

EXHIBIT 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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: :
IN RE: ZYPREXA LIABILITY : :
: : 04-MDL-1596
LITIGATION : :
: : July 2, 2004
: :
: : Brooklyn, New York
: :
: :
: :
: :
-----X

TRANSCRIPT OF CIVIL CAUSE FOR CONFERENCE
BEFORE THE HONORABLE A. SIMON CHREIN
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff: NANCY HIRSCH, ESQ.
RAMON LOPEZ, ESQ.
TOM SCHULTZ, ESQ.
CHRISTOPHER SEEGER, ESQ.
DAVID BUCHANAN, ESQ.
SETH A. KATZ, ESQ.

For the Defendant: NINA GUSSACK, ESQ.
BARRY BOISE, ESQ.
ALINE FAIRWEATHER, ESQ.

Audio Operator: LOAN HONG

Court Transcriber: ARIA TRANSCRIPTIONS
c/o Elizabeth Barron
328 President Street, #3
Brooklyn, New York 11231
(718) 522-2335

Proceedings recorded by electronic sound recording,
transcript produced by transcription service

1 THE COURT: Whereas the Zyprexa product is still
2 being actively sold and promoted.

3 MR. SEEGER: Right. But the one nice thing about
4 Judge Raykoff's order is it focuses primarily on business
5 and trade secrets and protects those. Those are the types
6 of things I would imagine that this defendant would be very
7 much interested in protecting, marketing plans. We're
8 totally in favor of it and we understand it. We can also
9 create a mechanism maybe and maybe ratchet it up a little
10 bit.

11 But I think as a starting place, I don't think the
12 starting place should be everything is deemed confidential
13 for -- we produce, we deem everything confidential and we
14 have to come back and challenge seven, eight million pages
15 of documents.

16 THE COURT: No, but you can challenge them by
17 generic type, not by specific documents, or else I'll put in
18 my retirement papers. What might be a real concern is if a
19 product is being marketed and if material that is produced
20 in discovery might undermine -- at this point, Zyprexa is
21 being legitimately marketed and the defendants do have a
22 right, subject to any demonstrated harm, to market the
23 product.

24 And if the newspapers are slathered with material
25 that might be misunderstood by the lay reader, that might do

1 some harm or prejudice a case that is still pending. That is
2 my concern. Now I understand that the public does have a
3 right to know, but on the other hand, there should be some
4 formulaic approach that will designate by type of document
5 what should be given broad protection and what should be
6 given less-broad protection.

7 MR. SEEGER: Your Honor, there really isn't a
8 dispute on that. I think most of the disputes with regard
9 to this order -- and I know that this has been briefed, but
10 it's going to relate to things like they define a
11 competitor. Anybody who is a competitor cannot see these
12 documents. That's defined broadly to mean any scientist
13 that may have worked for a drug company that sells drugs.

14 THE COURT: I think the protective order does
15 allow for the fact that anybody receiving -- well, no, we're
16 talking about broad access. There will be a paper signed by
17 anybody receiving documents that will undertake
18 confidentiality.

19 MR. SEEGER: Right. And that is the typical
20 procedure. In the order that's been proposed, that
21 certification the defendants would like delivered to them.
22 I think you could think of the chilling effect on experts
23 and scientists working with us. If they think that Lily
24 knows this early in the litigation that there are
25 consultants or experts.

EXHIBIT 2

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

In re: ZYPREXA
PRODUCTS LIABILITY LITIGATION

MDL No. 1596

THIS DOCUMENT RELATES TO:
ALL ACTIONS

MOVANT'S COUNSEL IS DIRECTED
TO SERVE A COPY OF THIS ORDER
ON ALL PARTIES UPON RECEIPT

CASE MANAGEMENT

~~FEDERAL ORDER NO. 3 (PROTECTIVE ORDER)~~

To expedite the flow of discovery material, facilitate the prompt resolution of disputes over confidentiality, adequately protect confidential material, and ensure that protection is afforded only to material so entitled, the Court enters this Protective Order pursuant to Rule 26 of the Federal Rules of Civil Procedure.

1. Discovery Materials

This Order applies to all products of discovery and all information derived therefrom, including, but not limited to, all documents, objects or things, deposition testimony and interrogatory/request for admission responses, and any copies, excerpts or summaries thereof, obtained by any party pursuant to the requirements of any court order, requests for production of documents, requests for admissions, interrogatories, or subpoena ("discovery materials"). This Order is limited to the litigation or appeal of any action brought by or on behalf of plaintiffs, alleging personal injuries or other damages arising from plaintiffs' ingestion of olanzapine, commonly known as Zyprexa® ("Litigation") and includes any state court action where counsel for the plaintiff has agreed to be bound by this order.

2. Use of Discovery Materials

With the exception of documents or information that has become publicly available without a breach of the terms of this Order, all documents, information or other

discovery materials produced or discovered in this Litigation and that have been designated confidential shall be used by the receiving party solely for the prosecution or defense of this Litigation, to the extent reasonably necessary to accomplish the purpose for which disclosure is made, and not for any other purpose, including any other litigation or judicial proceedings, or any business, competitive, governmental, commercial, or administrative purpose or function.

3. **“Confidential Discovery Materials” Defined**

For the purposes of this Order, “Confidential Discovery Materials” shall mean any information that the producing party in good faith believes is properly protected under Federal Rule of Civil Procedure 26(c)(7).

The terms of this Order shall in no way affect the right of any person (a) to withhold information on alleged grounds of immunity from discovery such as, for example, attorney/client privilege, work product or privacy rights of such third parties as patients, physicians, clinical investigators, or reporters of claimed adverse reactions; or (b) to withhold information on alleged grounds that such information is neither relevant to any claim or defense nor reasonably calculated to lead to the discovery of admissible evidence. If information is redacted on the basis it is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence, the redacting party shall identify on a separate log that identifies the document subject to redaction and the reason for such redaction.

Where large volumes of discovery materials are provided to the requesting party’s counsel for preliminary inspection and designation for production, and have not been reviewed for confidentiality purposes, the producing party reserves the right to so designate and redact appropriate discovery materials after they are designated by the requesting party for production. During the preliminary inspection process, and before production, all discovery materials reviewed by the requesting party’s counsel shall be treated as Confidential Discovery material.

4. **Designation of Documents as “Confidential”**

a. For the purposes of this Order, the term “document” means all tangible items, whether written, recorded or graphic, whether produced or created by a party or

another person, whether produced pursuant to subpoena, to discovery request, by agreement, or otherwise.

b. Any document which the producing party intends to designate as Confidential shall be stamped (or otherwise have the legend recorded upon it in a way that brings the legend to the attention of a reasonable examiner) with a notation substantially similar to the following:

Zyprexa MDL 1596: Confidential-Subject to Protective Order

Such stamping or marking will take place prior to production by the producing person, or subsequent to selection by the receiving party for copying. The stamp shall be affixed in such a manner as not to obliterate or obscure any written material.

c. A party may preliminarily designate as "Confidential" all documents produced by a third party entity employed by the party for the purposes of document management, quality control, production, reproduction, storage, scanning, or other such purpose related to discovery, by notifying counsel for the other party that all documents being produced are to be accorded such protection. Once said documents are produced by such third party vendor, the designating party will then review the documents and, as appropriate, designate them as "Confidential" by stamping the document (or otherwise having the legend recorded upon it in a way that brings its attention to a reasonable examiner) as such.

5. Non-Disclosure of Confidential Discovery Materials

Except with the prior written consent of the party or other person originally producing Confidential Discovery Materials, or as hereinafter provided under this Order, no Confidential Discovery Materials, or any portion thereof, may be disclosed to any person, including any plaintiff, except as set forth in section 6(d) below.

6. Permissible Disclosures of Confidential Discovery Material

Notwithstanding paragraph 5, Confidential Discovery Materials may be disclosed to and used only by:

- a. counsel of record for the parties in this Litigation and to his/her partners, associates, secretaries, legal assistants, and employees to the extent considered reasonably necessary to render professional services in the Litigation ,
- b. inside counsel of the parties, to the extent reasonably necessary to render professional services in the Litigation;
- c. court officials involved in this Litigation (including court reporters, persons operating video recording equipment at depositions, and any special master appointed by the Court);
- d. any person designated by the Court in the interest of justice, upon such terms as the Court may deem proper;
- e. where produced by a plaintiff, in addition to the persons described in subsections (a) and (b) of this section, a defendant's in-house paralegals and outside counsel, including any attorneys employed by or retained by defendant's outside counsel who are assisting in connection within this Litigation, and the paralegal, clerical, secretarial, and other staff employed or retained by such outside counsel or retained by the attorneys employed by or retained by defendant's outside counsel. To the extent a defendant does not have in-house counsel, it may designate two individuals employed by such defendant (in addition to outside counsel) to receive Confidential Discovery Materials produced by plaintiff;
- f. where produced by defendant Eli Lilly and Company, in addition to the persons described in subsections (a) and (b) of this section, plaintiff's attorneys in other filed litigation alleging injuries or damages resulting from the use of Zyprexa® including their paralegal, clerical, secretarial and other staff employed or retained by such counsel, provided that

such counsel have agreed to be governed by the terms of this Order and shall sign a copy of the order;

g. where produced by any defendant, outside counsel for any other defendant, including any attorneys employed by or retained by any other defendant's outside counsel who are assisting in connection with this Litigation, and the paralegal, clerical, secretarial, and other staff employed or retained by such outside counsel;

h. persons noticed for depositions or designated as trial witnesses, or those who counsel of record in good faith expect to testify at deposition or trial, to the extent reasonably necessary in preparing to testify;

i. outside consultants or outside experts retained for the purpose of assisting counsel in the Litigation;

j. employees of counsel involved solely in one or more aspects of organizing, filing, coding, converting, storing, or retrieving data or designating programs for handling data connected with this action, including the performance of such duties in relation to a computerized litigation support system;

k. employees of third-party contractors performing one or more of the functions set forth in (j) above;

l. any employee of a party or former employee of a party, but only to the extent considered necessary for the preparation and trial of this action; and

m. any other person, if consented to by the producing party.

