

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

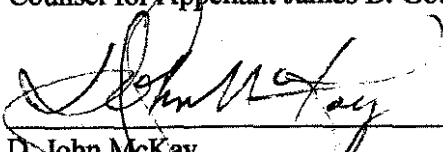
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Docket No. 07-1107-cv

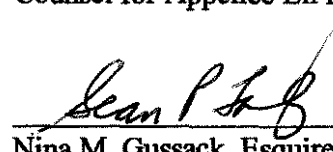
STIPULATION CONCERNING WITHDRAWAL
OF APPEAL FROM ACTIVE CONSIDERATION,
WITHOUT PREJUDICE, WITH LEAVE TO REACTIVATE

The undersigned counsel hereby stipulate that the appeal of Respondent-Appellant James B. Gottstein (Docket No. 07-1107-cv) shall be withdrawn from active consideration before the Court, such withdrawal to be without prejudice to reactivation by appellant's counsel by written notice to the Clerk of this Court on or before February 8, 2009. Mr. Gottstein and Petitioner-Appellee Eli Lilly & Company are actively engaged in settlement discussions, and the purpose of continuing the withdrawal of Mr. Gottstein's appeal is to allow the parties to conclude these. If not reactivated, these appeals are subject to dismissal with prejudice and without costs or attorneys' fees incurred to date. *See, Hertzner v. Henderson*, 292 F.3d 302 (2d Cir. 2002). Withdrawal of this appeal shall not operate as a dismissal of the appeal under FRAP 42(b). This stipulation may be executed in counterparts, and by signatures on fax or .pdf copies.

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