

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT  
Thurgood Marshall U.S. Courthouse at Foley Square 40 Centre Street, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 07-1107-cv

Caption [use short title]

Motion to Take Judicial Notice

Set forth below precise, complete statement of relief sought:

In re: Zyprexa Litigation

Respondent-Appellant Gottstein requests the Court to take judicial notice of those documents in the Respondent-Appellant's Appendix not in the record before the district court

**MOVING PARTY:** Respondent-Appellant James Gottstein

- Plaintiff  Defendant
- Appellant/Petitioner  Appellee/Respondent

**OPPOSING PARTY:** Movant-Appellee Eli Lilly & Co.

**MOVING ATTORNEY:**

[name of attorney, with firm, address, phone number and e-mail]  
Steven Brock  
Berkman Henoch Peterson & Peddy, P.C.  
100 Garden City Plaza, Garden City, NY 11530  
516-780-0325  
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**OPPOSING ATTORNEY [Name]:**

[name of attorney, with firm, address, phone number and e-mail]  
Sean P. Fahey  
Pepper Hamilton, L.L.P.  
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Court-Judge/Agency appealed from: U.S. District Court for the Eastern District of New York, Honorable Jack B. Weinstein

Please check appropriate boxes:

**FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL**

Has consent of opposing counsel:

Has request for relief been made below?  Yes  No

- A. been sought?  Yes  No
- B. been obtained?  Yes  No

Has this relief been previously sought in this Court?  Yes  No

Has service been effected?  Yes  No  
[Attach proof of service]

Is oral argument requested?  Yes  No  
(requests for oral argument will not necessarily be granted)

Requested return date and explanation of emergency:

Has argument date of appeal been set?  Yes  No

If yes, enter date: \_\_\_\_\_  
Signature of Moving Attorney: \_\_\_\_\_

*Steven Brock*

Date: September 28, 2009

**ORDER**

Pursuant to the order dated August 17, 2009, Appellant's motion to take judicial notice of documents in Appellant's appendix that are not in the record, is referred to the merits panel.

FOR THE COURT:  
Catherine O'Hagan Wolfe, Clerk  
by *Judy Pisanont*

09.29.09  
Date

Judy Pisanont, Motions Staff Attorney