Any individual to whom disclosure is to be made under subparagraphs (d) through (m) above, shall sign, prior to such disclosure, a copy of the Endorsement of Protective Order, attached as Exhibit A. Counsel providing access to Confidential Discovery Materials shall retain copies of the executed Endorsement(s) of Protective Order. Any party seeking a copy of an endorsement may make a demand setting forth the reasons therefor to which the opposing party will respond in writing. If the dispute cannot be resolved the demanding party may move the Court for an order compelling production upon a showing of good cause. For testifying experts,

a copy of the Endorsement of Protective Order executed by the testifying expert shall be furnished to counsel for the party who produced the Confidential Discovery Materials to which the expert has access, at the time the expert's designation is served, or at the time the Confidential Discovery Materials are provided to the testifying expert, whichever is later.

Before disclosing Confidential discovery materials to any person listed in subparagraphs (d) through (m) who is a Customer or Competitor (or an employee of either) of the party that so designated the discovery materials, but who is not an employee of a party, the party wishing to make such disclosure shall give at least three (3) business days advance notice in writing to the counsel who designated such discovery materials as Confidential, stating that such disclosure will be made, identifying by subject matter category the discovery material to be disclosed, and stating the purposes of such disclosure. If, within the three (3) business day period, a motion is filed objecting to the proposed disclosure, disclosure is not permissible until the Court has denied such motion. As used in this paragraph, (a) the term "Customer" means any direct purchaser of products from Lilly, or any regular indirect purchaser of products from Lilly (such as a pharmacy generally purchasing through wholesale houses), and does not include physicians; and (b) the term "Competitor" means any manufacturer or seller of prescription medications.

The notice provision immediately above applies to consultants and/or independent contractors of Competitors to the extent the consultants or contractors derive a substantial portion of their income, or spend a substantial portion of their time working for a pharmaceutical company that manufactures prescription medical products in the neuroscience area.

7. Production of Confidential Materials by Non-Parties

Any non-party who is producing discovery materials in the Litigation may agree to and obtain the benefits of the terms and protections of this Order by designating as "Confidential" the discovery materials that the non-party is producing, as set forth in paragraph 4.

8. Inadvertent Disclosures

a. The parties agree that the inadvertent production of any discovery materials that would be protected from disclosure pursuant to the attorney-client privilege, the work product doctrine or any other relevant privilege or doctrine shall not constitute a waiver of the applicable privilege or doctrine. If any such discovery materials are inadvertently produced, the recipient of the discovery materials agrees that, upon request from the producing party, it will promptly return the discovery materials and all copies of the discovery materials in its possession, delete any versions of the discovery materials on any database it maintains and make no use of the information contained in the discovery materials; provided, however, that the party returning such discovery materials shall have the right to apply to the Court for an order that such discovery materials are not protected from disclosure by any privilege. The person returning such material may not, however, assert as a ground for such motion the fact or circumstances of the inadvertent production.

b. The parties further agree that in the event that the producing party or other person inadvertently fails to designate discovery materials as Confidential in this or any other litigation, it may make such a designation subsequently by notifying all persons and parties to whom such discovery materials were produced, in writing, as soon as practicable. After receipt of such notification, the persons to whom production has been made shall prospectively treat the designated discovery materials as Confidential, subject to their right to dispute such designation in accordance with paragraph 9.

9. Declassification

a. Nothing shall prevent disclosure beyond that limited by this Order if the producing party consents in writing to such disclosure.

b. If at any time a party (or aggrieved entity permitted by the Court to intervene for such purpose) wishes for any reason to dispute a designation of discovery materials as Confidential made hereunder, such person shall notify the designating party of such dispute in writing, specifying by exact Bates number(s) the discovery materials in dispute. The designating party shall respond in writing within 20 days of receiving this notification.

c. If the parties are unable to amicably resolve the dispute, the proponent of confidentiality may apply by motion to the Court for a ruling that discovery materials stamped as Confidential are entitled to such status and protection under Rule 26 of the Federal Rules of Civil Procedure and this Order, provided that such motion is made within forty five (45) days from the date the challenger of the confidential designation challenges the designation or such other time period as the parties may agree. The designating party shall have the burden of proof on such motion to establish the propriety of its Confidential designation.

d. If the time for filing a motion, as provided in paragraph 9.c, has expired without the filing of any such motion, or ten (10) business days (or such longer time as ordered by this Court) have elapsed after the appeal period for an order of this Court that the discovery material shall not be entitled to Confidential status, the Confidential Discovery Material shall lose its designation.

10. Confidential Discovery Materials in Depositions

a. Counsel for any party may show Confidential Discovery Materials to a deponent during deposition and examine the deponent about the materials so long as the deponent already knows the Confidential information contained therein or if the provisions of paragraph 6 are complied with. The party noticing a deposition shall obtain each witness' endorsement of the protective order in advance of the deposition and shall notify the designating party at least ten (10) days prior to the deposition if it has been unable to obtain that witness' endorsement. The designating party may then move the Court for an Order directing that the witness abide by the terms of the protective order, and no confidential document shall be shown to the deponent until the Court has ruled. Deponents shall not retain or copy portions of the

transcript of their depositions that contain Confidential information not provided by them or the entities they represent unless they sign the form described, and otherwise comply with the provisions in paragraph 6. A deponent who is not a party shall be furnished a copy of this Order before being examined about potentially Confidential Discovery Materials. While a deponent is being examined about any Confidential Discovery Materials or the Confidential information contained therein, persons to whom disclosure is not authorized under this Order shall be excluded from being present.

b. Parties (and deponents) may, within thirty (30) days after receiving a deposition, designate pages of the transcript (and exhibits thereto) as Confidential. Until expiration of such thirty (30) day period, the entire transcript, including exhibits, will be treated as subject to Confidential protection under this Order. If no party or deponent timely designates a transcript as Confidential, then none of the transcript or its exhibits will be treated as confidential.

11. Confidential Discovery Materials Offered as Evidence at Trial

Confidential Discovery Materials and the information therein may be offered in evidence at trial or any court hearing, provided that the proponent of the evidence gives notice to counsel for the party or other person that designated the discovery materials or information as Confidential in accordance with the Federal Rules of Evidence and any local rules, standing orders, or rulings in the Litigation governing identification and use of exhibits at trial. Any party may move the Court for an order that the evidence be received in camera or under other conditions to prevent unnecessary disclosure. The Court will then determine whether the proffered evidence should continue to be treated as Confidential and, if so, what protection, if any, may be afforded to such discovery materials or information at trial.

12. Filing

Confidential Discovery Materials shall not be filed with the Clerk except when required in connection with matters pending before the Court. If filed, they shall be filed in a sealed envelope, clearly marked:

"THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION COVERED BY A PROTECTIVE ORDER OF THE COURT AND IS SUBMITTED UNDER SEAL PURSUANT TO THAT PROTECTIVE ORDER. THE CONFIDENTIAL CONTENTS OF THIS DOCUMENT MAY NOT BE DISCLOSED WITHOUT EXPRESS ORDER OF THE COURT"

and shall remain sealed while in the office of the Clerk so long as they retain their status as Confidential Discovery Materials. Said Confidential Discovery Materials shall be kept under seal until further order of the Court; however, said Confidential Discovery Materials and other papers filed under seal shall be available to the Court, to counsel of record, and to all other persons entitled to receive the confidential information contained therein under the terms of this Order.

13. Client Consultation

Nothing in this Order shall prevent or otherwise restrict counsel from rendering advice to their clients in this Litigation and, in the course thereof, relying generally on examination of Confidential Discovery Materials; provided, however, that in rendering such advice and otherwise communicating with such client, counsel shall not make specific disclosure of any item so designated except pursuant to the procedures of paragraph 6.

14. Subpoena by other Courts or Agencies

If another court or an administrative agency subpoenas or otherwise orders production of Confidential Discovery Materials which a person has obtained under the terms of this Order, the person to whom the subpoena or other process is directed shall promptly notify the designating party in writing of all of the following: (1) the discovery materials that are requested for production in the subpoena; (2) the date on which compliance with the subpoena is requested; (3) the location at which compliance with the subpoena is requested; (4) the identity of the party serving the subpoena; and (5) the case name, jurisdiction and index, docket, complaint, charge, civil action or other identification number or other designation identifying the

litigation, administrative proceeding or other proceeding in which the subpoena or other process has been issued. In no event shall confidential documents be produced prior to the receipt of written notice by the designating party and a reasonable opportunity to object. Furthermore, the person receiving the subpoena or other process shall cooperate with the producing party in any proceeding related thereto.

15. Non-termination

The provisions of this Order shall not terminate at the conclusion of this Litigation. Within ninety (90) days after final conclusion of all aspects of this Litigation, counsel shall, at their option, return or destroy Confidential Discovery Materials and all copies of same. If counsel elects to destroy Confidential Discovery Materials, they shall consult with counsel for the producing party on the manner of destruction and obtain such party's consent to the method and means of destruction. All counsel of record shall make certification of compliance herewith and shall deliver the same to counsel for the party who produced the discovery materials not more than one hundred twenty (120) days after final termination of this Litigation. Outside counsel, however, shall not be required to return or destroy any pretrial or trial records as are regularly maintained by that counsel in the ordinary course of business; which records will continue to be maintained as confidential in conformity with this Order.

