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VIA FACSIMILE and E-Mail

Hon. Jack B. Weinstein
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *In re: Zyprexa Products Liability Litigation*
Case No. 04-MDL 1596

Dear Judge Weinstein,

You announced at the hearing earlier this week that you intended to conduct a full evidentiary hearing on Tuesday, January 16, and that your strong preference is to have those involved present in your courtroom. It appears that you wish to have this matter resolved, promptly, and Mr. Gottstein agrees. For this reason, he has now made arrangements, at considerable expense and inconvenience, to foreshorten his vacation with his family and attend the scheduled proceedings on Tuesday in person.

We assume that the injunction in this case will be dissolved unless it is established Tuesday by the party seeking it, Eli Lilly and Company, 1) that a violation of CMO-3 occurred when Mr. Gottstein received the documents at issue pursuant to his subpoena, and 2) that those to be enjoined from distributing the documents at issue or communicating about them have acted improperly. You have made it clear that to date you have made no findings of fact as to these issues. We look forward to addressing these matters on Tuesday.

Last evening, we received a copy of a letter from Ms. Gussack, counsel for Lilly, to you. In a response to her today, we have advised Lilly and other interested parties of our expectation that Mr. Gottstein will testify, as necessary, concerning the matters before the court Tuesday.

You have directed Mr. Gottstein to file a response Tuesday to the Order to Show Cause requested by Lilly. Although the response is presumably due by the close of business, it is our intention to file early enough in the day so that the matter can be taken up at the afternoon hearing. We assume that your honor would prefer to be able to deal with these related matters at the same time, and Lilly's letter reflects that this is its understanding as well.

We look forward to the opportunity to address these matters with you in Brooklyn on Tuesday.

Sincerely,

/s/djmckay/

D. John McKay
Attorney for James B. Gottstein

cc: Nina M, Gussack, Esq. (via e-mail and 215-981-4750)
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