

Date: Wed, 20 Dec 2006 18:18:28 -0900
To: "Fahey, Sean P." <Faheys@pepperlaw.com>
From: John McKay <mckay@alaska.net>
Subject: RE: Zyprexa: Compliance with J. Cogan's order -- Addendum
Cc: John McKay <mckay@alaska.net>,
Jim Gottstein <jim.gottstein@psychrights.org>,
"Richard D. Meadow" <RDM@lanierlawfirm.com>,
"Boise, Barry" <BOISEB@pepperlaw.com>,
"Rogoff, Andy" <ROGOFFA@pepperlaw.com>,
waudet@alexanderlaw.com,
JamiesonB@LanePowell.com, Jim Gottstein
<Jim@psychrights.org>,
Peter Woodin <pwoodin@jamsadr.com>
X-ACS-Spam-Status: no
X-ACS-Spam-Score: 1.071 (x)
X-ACS-Spam-Tests:
HTML_20_30,HTML_MESSAGE,MIME_QP_LONG_LINE,
X-ACS-Scanned-By: MD 2.57; SA 3.1.6; spamdefang 1.117

Mr. Fahey,

Good to know lawyers are hard at work on the East Coast as 10 p.m. approaches.

As I noted to you earlier, I have been, and am, attending to other matters whose deadlines had to be extended in order to devote the substantial attention to your case that it has required over the past few days. I have been in touch with Mr. Gottstein a number of times through the remainder of the day since we last spoke, and I can attest that he has been working diligently on various aspects of complying fully with the court's order, including compiling the list that Judge Cogan directed him to provide to Special Master Woodin by tomorrow. While I believe that he has in fact deleted the documents, I am not in a position to more formally certify this to you without speaking with him once more, and I will not be in further communication with him until morning.

Morning here is four hours after morning there. It is my intention to

provide you and other counsel with a certification and report tomorrow (Thursday) covering all matters encompassed by the court's order, rather than a series of piecemeal updates on each aspect of Mr. Gottstein's compliance activities.

John McKay

At 9:44 PM -0500 12/20/06, Fahey, Sean P. wrote:

Mr. McKay, I have not received a copy of the certification - relating to Mr. Gottstein's deletion of documents - that Judge Cogan directed you to issue to Special Master Woodin (and the parties participating in today's hearing) by the close of business today. Please provide us with this certification this evening.

From: John McKay [mailto:mckay@alaska.net]

Sent: Wednesday, December 20, 2006 3:48 PM

To: Fahey, Sean P.

Cc: mckay@alaska.net; Jim Gottstein; Richard D. Meadow; Boise, Barry; Rogoff, Andy; waudet@alexanderlaw.com; JamiesonB@LanePowell.com; Jim Gottstein; Peter Woodin

Subject: RE: Zyprexa: Compliance with J. Cogan's order -- Addendum
Mr. Fahey -- I have been attending to matters with pressing deadlines this morning and am now in receipt of your messages. Thank you for forwarding the information about the hearing and Master Woodin's call-in number.

It remains Mr. Gottstein's position that the court lacks jurisdiction over him to enter the order it did. That said, it remains his position that he wishes to fully cooperate, as he has been, and he has authorized me to specially appear on his behalf at the noon (4 p.m. Eastern) hearing without waiving the jurisdictional objection to explain how he has been complying with the order.

In sum, I would like to assure all involved that Mr. Gottstein has been acting diligently and in good faith to comply with the order. Insofar as he has encountered any difficulties in doing so, they are inherent in

certain conflicting provisions of the order, and in obtaining technical assistance to take steps that may go even beyond what the parties anticipated, such as ensuring that copies are removed from any back-ups made of his computer system.

I am confident this is something that does not require a hearing, but since it has been scheduled, I am happy to take advantage of the opportunity to indicate for the record that Mr. Gottstein is complying in good faith, and how he has been doing so, and to clarify any issues that counsel may feel are outstanding.

Because of other non-movable deadlines, I will have limited additional time to deal with this today, but will do the best I can to accommodate any remaining concerns of the court or counsel.

John McKay

At 2:42 PM -0500 12/20/06, Fahey, Sean P. wrote:

[Special Master Woodin has offered his call-in number for our 4:00 ET conference with Judge Cogan. Here is the number and code: 1-877-696-5267; code 147353.](#)

From: Fahey, Sean P.