16. Modification Permitted

Nothing in this Order shall prevent any party or other person from seeking modification of this Order or from objecting to discovery that it believes to be otherwise improper.

17. Responsibility of Attorneys; Copies

The attorneys of record are responsible for employing reasonable measures to control and record, consistent with this Order, duplication of, access to, and distribution of Confidential Discovery Materials, including abstracts and summaries thereof.

No duplications of Confidential Discovery Materials shall be made except for providing working copies and for filing in Court under seal; provided, however, that copies may

be made only by those persons specified in sections (a), (b) and (c) of paragraph 6 above. Any copy provided to a person listed in paragraph 6 shall be returned to counsel of record upon completion of the purpose for which such copy was provided. In the event of a change in counsel, retiring counsel shall fully instruct new counsel of their responsibilities under this Order and new counsel shall sign this Order.

18. No Waiver of Rights or Implication of Discoverability

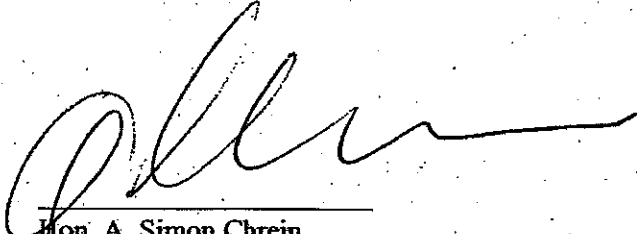
a. No disclosure pursuant to any provision of this Order shall waive any rights or privileges of any party granted by this Order.

b. This Order shall not enlarge or affect the proper scope of discovery in this or any other litigation; nor shall this order imply that Confidential Discovery Materials are properly discoverable, relevant, or admissible in this or any other litigation. Each party reserves the right to object to any disclosure of information or production of any documents that the producing party designates as Confidential Discovery Materials on any other ground it may deem appropriate.

c. The entry of this Order shall be without prejudice to the rights of the parties, or any one of them, or of any non-party to assert or apply for additional or different protection. Nothing in this Order shall prevent any party from seeking an appropriate protective order to further govern the use of Confidential Discovery Materials at trial.

19. Improper Disclosure of Confidential Discovery Material

Disclosure of discovery materials designated Confidential other than in accordance with the terms of this Protective Order may subject the disclosing person to such sanctions and remedies as the Court may deem appropriate.



Hon. A. Simon Chreim
United States Magistrate Judge

Dated: August 3, 2004.
Brooklyn, New York

SO ORDERED as approving act of
Magistrate Judge and parties.
No objection being taken.
J.B.W.

Hon. Jack B. Weinstein
Senior District Judge

Dated: 8/3, 2004
Brooklyn, New York

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re: ZYPREXA
PRODUCTS LIABILITY LITIGATION

MDL No. 1596

-----X
THIS DOCUMENT RELATES TO:

ALL ACTIONS
-----X

ENDORSEMENT OF PROTECTIVE ORDER

I hereby attest to my understanding that information or documents designated Confidential are provided to me subject to the Protective Order ("Order") dated _____, 2004 (the "Protective Order"), in the above-captioned litigation ("Litigation"); that I have been given a copy of and have read the Order, and that I agree to be bound by its terms. I also understand that my execution of this Endorsement of Protective Order, indicating my agreement to be bound by the Order, is a prerequisite to my review of any information or documents designated as Confidential pursuant to the Order.

I further agree that I shall not disclose to others, except in accord with the Order, any Confidential Discovery Materials, in any form whatsoever, and that such Confidential Discovery Materials and the information contained therein may be used only for the purposes authorized by the Order.

I further agree to return all copies of any Confidential Discovery Materials I have received to counsel who provided them to me upon completion of the purpose for which they were provided and no later than the conclusion of this Litigation.

I further agree and attest to my understanding that my obligation to honor the confidentiality of such discovery material will continue even after this Litigation concludes.

I further agree and attest to my understanding that, if I fail to abide by the terms of the Order, I may be subject to sanctions, including contempt of court, for such failure. I agree to be subject to the jurisdiction of the United States District Court, Eastern District of New York, for the purposes of any proceedings relating to enforcement of the Order.

I further agree to be bound by and to comply with the terms of the Order as soon as I sign this Agreement, regardless of whether the Order has been entered by the Court.

Date: _____

By: _____

EXHIBIT 3

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**IN RE ZYPREXA PRODUCTS
LIABILITY LITIGATION**

**AFFIRMATION OF
RICHARD D. MEADOW**

(04-MD-1596) (JBW)

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

RICHARD D. MEADOW, ESQ., an attorney duly admitted to the Courts of the State of New York and to the Eastern District of New York hereby affirms the following to be true under the penalties of perjury.

1. I am the Managing Attorney of The Lanier Law Firm, PLLC ("LLF"), which has been retained by Plaintiffs to prosecute claims against Defendant Eli Lilly & Company (hereinafter "Lilly" or "Defendant").

2. In August of 2006, I was recommended to be appointed to the Zyprexa II Plaintiffs' Steering Committee ("PSC II").

3. As of August 10, 2006, LLF had informally sought the expert consulting help of David Egilman, M.D., MPH ("Dr. Egilman"). Dr. Egilman sought access to the PSC database and on August 10, 2006, asked us to forward his signed confidentiality order to Blair Hahn at Richardson, Patrick, Westbrook and Brickman, LLP ("RPWB"), the law firm maintaining the PSC Zyprexa database). The e-mail request by Dr. Egilman is attached as Exhibit A. At this point, I believed that Dr. Egilman had executed a Protective Order.

4. Because we were in settlement discussions, LLF did not have Dr. Egilman do serious Zyprexa work at this time, though by late September we did send him documents on CDs.

5. By October 23, 2006, it became apparent that discovery was necessary because settlement discussions were ongoing but not adequately progressing. On such date, I then instructed Dr. Egilman to directly begin helping us. Dr. Egilman then sought access to the database. We were unable to locate Dr. Egilman's Protective Order referenced in his August 10, 2006 e-mail so I had him execute another one.

6. On November 10, 2006, Dr. Egilman sent over an executed Protective Order in which numerous and substantive deletions and edits were made. See Exhibit B, attached hereto. I contacted Dr. Egilman and conveyed the seriousness of the Protective Order, the reason it is required and the fact that he would need to re-execute another Protective Order without the edits he previously submitted.

7. On November 14, 2004, Dr. Egilman executed another Protective Order. See Exhibit C, attached hereto. On this Order, Dr. Egilman made one edit to the second paragraph of the form Protective Order in which he represented that he would abide by the Protective Order "unless this conflicts with any other sworn statements." I inquired of Dr. Egilman as to why he made this edit. Dr. Egilman explained that if he were to be subpoenaed by the FDA or Congress, he wanted to ensure that the Protective Order would not preclude providing testimony concerning Zyprexa. Since that explanation did not conflict with my understanding of the purposes behind the Protective Order, nor did it conflict with my understanding that the Protective Order would not – in any event – have precluded such testimony by Dr. Egilman, and because Dr. Egilman assured me that he understood the Protective Order, I accepted this Protective Order.

8. Thereafter, I communicated to the RPWB law firm that Dr. Egilman had executed a Protective Order, and, at some point in time thereafter, Dr. Egilman was granted access to the PSC-maintained database of Zyprexa-related discovery materials.

9. On December 13, 2006, I first learned that Dr. Egilman had been served with a document subpoena calling for the production of Zyprexa-related documents on December 20, 2006. I spoke with Dr. Egilman and told him to "not do anything" (i.e. do not surrender documents). Dr. Egilman responded, "Yes. Ricky." It was not until later in the business day on December 15, 2006, that I first learned from reading Dr. Egilman's own narrative timeline that an amended subpoena had been issued by James Gottstein, Esq., calling for the production of Zyprexa-related documents prior to December 20, 2006. It was also on December 15, 2006 that I first learned that Dr. Egilman had produced the Zyprexa-related documents to the requesting party beginning on December 12, 2006.

10. The entirety of the facts surrounding the subpoena that was served upon Dr. Egilman, LLF's knowledge of the subpoena, and LLF's contemporaneous actions taken after learning about the subpoena are addressed in my December 15, 2006 letter to Lilly's counsel, Andrew Rogoff, Esq. That letter is annexed hereto as Exhibit D and all of the facts recited therein are hereby incorporated into this sworn statement.

11. Finally, after learning of Dr. Egilman's disclosure to Mr. Gottstein of documents on December 15, 2006, LLF demanded the return of all documents in his possession. We thereafter terminated his involvement as a consultant in this matter.

Dated: New York, New York

January 2, 2007



RICHARD D. MEADOW

EXHIBIT A

Richard D. Meadow

From: David Egilman [degilman@egilman.com]

Date: Thursday, August 10, 2006 4:05 PM

Richard D. Meadow

Subject: Send my zyprexa confidentiality order to bhahn@rpwb.com thanks

Egilman MD, MPH

Assistant Associate Professor Of Community Medicine

University

100 Main Street

North Andover, Massachusetts 02703

degilman@egilman.com

Phone: 508-226-5091

425-699-7033

508-472-2809

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

In re: ZYPREXA
PRODUCTS LIABILITY LITIGATION

MDL No. 1596

THIS DOCUMENT RELATES TO:

ALL ACTIONS

ENDORSEMENT OF PROTECTIVE ORDER

I hereby attest to my understanding that information or documents designated Confidential are provided to me subject to the Protective Order ("Order") dated 11/10, ²⁰⁰⁶ ~~2004~~ (the "Protective Order"), in the above-captioned litigation ("Litigation"); that I have been given a copy of and have read the Order, and that I agree to be bound by its terms. ^{as amended below.} ~~I also understand that my execution of this Endorsement of Protective Order, indicating my agreement to be bound by the Order, is a prerequisite to my review of any information or documents designated as Confidential pursuant to the Order.~~

I further agree that I shall not disclose to others, except in accord with the Order, any Confidential Discovery Materials, in any form whatsoever, and that such Confidential Discovery Materials and the information contained therein may be used only for the purposes authorized by the Order, *unless release is needed to protect public*

I further agree to return all copies of any Confidential Discovery Materials I have received to counsel who provided them to me upon completion of the purpose for which they were provided and no later than the conclusion of this Litigation.

