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Attorney for Law Project for Psychiatric Rights

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

UNITED STATES OF AMERICA)	
<i>Ex rel.</i> Law Project for Psychiatric)	Case No. 3:09-CV-00080-TMB
Rights, an Alaskan non-profit)	
corporation,)	
)	
Plaintiff,)	
)	
vs.)	
)	
OSAMU H. MATSUTANI, MD, <i>et al.</i> ,)	
)	
Defendants.)	
)	
<hr/> STATE OF ALASKA)	
)ss	
<hr/> THIRD JUDICIAL DISTRICT)	

**AFFIDAVIT OF JAMES B. GOTTSTEIN IN SUPPORT OF
MOTION FOR SHORTENED TIME**

JAMES B. GOTTSTEIN, ESQ., being first sworn under oath hereby deposes and states as follows to the best of my knowledge, belief and recollection:

1. Shortened time is needed because, as described at pages 9-11 of the Motion for Preliminary Injunction Against Defendants Hogan and Struer, Dkt. No. 78 filed by *relator* Law Project for PsychRights (PsychRights®), irreparable harm is occurring until such time as a preliminary injunction is issued.

2. On March 13, 2010, in anticipation of PsychRights filing a motion for preliminary injunction in which updated DRUGDEX entries would be desirable, I wrote Jim Torgerson, local counsel for defendant Thomson Reuters (Healthcare), hereinafter "Thomson," an e-mail requesting that Thomson, the publisher of DRUGDEX, provide PsychRights with updated entries for the drugs in PsychRights' Medically Accepted Indication Chart,¹ plus 9 other drugs, mostly benzodiazepines, for use in PsychRights' forthcoming motion for preliminary injunction.

3. The reason I asked Thomson for these documents rather than try to acquire them myself, is that they are very closely guarded by Thomson and expensive to acquire.

4. On March 18, 2010, Mr. Torgerson called me and asked why I wanted them and what benefit would accrue to Thomson to give them to PsychRights.

5. With respect to the first question, I responded that acquiring DRUGDEX entries was very difficult, or expensive, or both, and that I wanted updated versions for a prospective motion for preliminary injunction.

6. With respect to the second question, I suggested that I thought I would be entitled to them if I went to the Court to ask for them, and that Thomson might wish to avoid looking bad to the Court. I also said that it would save Thomson the attorney's fees involved in litigating the issue, although I surmised that was probably insignificant to Thomson.

7. Mr. Torgerson said he would get back to me.

8. Not having heard back almost a week later, on March 24, 2010, I went ahead and filed the Motion for Preliminary Injunction Against Defendants Hogan and Struer, Dkt. No. 78 (Motion for Preliminary Injunction), with the versions I had.

9. Because the Court rejected the Motion for Preliminary Injunction without prejudice to refile because the exhibit numbering did not conform to Local Rule 10.1(c), and many of the DRUGDEX entries were cut off on the right side, I renewed the request to Thomson on Friday, March 26, 2010, through a phone call to Mr. Torgerson.

¹ See, Ex. 1, pp 7-10.

10. On Saturday, March 27, 2010, I went through all of the DRUGDEX entries I could find to determine which ones were cut off.

11. On Sunday, March 28, 2010, I e-mailed Mr. Torgerson with copies to Thomson's New York counsel, James Rittinger and Thomas Cahill, and requested Thomson provide the DRUGDEX entries for the following drugs by noon on Monday in order to avoid PsychRights having to request the Court to order Thomson to provide them:

- Abilify (Aripiprazole)
- Adderall
(amphetamine/dextroamphetamine)
- Concerta (methylphenidate)
- Cymbalta (duloxetine)
- Depakote (valproic acid)
- Desyrel (trazadone)
- Dexadrine (dextroamphetamine)
- Effexor (venlafaxine)
- Haldol (haloperidol)
- Invega (paliperidone)
- Lamictal (lamotrigine)
- Lexapro (escitalopram)
- Neurontin (gabapentin)
- Risperdal (risperidone)
- Ritalin (methylphenidate)
- Seroquel (quetiapine)
- Symbyax (fluoxetine
hydrochloride/olanzapine)
- Tegretol (carbamazepine)
- Tofranil (imipramine)
- Trileptal (oxcarbazepine)
- Vyvanse (lisdexamfetamine)
- Zyprexa (olanzapine)

12. Apparently inadvertently copying me, one of Thomson's New York counsel, James Rittinger, e-mailed Mr. Torgerson, "We can talk tomorrow but we don't want to give him anything."

13. The recently revised Alaska Rules of Professional Conduct, §4.4(b) requires that when an attorney receives a document relating to the representation of another lawyer's client and knows or reasonably should know that the document was inadvertently sent, the attorney shall promptly notify the sender, which I did.

14. I also sent an e-mail to Messrs. Torgerson, Rittinger and Cahill, reciting essentially the above and requesting that if I had mischaracterized anything or they had a different perspective, to let me know. Ex. 1, p. 3.

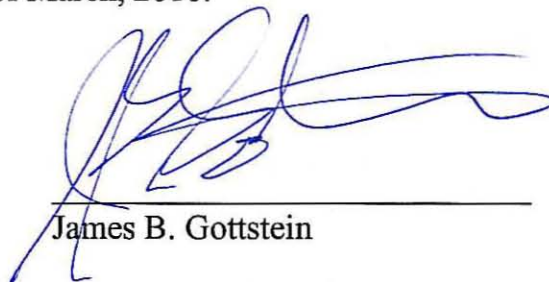
15. By return e-mail, Mr. Torgerson confirmed that the representations in the e-mail about which he had knowledge is a fair summary. Ex. 1, p. 1.

16. In addition to the passage of each day constituting irreparable harm, the date of most significance in my mind is April 2, 2010, which is the last business day before the date by which the parties agreed all 32 defendants' responses to the Complaint would be due, as recited in the Parties' First Scheduling and Planning Conference Report, Dkt. No. 62. It is expected these responses will be motions to dismiss.

17. This date is of the most significance, other than the passage of each day constituting irreparable harm, because if I don't acquire the DRUGDEX entries by such date PsychRights will be prejudiced because preparing a refiled motion for preliminary injunction will take time away from PsychRights' responding to the motions to dismiss by having to go through the 22 DRUGDEX entries to find the pin cites ordered by the Court or rewriting the motion to eliminate the drugs for which PsychRights does not have uncut off versions, finalizing and filing the refiled motion for preliminary injunction, and assembling and filing a Chambers Copy.

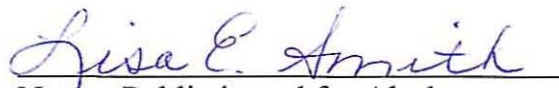
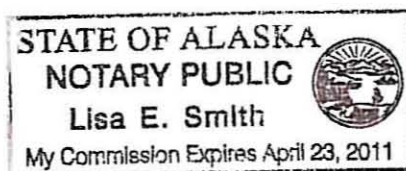
FURTHER YOU AFFIANT SAYETH NAUGHT.

DATED this 29th day of March, 2010.



James B. Gottstein

SUBSCRIBED AND SWORN TO before me this 29th day of March, 2010.



Notary Public in and for Alaska
My Commission Expires: 4/23/2011

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 29 2010, a true and correct copy of this document was served electronically on all parties of record by electronic means through the ECF system as indicated on the Notice of Electronic Filing, or if not confirmed by ECF, by first class regular mail.



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Law Project for Psychiatric Rights