Sent: Wednesday, December 20, 2006 1:39 PM

To: 'Jim Gottstein'; Peter Woodin; 'John McKay'

Cc: 'Evan M. Janush'; JamiesonB@LanePowell.com; 'Jim Gottstein'; 'Richard D. Meadow'; Boise, Barry; Rogoff, Andy

Subject: RE: Zyprexa: Compliance with J. Cogan's order -- Addendum

[Mr. McKay - Would you please confirm that your client has already returned the documents in his possession to Special Master Woodin? This email below does not address that issue.](#)

From: Jim Gottstein [mailto:Jim@PsychRights.org]

Sent: Wednesday, December 20, 2006 12:35 PM

To: Peter Woodin; 'John McKay'

Cc: 'Evan M. Janush'; Fahey, Sean P.; JamiesonB@LanePowell.com; 'Jim Gottstein'; 'Richard D. Meadow'; Boise, Barry; Rogoff, Andy

Subject: Re: Zyprexa: Compliance with J. Cogan's order -- Addendum

Dear Special Master Woodin,

I have been working diligently to comply with the order since it was issued as evidenced by the e-mails. The last one just went out because I had trouble locating the contact information and just made contact to get the e-mail address. I hope to have you a report regarding who received the materials and the status of their return within the hour. Well, it might take two.

At 08:00 AM 12/20/2006, Peter Woodin wrote:

Dear Mr. McKay:

As an addendum to my earlier e-mail (below), I note, of course, that Judge Cogan's Order also required your client immediately to return to me "all documents produced, pursuant to CMO-3, by Eli Lilly and Co.... which were provided by David Egilman... or any other source..."

In addition to not yet having received the listings and information noted in my prior e-mail, below, I have also not received any of the documents and other materials provided to your client by Dr. Egilman or others that the Court has directed Mr. Gottstein to return to me.

Peter Woodin

-----Original Message-----

From: Peter Woodin [mailto:pwoodin@jamsadr.com]

Sent: Wednesday, December 20, 2006 11:35 AM

To: 'John McKay'

Cc: 'Evan M. Janush'; 'Fahey, Sean P.'; 'JamiesonB@LanePowell.com'; 'Jim Gottstein'; 'Richard D. Meadow'; 'Boise, Barry'; 'Rogoff, Andy'

Subject: Zyprexa: Compliance with J. Cogan's order

VIA EMAIL

December 20, 2006

John McKay, Esq.
Law Offices of D. John McKay
117 E. Cook Ave.
Anchorage, Alaska 99501

Dear Mr. McKay,

I write in my capacity as Special Discovery Master in In re: Zyprexa Products Liability Litigation, (MDL No. 1596), concerning the compliance of your client, James Gottstein, Esq., with Judge Cogan's Order for Mandatory Injunction. I am copying Mr. Gottstein on this e-mail, along with counsel for the parties.

As you know, the Court granted the requested injunctive relief orally the afternoon (in New York) of Monday, December 18, 2006, at the conclusion of a telephonic hearing in which you and your client participated. The Court expressly noted that the order was effective immediately. The order was confirmed in the subsequent written Order for Mandatory Injunction of the same date.

Pursuant to the Order for Mandatory Injunction, among other things, Mr. Gottstein was directed to:

- 1) immediately provide me with a "listing of all persons, organizations or entities to which any documents covered by this Order, or a subset thereof, were provided;" and
- 2) identify to me, within 24 hours of the Order, "by specific bates stamp, the particular documents given to any person, organization or entity noted above, which shall also include the date and location such documents were disseminated."

As of this writing, other than being copied by Mr. Gottstein on various emails he has sent to third parties, I have received no such listings or information from Mr. Gottstein. I would appreciate being advised whether your client intends to provide me with the information required under Judge Cogan's Order and, if he intends to provide the required information, when I can expect to receive it.

Thank you,
Peter H. Woodin
Special Discovery Master

Peter H. Woodin
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Note New E-mail Address

James B. (Jim) Gottstein, Esq.

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<http://psychrights.org/>

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Law Project for
Psychiatric Rights

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