I further agree and attest to my understanding that my obligation to honor the confidentiality of such discovery material will continue even after this Litigation concludes.

I further agree and attest to my understanding that, if I fail to abide by the terms of the Order, I may be subject to sanctions, including contempt of court, for such failure. I agree to be subject to the jurisdiction of the United States District Court, Eastern District of New York, for the purposes of any proceedings relating to enforcement of the Order.

I further agree to be bound by and to comply with the terms of the Order as soon as I sign this Agreement, regardless of whether the Order has been entered by the Court.

Date:

11/19/06

By:

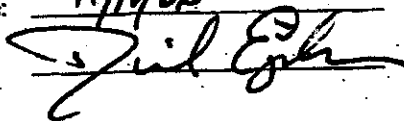
 NO 1018

EXHIBIT C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

In re: ZYPREXA
PRODUCTS LIABILITY LITIGATION

MDL No. 1596

THIS DOCUMENT RELATES TO:
ALL ACTIONS

ENDORSEMENT OF PROTECTIVE ORDER

I hereby attest to my understanding that information or documents designated Confidential are provided to me subject to the Protective Order ("Order") dated 8/3, 2004 (the "Protective Order"), in the above-captioned litigation ("Litigation"); that I have been given a copy of and have read the Order, and that I agree to be bound by its terms. I also understand that my execution of this Endorsement of Protective Order, indicating my agreement to be bound by the Order, is a prerequisite to my review of any information or documents designated as Confidential pursuant to the Order.

I further agree that I shall not disclose to others, except in accord with the Order, any Confidential Discovery Materials, in any form whatsoever, and that such Confidential Discovery Materials and the information contained therein may be used only for the purposes authorized by the Order, *unless this conflicts with any other sworn statement.*

I further agree to return all copies of any Confidential Discovery Materials I have received to counsel who provided them to me upon completion of the purpose for which they were provided and no later than the conclusion of this Litigation.

I further agree and attest to my understanding that my obligation to honor the confidentiality of such discovery material will continue even after this Litigation concludes.

I further agree and attest to my understanding that, if I fail to abide by the terms of the Order, I may be subject to sanctions, including contempt of court, for such failure. I agree to be subject to the jurisdiction of the United States District Court, Eastern District of New York, for the purposes of any proceedings relating to enforcement of the Order.

I further agree to be bound by and to comply with the terms of the Order as soon as I sign this Agreement, regardless of whether the Order has been entered by the Court.

Date:

11/11/06

By:

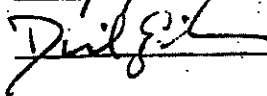


EXHIBIT D



THE
LANIER
LAW FIRM

December 15, 2006

**VIA E-MAIL
AND REGULAR MAIL**

Andrew Rogoff, Esq.
Pepper Hamilton LLP
3000 Two Logan Square
Philadelphia, PA 19103-2799

Re: In re Zyprexa MDL (Subpoena to Dr. Egilman)

Dear Andy:

This letter confirms my receipt of your letter this afternoon and, in addition to substantively addressing your letter, also serves to set forth the history concerning my knowledge and involvement with the underlying issues that you have addressed concerning the subpoena that was served by James Gottstein, Esq., upon Dr. David Egilman.

Please be advised that until December 13, 2006, no individual at The Lanier Law Firm, including me, had any knowledge that a subpoena had been served upon Dr. Egilman. Such knowledge was first acquired when PSC Member, James Shaughnessy, Esq., directed an e-mail to the PSC in which he notified the PSC that Dr. Egilman was served with a subpoena.

On December 13, 2006, you contacted my office to determine if Dr. Egilman was retained by The Lanier Law Firm. I acknowledged that he was and I advised you to immediately file a motion to quash the subpoena in both Alaska and Massachusetts. Thereafter, I communicated with Dr. Egilman that nothing should be done in accordance with the subpoena until this issue was addressed by Lilly before the Court.

After receiving your letter this afternoon, I again communicated with Dr. Egilman. During my conversation with Dr. Egilman I addressed your letter and asked him if and when he complied with the subpoena. Dr. Egilman informed me that he had already complied with the subpoena by transmitting documents to James B. Gottstein, Esq., prior to my conversation with him on December 13, 2006.

HOUSTON
The Lanier Law Firm, PC
6810 FM 1960 West 77069
Post Office Box 691448
Houston, Texas 77269-1448
713.659.5200 • Fax: 713.659.2204
2124212878 P.002

LONGVIEW
The Lanier Law Firm, PC
131 East Tyler Street
Longview, Texas 75601
903.234.2300 • Fax: 903.234.2346

NEW YORK
The Lanier Law Firm, PLLC
Tower 56
126 East 56th Street, 6th Floor
New York, New York 10022
212.421.2800 • Fax: 212.421.2878

LANIER LAW FIRM

DEC-15-2006 15:37

The following responses address *in seriatim* your numbered requests:

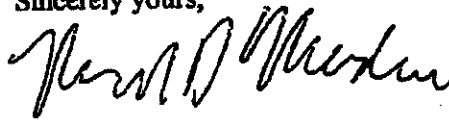
1. Attached hereto as Exhibit A to this letter is list of all bates numbered pages that have been transmitted by Dr. Egilman to Mr. Gottstein.
2. I have requested that Dr. Egilman provide my office with all confidential materials that have been provided to him by any individual involved in Zyprexa litigation.
3. I have instructed Dr. Egilman to not comment publicly on any such confidential materials.
4. The only person to whom Dr. Egilman has provided confidential materials, if such materials are deemed confidential, is:

James B. Gottstein, Esq.
Law Office of James B. Gottstein
406 G Street, Suite 206
Anchorage, Alaska 99501-2164

Please further note that by providing a copy of this letter to Mr. Gottstein concerning Lilly's position that such materials were provided in violation of a court order, I am demanding the return of such materials to the PSC and I am further conveying Lilly's demand that no disclosure of such materials be made until such time as Lilly has had the opportunity to file its motion and be heard on this matter by Judge Weinstein of the Eastern District of New York.

Last, I am confirming that neither I, nor anyone else employed by my firm who is bound by the confidentiality requirements of this litigation, will comment publicly on any of the confidential materials. Obviously, I cannot make such representations for individuals who are beyond my control.

Sincerely yours,



Richard D. Meadow

cc: Andrew Rogoff, Esq. (via e-mail)--
W. Mark Lanier, Esq. (via e-mail)
James B. Gottstein, Esq. (via facsimile)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
IN RE ZYPREXA PRODUCTS
LIABILITY LITIGATION

(04-MD-1596) (JBW)

AFFIRMATION OF RICHARD D. MEADOW

THE LANIER LAW FIRM, PLLC
Attorneys for Plaintiffs
Tower 56
126 E. 56th Street
New York, NY 10022
212-421-2800

To:
Attorney(s) for Defendant Eli Lilly & Co.
Service of a copy of the within
is hereby admitted.
Dated, January 3, 2007

EXHIBIT 4

PsychRights®

Law Project for
Psychiatric Rights, Inc.

December 17, 2006

Special Master Peter H. Woodin
JAMS
280 Park Avenue, 28th floor
New York, NY 10017

Draft

via e-mail

Re: Your December 15, 2006, Order in MDL 1596

Dear Mr. Woodin:

On December 16, 2006, I e-mailed you requesting certain information regarding the Order you signed December 15, 2006, under your "authority as Special Discovery Master" in MDL 1596 "to oversee the implementation of the orders of the United States District Court for the Eastern District of New York relating to discovery, including Case Management Order No. 3 ("CMO-3")" and indicated I would try to respond more fully this weekend. You have not responded to my request, but even without it, some things can be said. By doing so, I am not agreeing that the MDL 1596 court has jurisdiction over me or the documents that came into my possession in what I believe is full compliance with CMO-3.¹ I am not entering an appearance, or otherwise participating in *In re: Zyprexa Products Liability litigation*, MDL No. 1596, United States District Court, Eastern District of New York (MDL 1596) in any manner whatsoever.² Instead, I am using this mechanism to inform you of events which was not conveyed to you by Lilly and the PSC that demonstrate that the materials were produced in full conformance with CMO-3. You might thereafter decide *sua sponte* to vacate the Order.

Background

The Law Project for Psychiatric Rights (PsychRights) is a tax-exempt, public interest law firm whose mission is to mount a strategic litigation campaign against forced (court ordered) psychiatric drugging and electroshock around the country. The massive amounts of forced drugging in this country, amounting to probably at least a million cases a year,³ is resulting in decreased, rather than increased, public safety; causing an almost unimaginable amount of physical harm, including death; turning many patients into drooling zombies; and preventing at least half the people who currently become

¹ I did not have a copy of CMO-3 until I received the fax from Mr. Fahey on the afternoon of Friday, December 15, 2006, a copy of which is enclosed.

