Pete) Stark**, D-13-CA; **Bernard Sanders**, I-1-VT; **Earl Hilliard**, D-7-AL; **Carolyn Kilpatrick**, D-15-MI; **Lane Evans**, D-17-IL; **Jim McDermott**, D-7-WA; **Bob Filner**, D-50-CA; **Cynthia McKinney**, D-4-GA; **George Miller**, D-7-CA; **Lynn Woolsey**, D-6-CA; **William Lacy Clay**, D-1-MO; **Edolphus Towns**, D-10-NY; **Maxine Waters**, D-35-CA; **Jesse Jackson**, Jr., D-2-IL; **Gregory Meeks**, D-6-NY; **Marcy Kaptur**, D-9-OH; **Jerrold Nadler**, D-8-NY; **Stephanie Tubbs Jones**, D-11-OH; and **Sheila Jackson-Lee**, D-18-TX.

They are represented by **James Klimaksi**, Klimaski & Grill, P.C. Washington, DC; **Peter Weiss** and **John Burroughs**, Lawyers' Committee on Nuclear Policy, New York, NY; **Bruce Ackerman**, Sterling Professor of Law and Political Science, Yale Law School, New Haven CT; **Jeremy Manning**, Esq., New York, NY; **Jules Lobel** and **Michael Ratner**, Center for Constitutional Rights, New York, NY; **Edward Aguilar**, Philadelphia Lawyers Alliance for World Security, Philadelphia, PA; and **Michael Veiluva**, Western States Legal Foundation, Oakland, CA.

The main papers filed in the case are available on line, in pdf format, at http://www.lcnp.org/disarmament/ABMlawsuit/indexoflinks.htm