² I am not signing this lest that somehow be deemed sufficient to confer jurisdiction and to emphasize this I am merely providing you, as a courtesy, with a draft, effect.

³ See, e.g., Mary L. Durham, "Civil Commitment of the Mentally Ill: Research, Policy and Practice," in Bruce D. Sales and Saleem A. Shah, eds., *Mental Health and Law Research, Policy and Services* (Durham, N.C.: Carolina Academic Press, 1996), pp. 17-40 (p.17). This is a citation for involuntary commitment as I understand it, but presumably most, if not all are subject to forced drugging and there is also a large number of people now under outpatient forced drugging court orders.

diagnosed with "serious and persistent mental illness" (f/k/a "chronic mental illness") from recovering⁴ and going on to the full, rich lives they could otherwise enjoy.⁵

In large part, this state of affairs has been created by the lies told by the manufacturers of psychiatric drugs, particularly the neuroleptics, of which Zyprexa (olanzapine), the subject of MDL 1596, is perhaps the biggest seller.⁶ I do know people who find these drugs, even Zyprexa, helpful; I think these individuals should certainly be allowed to use them, but they should be told the truth in order to make an informed decision. My impression is that Eli Lilly's lies about Zyprexa form the basis of the plaintiffs' claims in MDL 1596, but that is not PsychRights' focus. PsychRights' focus is helping people avoid being forcibly drugged pursuant to court orders, where the courts have been, in my view, duped by Eli Lilly and other pharmaceutical company prevarications.

In addition to the compilations of published studies, PsychRights' website has been the first to publish some material on psychiatric medication, and as well has produced some original analysis. For example, I believe PsychRights was the first to post the February 18, 2004, Dr. Andrew Mosholder's *Report on Suicidality in Pediatric Clinical Trials with Paroxetine* (Paxil) and other antidepressant drugs that the Food and Drug Administration (FDA) ordered Dr. Mosholder to suppress.⁷ Another example is the Allen Jones "Whistleblower Report" on the fraud involved in the Texas Medication Algorithm Project (TMAP),⁸ which has been downloaded from the PsychRights website approximately 50,000 times,⁹ and which just this week played what would appear to be a pivotal role in the Texas Attorney General's decision to join a lawsuit against Johnson and Johnson, and five related companies, for allegedly misrepresenting the safety and effectiveness of an anti-psychotic drug, and unduly influencing at least one state official to make that drug a standard treatment in public mental health programs.¹⁰

⁴ See, the assembled *full* (not just the abstracts) published peer-reviewed studies available on the Internet at <http://psychrights.org/Research/Digest/NLPs/neuroleptics.htm> and <http://psychrights.org/Research/Digest/NLPs/neuroleptics.htm>.

⁵ See, the assembled proof of the effectiveness of non-drug therapies, and selective use of drug therapies, available at <http://psychrights.org/Research/Digest/Effective/effective.htm>.

⁶ The New York Times today reports that Zyprexa's sales were \$4.2 billion last year.

⁷ The original file that was uploaded is at <http://psychrights.org/Research/Digest/AntiDepressants/Mosholder/MosholderReportwo24.pdf>. Under intense pressure and presumably because the report had already been leaked, the FDA subsequently allowed release of the report and this better copy is now on PsychRights' website at <http://psychrights.org/Research/Digest/AntiDepressants/Mosholder/MosholderReport.pdf>.

⁸ <http://psychrights.org/Drugs/AllenJonesTMAPJanuary20.pdf>

⁹ See, <http://psychrights.org/stats/>.

¹⁰ See, "State's mental facilities duped into using drug: Abbott alleges lawsuit claims state official pushed drug, was rewarded with money," *Austin Statesman*, December 16, 2006, accessed on the Internet December 17, 2006, at <http://www.statesman.com/search/content/news/stories/local/12/16/16drugs.html>.

With respect to Zyprexa, for example, Ellen Liversidge, whose son had been killed by the drug,¹¹ provided PsychRights with the FDA's response to her *Freedom of Information Act* ("FOIA") request regarding adverse events reported from all of the so-called "atypical" neuroleptics, of which Zyprexa is one.¹² Since March, 2003, PsychRights has also posted documents which the author of *Mad in America*, Robert Whitaker, received from the FDA under a FOIA request regarding Zyprexa's approval, as well as Grace E. Jackson, M.D.'s affidavit regarding, among other things, the clinical trials contained in these FOIA documents. These documents belie Eli Lilly's public, or at least proxy, claims.¹³ As will be described below, these documents, which may not appear anywhere else on the Internet, are what caused Dr. Egilman to contact me. Before discussing those events, however, some more background is in order.

Just last summer, in *Myers v. Alaska Psychiatric Institute*, 138 P.3d 238 (Alaska 2006), in PsychRights' first case, the Alaska Supreme Court invalidated Alaska's forced psychiatric drugging procedures as unconstitutional for not requiring *the court* to find such drugging to be in the person's *best interests*, and that there are no less restrictive alternatives. The last paragraph of the *Myers* decision thus holds:

We conclude that the Alaska Constitution's guarantees of liberty and privacy require an independent judicial determination of an incompetent mental patient's best interests before the superior court may authorize a facility like API to treat the patient with psychotropic drugs. Because the superior court did not determine Myers's best interest before authorizing psychotropic medications, we VACATE its involuntary treatment order. Although no further proceedings are needed here because Myers's case is now technically moot, we hold that in future non-emergency cases a court may not permit a treatment facility to administer psychotropic drugs unless the court makes findings that comply with all applicable statutory requirements and, in addition, expressly finds by clear and convincing evidence that the proposed treatment is in the patient's best interests and that no less intrusive alternative is available.

At 138 P.3d, 252, the Alaska Supreme Court gave the following guidance:

¹¹ More specifically, her son died of profound hyperglycemia after taking Zyprexa for two years and gaining 100 pounds without any warning from the label or prescribing doctor.

¹² PsychRights has posted these flat text files at <http://psychrights.org/Research/Digest/NLPs/FDAFOIAs/>, was then able to get to have these parsed into a pretty clean 35 megabyte database that is available at [http://psychrights.org/Research/Digest/NLPs/FDAFOIAs/FDAAtypicalNLPAdverseEventReportingSystem\(AERS\).mdb](http://psychrights.org/Research/Digest/NLPs/FDAFOIAs/FDAAtypicalNLPAdverseEventReportingSystem(AERS).mdb), and has been trying to get someone to analyze this data ever since.

¹³ See, <http://psychrights.org/States/Alaska/CaseOne/30-Day/ExhC-FDAonOlanzapineSave.pdf> and <http://psychrights.org/States/Alaska/CaseOne/30-Day/ExhibitD-Olanzapine.htm>, respectively.

Evaluating whether a proposed course of psychotropic medication is in the best interests of a patient will inevitably be a fact-specific endeavor. At a minimum, we think that courts should consider :

[...]

(B) information about the proposed medication, its purpose, the method of its administration, the recommended ranges of dosages, *possible side effects and benefits*, ways to treat side effects, and risks of other conditions, such as tardive dyskinesia;

[emphasis added].

In reaching its conclusion, the Alaska Supreme Court discussed the rights involved, as follows:

When a law places substantial burdens on the exercise of a fundamental right, we require the state to "articulate a compelling [state] interest" and to demonstrate "the absence of a less restrictive means to advance [that] interest."

* * *

In the past we have recognized that Alaska's constitutional rights of privacy and liberty encompass the prerogative to control aspects of one's personal appearance, privacy in the home, and reproductive rights. We have noted that "few things [are] more personal than one's own body," and we have held that Alaska's constitutional right to privacy "clearly... shields the ingestion of food, beverages or other substances."

* * *

Because psychotropic medication can have profound and lasting negative effects on a patient's mind and body, we now similarly hold that Alaska's statutory provisions permitting nonconsensual treatment with psychotropic medications implicate fundamental liberty and privacy interests

[footnotes and citations omitted].

Clearly, the documents in question here are highly relevant to the constitutionally-required court inquiry before it can make an informed decision about whether to order forced psychiatric drugging, which might very well include Zyprexa.

Production of the Subpoena'd Documents

Out of the blue, on or about November 29, 2006, Dr. Egilman called me to ask if I had *FOIA* documents pertaining to Zyprexa. He identified himself as one of plaintiffs' retained experts in Zyprexa damages litigation. I directed him to the location of the *FOIA*

information available on PsychRights' website, and also mentioned to him the Adverse Events database. During the course of the conversation, I learned that he had access to secret Eli Lilly documents pertaining to Zyprexa. I told him that I wanted access to those documents, and would undertake a case from which to subpoena them. Dr. Egilman told me he was subject to a protective order to provide notification of such a subpoena. I informed him that I understood, and indicated that, typically, forced drugging hearings occur very quickly and that they are often scheduled for hearing the same day they are filed, but that I always ask for a short continuance to prepare.¹⁴

Since I knew at the time that I would be away from Alaska from December 22, 2006, until January 15, 2007, I proceeded to try to acquire a suitable case in earnest.¹⁵ In spite of the impediments to doing so interposed by the Alaska Psychiatric Institute, I was able to acquire a suitable case in the evening of December 5, 2006. This case, however, was not within an AS 47.30.839 court ordered forced drugging proceeding, but involved a guardianship wherein the public guardian, the Alaska Office of Public Advocacy (OPA), was granted full guardianship powers under AS 13.26.090 through .155, including the power to "approve administration of psychotropic medications," meaning the right to agree to the forced drugging of its ward, who was now PsychRights' client.

The next morning I filed papers to, among other things terminate the guardianship and remove the guardian's right to consent to forced drugging, the court issued four deposition subpoenas at my request, including one to Dr. Egilman setting his telephonic deposition for December 20, 2006, a copy of which is attached. It is my belief that Dr. Egilman promptly notified Eli Lilly of this subpoena, a belief which is supported by a December 14, 2006, letter from Eli Lilly's Alaska counsel, Brewster Jamieson, a copy of which is enclosed.¹⁶ Over the weekend, in reviewing the paperwork, I realized that the subpoena's requirement for Dr. Egilman to "bring with" him the subpoena'd materials didn't make any sense for a telephonic deposition, so on Monday, December 11, 2006, the court issued an amended subpoena, a copy of which is enclosed, that required Dr. Egilman to deliver the subpoena'd materials to me prior to the deposition. This amended subpoena, a copy of which is enclosed, was served on Dr. Egilman by e-mail which states, in its entirety:

Dear Dr. Egilman,

I have (hopefully) attached an amended subpoena. I assume that you will also accept service of this amended subpoena in this manner. If not please notify me immediately.

In reviewing the original subpoena I realized it did not take into account that this was a telephonic deposition. Therefore the amended one

¹⁴ See, AS 47.30.839(e).

¹⁵ These efforts are chronicled at <http://psychrights.org/States/Alaska/CaseXX.htm>.

¹⁶ It is noted that this letter recites a copy of Dr. Egilman's letter transmitting the subpoena, which was not included in either the fax or hard copy of the letter received by PsychRights.

orders [you] to deliver the material to me prior to the date and time set for the deposition, rather than bring it with you.

In order for the deposition to go smoothly and as efficiently as possible by allowing me to review them ahead of time, *please deliver the subpoena'd materials to me as soon as you can.*

[emphasis added]. I registered the Internet domain ZyprexaDocuments.Net that same day, December 11, 2006, in order to set up a secure method, via "file transfer protocol," for Dr. Egilman to deliver the subpoena'd documents to me. I then so informed Dr. Egilman.

Subpoena'd materials began being uploaded on December 12, 2006, but ceased after I e-mailed Dr. Egilman a copy of the after-hours Jamieson letter of December 14, 2006, which I received on December 15, 2006, and which is enclosed.¹⁷

Analysis

Section 14 of the CMO provides:

14. Subpoena by other Courts or Agencies

If another court or an administrative agency subpoenas or otherwise orders production of Confidential Discovery Materials which a person has obtained under the terms of this Order, the person to whom the subpoena or other process is directed shall promptly notify the designating party in writing of all of the following: (1) the discovery materials that are requested for production in the subpoena; (2) the date on which compliance with the subpoena is requested; (3) the location at which compliance with the subpoena is requested; (4) the identity of the party serving the subpoena; and (5) the case name, jurisdiction and index, docket, complaint, charge, civil action or other identification number or other designation identifying the litigation, administrative proceeding or other proceeding in which the subpoena or other process has been issued. In no event shall confidential documents be produced prior to the receipt of written notice by the designating party and a reasonable opportunity to object. Furthermore, the person receiving the subpoena or other process shall cooperate with the producing party in any proceeding related thereto.

Alaska Civil Rule 45(d), as is typical, provides in pertinent part:

The person to whom the subpoena is directed may, within 10 days after the service thereof or on or before the time specified in the subpoena

¹⁷ I e-mailed this letter to Dr. Egilman because the fax cover sheet did not indicate it had been faxed to him.

for compliance if such time is less than 10 days after service, serve upon the attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the material except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena may, if objection has been made, move upon notice to the deponent for an order at any time before or during the taking of the deposition.

Thus, CMO-3 recognizes, as it must, that MDL 1596 has no authority to enjoin enforcement of a subpoena in another proceeding, and gives the party seeking protection a mechanism to do so in the forum from which such subpoena(s) might issue.¹⁸ I fully expected Eli Lilly to follow the specified procedure, instructing Dr. Egilman to invoke Civil Rule 45(d). I expected, we would then be making our respective arguments to the court here as to why the documents should or should not be produced. In my view, the proper disposition of the question would be in favor of my client's right to inform the court of the extreme harm caused by Zyprexa, which Eli Lilly has successfully hidden for so long, while making its billions off the pill.

However, since Eli Lilly sat on its rights under CMO-3 and Civil Rule 45(d)(1), it has lost them. The documents came into my possession free of any restrictions in full compliance with CMO-3 and Civil Rule 45(d)(1). Apparently, recognizing this, various Lilly Lawyers have sent me all kinds of threatening letters, copies of which are attached, and gotten you to issue the order, which I, respectfully, do not believe is within your authority or within the jurisdiction of the MDL 1596 court.

Normally, if one disputes the validity of an order, one is still required to comply until such time as the validity has been determined. There are usually opportunities for appeal, stay, etc., and where special masters are appointed, as in CMO-3, the judge in the case often determines disputed issues rather than the master. Since I have yet to see the order of reference to you, I don't know the specifics of your appointment. However, I don't believe it really matters in this case, because it is my understanding that the rule that one must comply with an order until relieved of it, only applies if the court has jurisdiction. The MDL 1596 court does not have such jurisdiction and I therefore do not believe I am bound. This matter is properly within the jurisdiction of the Alaska Superior Court from which the subpoena was issued with Eli Lilly having filed a motion to quash and return of the documents.

Perhaps in light of this, you will *sua sponte* vacate the order, which, it is respectfully suggested will eliminate confusion over the proper posture of this matter.

¹⁸ This is confirmed by the December 15, 2006, letter from Richard Meadow of the Lanier Law Firm to Lilly, in which he states that he informed Lilly that this is what they needed to do when he talked to them on December 13, 2006. This is further confirmed by an e-mail from Eli Lilly's local counsel, on Sunday, December 17, 2006, after 4:00 p.m., in which Eli Lilly served me, via e-mail, with a motion it had filed the previous Friday to quash the subpoena, a copy of which motion is enclosed.

EXHIBIT 5

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
In re: ZYPREXA
PRODUCTS LIABILITY LITIGATION

MDL No. 1596

-----x
THIS DOCUMENT RELATES TO:
ALL ACTIONS

-----x
ORDER

Upon consideration of the joint request by members of the Plaintiffs' Steering Committee and counsel for Eli Lilly and Company, and based on the facts described below as reported by them, and in the exercise of my authority as Special Discovery Master appointed by Judge Jack B. Weinstein to oversee the implementation of the orders of the United States District Court for the Eastern District of New York relating to discovery, including Case Management Order No. 3 ("CMO-3"), which sets forth the protective order entered in the above captioned multi-district litigation to protect and ensure the confidentiality of discovery materials produced by the parties, it is hereby ordered that:

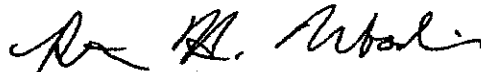
1. James Gottstein, Esquire, is in possession of documents produced by Eli Lilly and Company in the above-captioned action in violation of CMO-3, and has been so notified by counsel for Eli Lilly and Company without response by Mr. Gottstein.
2. Mr. Gottstein has further disseminated these documents to additional third parties in violation of CMO-3.
3. Mr. Gottstein shall immediately return any and all such documents (including all copies of any electronic documents, hard copy documents and CDs/DVDs)

provided by David Egilman, M.D., M.P.H., or any other source, to the Special Discovery Master at the following address, where they shall be maintained, under seal, until further order:

Special Master Peter H. Woodin
JAMS
280 Park Avenue, 28th Floor
New York, New York 10017

4. David Egilman, M.D., M.P.H., shall immediately return any documents in his possession produced by Eli Lilly and Company in the above-captioned action, or otherwise provided to him by the Lanier Law Firm or any other source (including all copies of any electronic documents, hard copy documents and CDs/DVDs), to Richard D. Meadow, Esquire of the Lanier Law Firm. I understand Mr. Meadow has already made such a request to Dr. Egilman today.

SO ORDERED this 15th day of December, 2006



Peter Woodin, Special Master

EXHIBIT 6

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Sat, 16 Dec 2006 19:06:21 -0900
To: "Peter Woodin"
<pwoodin@jamsadr.com>, <jim.gottstein@psychrights.org>
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Re: Zyprexa MDL: Discovery Order 12-15-2006
Cc: "Fahey, Sean P."
<Faheys@pepperlaw.com>, <RDM@lanierlawfirm.com>,
"Rogoff, Andy" <ROGOFFA@pepperlaw.com>,
"David Egilman"
<degilman@egilman.com>, JamiesonB@LanePowell.com

Dear Special Discovery Master Woodin,

I understood from your voice mail that it would be acceptable for me to return your call any time during the weekend, which I intended to do. However, since you issued the order without giving me a chance to respond, dealing with that seems the matter at hand. I may seek my own counsel, but I hope to have a letter back to you before the end of the weekend. First, to allay any concerns, I voluntarily ceased further dissemination of any of the materials when I received Mr. Jamieson's fax on December 15th and won't further disseminate them without at least reasonable notice. I will say the whole thing seems silly since they are already in the public domain.

I am working on a response to your order. It seems highly irregular in many respects. I won't go into all of them now, but that you would issue such an order "based on the facts described by [Eli Lilly and the PSC]" without giving me a meaningful opportunity to respond is one of them. Please provide me with exactly what facts were alleged in these *ex parte* proceedings.

You also recite the order was "in the exercise of my authority as Special Discovery Master." It is very difficult for me to see how the order could be within such authority so please provide me with a copy of the order of reference or whatever document(s) there are granting you your authority.

Probably the key flaw in your Order, other than I am at a loss to understand how you believe the court has obtained jurisdiction over me, is that my possession of the documents is "in violation of CMO-3." I believe they came into my possession completely legally. If I tried to put all of the analysis in this e-mail, I would defeat my purpose in quickly letting you know that I will be responding and that the status quo is being maintained. I hope to be able to get it to you tomorrow. However, there is also an expedited motion regarding discovery in the Alaska case that needs a response by noon on Monday, so that might present a problem.

At 08:52 PM 12/15/2006, Peter Woodin wrote:

Dear Mr. Gottstein:

I have had no response from you to my voicemail message earlier today. I attach an order issued by me, in my capacity as Special Discovery Master in the Zyprexa multi-district litigation pending in the U.S. District Court for the Eastern District of New York, directing you to return to me all copies of the documents produced by Eli Lilly and Company in this litigation which you received from Dr. David Egilman or anyone else.

Thank you,
Peter H. Woodin
Special Discovery Master

Peter H. Woodin
JAMS
280 Park Avenue, 28th floor
New York, NY 10017
Tel: 212-607-2736

Note New E-mail Address

James B. (Jim) Gottstein, Esq.

Law Project for Psychiatric Rights

406 G Street, Suite 206
Anchorage, Alaska 99501
USA

Phone: (907) 274-7686) Fax: (907) 274-9493

[jim.gottstein\[-at-\]psychrights.org](mailto:jim.gottstein[-at-]psychrights.org)

<http://psychrights.org/>

Psych Rights®

Law Project for
Psychiatric Rights

The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of unwarranted forced psychiatric drugging. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Extensive information about this is available on our web site, <http://psychrights.org/>. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.

EXHIBIT 7

December 15, 2006

Dear Mr. Jamieson:

This morning Mr. Gottstein sent me a copy by email of a fax he received from you of a letter you apparently addressed to Mr. Gottstein and me about the production of documents that Lilly claims are confidential. If a copy of this letter was sent to me I did not receive it. None the less because of the importance of this matter I am sending this fax.

On December 6, 2006 I received a subpoena which you now have from Mr. Gottstein. I spoke with him and he told me this material was needed for an emergency hearing. I told him the information was subject to the CMO and explained the procedure I would follow to comply with both the subpoena and the CMO. The CMO did not include any contact information. My staff called the general counsel office at Lilly and the office refused to give out a fax number. I searched the web and found a contact fax number for the general counsel attached to a CLE lecture he had given. I faxed a copy of the subpoena I received from Mr. Gottstein on December 6, 2006 to Lilly's general counsel twice and received a notice of receipt on 12/6/06 at 3 PM for the first fax. In addition I sent a copy via regular mail on the same day. On December 11, 2006, I received an email from Mr. Gottstein which instructed me, "In order for the deposition to go smoothly and as efficiently as possible by allowing me to review them ahead of time, please deliver the subpoena'd materials to me as soon as you can." This came with an amended subpoena that called for production of documents prior to the deposition but was otherwise identical to the one I was sent on December 6, 2006.

The CMO states that I am obligated to provide a "reasonable opportunity to object." In the section that pertains to my subpoena this is undefined, however, elsewhere in the document it is defined as three business days, "Before disclosing Confidential discovery materials to any person listed in subparagraphs (d) through (m) who is a Customer or Competitor (or an employee of either) of the party that so designated the discovery materials, but who is not an employee of a party, the party wishing to make such disclosure shall give at least three (3) business days advance notice in writing to the counsel who designated such discovery materials as Confidential, stating that such disclosure will be made, identifying by subject matter category the discovery material to be disclosed, and stating the purposes of such disclosure. If, within the three (3) business day period, a motion is filed objecting to the proposed disclosure, disclosure is not permissible until the Court has denied such motion." Today (10 days after I sent my fax to Lilly) I received a copy of the letter you sent to Mr. Gottstein that was

addressed to me and Mr. Gottstein. I still have not been directly contacted by anyone representing Lilly. Unfortunately I felt I had to comply with the subpoena having received no guidance from Lilly.

David Egilman MD, MPH

EXHIBIT 8

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----X
4 In re: :
5 ZYPREXA PRODUCT LIABILITY : 04-MD-1596 (JBW)
6 LITIGATION, : December 18, 2006
7 : Brooklyn, New York
8 -----X

9 TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONE CONFERENCE
10 BEFORE THE HONORABLE ROANNE L. MANN
11 UNITED STATES MAGISTRATE JUDGE

12 APPEARANCES:

13
14 For Eli Lilly: SEAN FAHEY, ESQ.

15
16 For Lanier Law Firm: EVAN JANUSH, ESQ.

17
18 Local Counsel for Lilly: BREWSTER JAMESON, ESQ.

19
20
21 Court Transcriber: SHARI RIEMER
22 TypeWrite Word Processing Service
23 356 Eltingville Boulevard
24 Staten Island, New York 10312
25

Proceedings recorded by electronic sound recording,
transcript produced by transcription service

1 THE COURT: This is Judge Mann on the line. I'm
2 conducting -- one moment. This is Judge Mann on the line. I'm
3 conducting a telephone conference in In re: Zyprexa
4 Litigation, 04-MD, I believe it's 1496.

5 Would counsel please state their -- 1596. Would
6 counsel please state their appearances for the record?

7 MR. FAHEY: This is Sean Fahey on behalf of Eli Lilly
8 & Co.

9 MR. JANUSH: This is Evan Janush on behalf of the
10 Lanier Law Firm plaintiff.

11 THE COURT: I'm sorry. Could you state your name
12 again?

13 MR. JANUSH: Evan Janush, E-V-A-N, last name J-A-N-U-
14 S-H on behalf of Lanier Law Firm plaintiff.

15 MR. JAMISON: This is Brewster Jamison. I'm local
16 counsel in Anchorage, Alaska for Eli Lilly.

17 MR. GODSTEIN: This is Jim Godstein but I'm not in
18 this case in any manner other than that I received documents
19 pursuant to a subpoena in another case.

20 THE COURT: I believe that it was Mr. Fahey who
21 requested that this conference be scheduled.

22 MR. FAHEY: Yes, Your Honor, and we wanted to bring
23 an issue of great importance to your attention. As you may
24 know, Special Master Wooden entered an order on Friday evening
25 which among other things directed Mr. Godstein -- found that

1 the possession of documents produced by Eli Lilly & Co. had
2 been in violation of the Case Management Order Number 3, found
3 that Mr. Godstein had further disseminated these documents to
4 additional third parties in violation of CMO 3 including the
5 New York Times, that Mr. Godstein was ordered to immediately
6 return all the documents until such further order of the Court.
7

8 Mr. Godstein has taken the position that Special
9 Master Wooden doesn't have the power to issue such orders as
10 Special Master even though Case Management Order Number 6
11 provides that he has the authority to -- all discovery matters
12 including the protective orders in the MDL and has at this
13 point refused to return the documents to Mr. Wooden.

14 Let me just address how Mr. Godstein came into
15 possession of these documents. As he details in his letter to
16 Special Master Wooden of last night, he learned from a
17 consulting expert on behalf of the plaintiffs -- a pressure
18 litigation that this consulting expert had possession of
19 documents that were produced by Eli Lilly and were covered by,
20 among other things, Case Management Order Number 3. He then in
21 his own words found a case that could be used to subpoena these
22 documents and had an issue -- had a subpoena issued on the 6th
23 of December. The return date for that subpoena was December
24 20th. That subpoena was sent to Lilly. Lilly took immediate
25 action to identify who was representing Dr. Egelman or who had

1 retained him. By the 13th, still a week before the documents
2 were to be produced, we informed the Lanier Law Firm that we
3 would be moving to quash the subpoena and asked them to convey
4 to Dr. Egelman that he should not produce documents during the
5 pendency of the motion. The Lanier Law Firm called Dr.
6 Egelman, told him not to produce documents. Dr. Egelman said
7 he would not produce documents.

8 It later turned out that Mr. Godstein and Dr. Egelman
9 had communicated through an amended subpoena which no one has
10 ever seen until this issue surfaced on Friday night which
11 called for the immediate production of documents, not on
12 December 20th but immediately, and Dr. Egelman without the
13 consent of the Lanier Law Firm, without the consent of Lilly,
14 started to produce documents subject to the protective order
15 via an internet transfer procedure on December 12th. Days
16 later the New York Times had those documents and we are
17 concerned not only about the violation of CMO 3 but also in
18 terms of the continued dissemination of these documents.

19 What we were asking for is for Mr. Godstein to return
20 the documents to Special Master Wooden so that we could avoid
21 any further dissemination of the documents until the issues
22 about whether he appropriately or inappropriately came upon
23 those documents was resolved.

24 THE COURT: Mr. Godstein, do you want to respond? I
25 have read your letter to Special Master Wooden.

1 MR. GODSTEIN: Well, I guess the main thing is that I
2 told Dr. Egelman that I thought he should give the amended
3 subpoena to Lilly and I'm not sure why he didn't.

4 THE COURT: When was it issued?

5 MR. GODSTEIN: December 11th. So I think he didn't
6 see the -- kind of the significance of it as I understand
7 although I tried to convey that to him. So I don't know. I
8 mean I feel like I have the doc -- I haven't seen Case
9 Management Order 6 or other documents, you know, and you've
10 read my letter so you see that the case that I got was part of
11 Psychrights [Ph.] mission and so it's in my view, and I don't
12 think there's much question about it, is entirely legitimate
13 use. I mean that's what Psychrights does is pick strategic
14 cases to further its mission.

15 THE COURT: Well, certainly you could have subpoenaed
16 documents from Lilly and then you could have litigated that in
17 the court in Alaska, but instead you chose to obtain these
18 documents through an expert who I presume you knew had come
19 into possession of them subject to the terms of a
20 confidentiality order. Is that correct?

21 MR. GODSTEIN: Yes, but I didn't know -- I didn't see
22 the confidentiality order until just this last Friday.

23 THE COURT: But you knew that he had obtained those
24 documents pursuant to a confidentiality order and before you
25 obtained the documents and before you amended the subpoena to

1 require immediate production you did not ask to have a copy of
2 it. Is that correct?

3 MR. GODSTEIN: Correct. Well, I -- I indicated and
4 he indicated that he had to comply with it and I understood
5 that and expected him to comply with it and frankly I never
6 expected to get the documents as I put in my little letter.

7 MR. JANUSH: Your Honor, this is Evan Janush on
8 behalf of --

9 MR. GODSTEIN: And then I didn't really -- the
10 amended subpoena doesn't say immediately.

11 MR. JANUSH: Your Honor, this is -- if I may, this is
12 Evan Janush.

13 THE COURT: Well, I'd like to hear -- please don't
14 interrupt one another. Mr. Godstein, do --

15 MR. JANUSH: I apologize.

16 THE COURT: Do you have anything further to say?

17 MR. GODSTEIN: You characterized the amended one as
18 saying immediately.

19 THE COURT: Well, you did -- you asked for it prior
20 to the return date which is on the 20th and as I understand it
21 from the documents that I've been reviewing in the last few
22 minutes there were some discussions going on about adjourning
23 the return date so that all counsel would have sufficient time
24 to consider these issues and to litigate them if need be.

25 MR. GODSTEIN: That happened later. That happened

1 after the production had already occurred. So what happened is
2 I had -- there were three other subpoenas issued in this case
3 because it's a real case and I -- it's a subpoena for a
4 telephonic deposition and it said for him to appear and bring
5 with him those documents and then I realized over the weekend
6 well, that doesn't make any sense. I can't examine him over
7 the telephone if he's got the documents. So I did the amended
8 one and said to -- the amended subpoena says to provide them
9 before the date and then in my email I said basically to give
10 me a chance to review them and make for an efficient deposition
11 to send them as soon as he can. So that's what it -- that's
12 how it was set up. I mean that was what happened.

13 MR. JAMISON: Your Honor, this is Brewster Jamison
14 for Lilly in Anchorage.

15 THE COURT: Yes.

16 MR. JAMISON: As far as I can tell, Your Honor, I've
17 spoken with the counsel for the State of Alaska. The amended
18 subpoena has not been served or was not served on James Parker
19 as far as we can tell and so the existence of the amended
20 subpoena seeking the unusual production of documents earlier
21 than the original subpoena date was not delivered and didn't
22 come to our attention until frankly last night.

23 MR. JANUSH: Well, the practice of --

24 MR. GODSTEIN: May I, Your Honor?

25 THE COURT: Well, I asked them not to interrupt you.

1 So if you would not interrupt them. I don't know that they've
2 finished.

3 Anything further from the defense?

4 MR. JAMISON: No, I think Mr. Janush was trying to
5 speak on behalf of the plaintiffs, Your Honor.

6 MR. JANUSH: Your Honor, this is Evan Janush and I
7 just wanted to add one point which I -- we are dealing with a
8 situation in which we have an attorney from Alaska who is quite
9 clearly aware of the concept of jurisdiction. In fact, he
10 challenged Special Master Wooden's jurisdiction in this very
11 matter and yet he issued a state subpoena on a state resident
12 of Massachusetts, my consultant, which he clearly as a Harvard
13 Law trained lawyer and as a -- as any lawyer clearly knows has
14 no jurisdiction over a Massachusetts resident.

15 So for someone who's challenging the jurisdiction of
16 this court on an order to have issued a state subpoena on a
17 Massachusetts resident is entirely suspect.

18 THE COURT: Mr. Godstein, is there anything else you
19 wanted to add?

20 MR. GODSTEIN: Well, there was something that Mr.
21 Jamison was saying that I wanted to respond to.

22 THE COURT: All right. If you have nothing you want
23 to add let me just say that I am very distressed about what
24 happened here. The issue before me is not whether ultimately
25 Mr. Godstein would be entitled to obtain these documents from

1 Eli Lilly. He could have subpoenaed Elli Lilly directly and
2 they could have litigated his entitlement to Lilly's documents
3 in state court in Alaska. The issue really is the propriety of
4 what was done here which was to obtain documents that had been
5 produced by Lilly pursuant to a protective order. To subpoena
6 them not even from opposing counsel in this litigation but from
7 an expert one step removed who when he received those documents
8 took an undertaking to comply with the protective order under
9 the terms of Case Management Order Number 4, he had to sign a
10 document indicating that he was aware of the conditions which
11 included that those documents would be used solely for purposes
12 of this litigation.

13 To have obtained them under these circumstances with
14 a return date of the 20th and then to have after Lilly was
15 notified and there apparently were communications with Lilly
16 concerning adjourning the return date to almost surreptitiously
17 modify that subpoena so that the documents would be produced
18 without Lilly's knowing at the time, without knowing that the
19 date had in effect been moved up, this is highly suspect. It
20 certainly has the ring of collusion here and I find it very
21 disturbing.

22 There is no doubt in my mind that the Court in the
23 Eastern District of New York has the authority to enforce its
24 orders and my only hesitation is as a Magistrate Judge. I do
25 not have the authority to grant injunctive relief or to hold

1 any individual in contempt of court. That would be a matter
2 that the District Court Judge would have the authority to do.
3 As I assume you're all aware, Judge Weinstein is traveling and
4 is unavailable at this time. So I am not in a position to
5 order -- issue any injunctive relief, but I am prepared to say
6 that I think that what happened here was an intentional
7 violation of Judge Weinstein's orders. I think it was
8 inappropriate. I cannot make -- if you want to litigate your
9 entitlement to these documents in Alaska, Mr. Godstein, then
10 you can subpoena Lilly but as I said, it appears to me that you
11 rather than face Lilly directly you were trying to attempt for
12 the back door what you should have done through the front door.
13 This was improper.

14 I personally am not in a position to order you to
15 return the documents. I can't make you return them but I can
16 make you wish you had because I think this is highly improper
17 not only to have obtained the documents on short notice without
18 Lilly being advised of the amendment but then to disseminate
19 them publicly before it could be litigated. It certainly
20 smacks as bad faith.

21 So this is the extent of what I'm prepared to do is
22 simply state my views on the record and if counsel in the MDL
23 case want to go before a District Court Judge who has more
24 authority -- I understand Judge Cogan is on miscellaneous duty
25 today.

1 MR. FAHEY: Yes, Your Honor. This is Sean Fahey on
2 behalf of Eli Lilly. We do intend to go before Judge Cogan
3 today and I would ask Mr. Godstein to provide me his
4 availability this afternoon for a hearing with Judge Cogan.

5 MR. GODSTEIN: Well, I'm going to get counsel here
6 and discuss this whole situation. I would want to say -- I do
7 want to say that I did advised Dr. Egelman to give the amended
8 subpoena to Lilly and he didn't seem to think it made any
9 difference.

10 THE COURT: Well, don't you think that you should
11 have done that directly? You were aware of the fact that these
12 documents were subject to a confidentiality order and you chose
13 to go through the expert who had them solely for purposes of
14 this litigation rather than subpoena Lilly directly. So don't
15 you think that you had an obligation to inform Lilly?

16 MR. GODSTEIN: No.

17 THE COURT: All right. Well, I think I've said all I
18 need to say. Is there anything further?

19 MR. FAHEY: Your Honor, I'm wondering if it would be
20 beyond your authority to at least ask Mr. Godstein to not
21 further disseminate the documents until we can have the issue
22 brought emergently to Judge Cogan?

23 THE COURT: Well, I can ask him not to and I think,
24 although I haven't used those precise words, I've certainly
25 suggested that he should not further disseminate them. Indeed

1 he ought to give them back and then litigate the issue.

2 MR. FAHEY: Thank you, Your Honor.

3 THE COURT: But he can't undo what's already been
4 done but that should not be an excuse for him to further
5 disseminate the documents.

6 MR. FAHEY: Thank you very much, Your Honor.

7 THE COURT: Thank you. Goodbye.

8 MR. GODSTEIN: I'll not further disseminate them.

9 THE COURT: All right. Goodbye.

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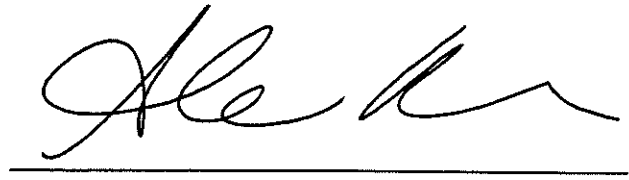
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I certify that the foregoing is a court transcript from an electronic sound recording of the proceedings in the above-entitled matter.



Shari Riemer

Dated: 12/19/06

EXHIBIT 9

ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE

DATE: 12/18/06
START: 1:15 pm
END: 1:35 pm

DOCKET NO: 04 MD 1596

CASE: In re Zyprexa Litigation

INITIAL CONFERENCE
 DISCOVERY CONFERENCE
 SETTLEMENT CONFERENCE

OTHER/ORDER TO SHOW CAUSE
 FINAL/PRETRIAL CONFERENCE
 TELEPHONE CONFERENCE
Recorded

FOR PLAINTIFF: Evan Jansch (Lawer firm)

Eli Lilly
FOR DEFENDANT: Sean Foley (+ Brewster Jameson & ra-house counsel)
Non-party: Jim Gottstein

DISCOVERY TO BE COMPLETED BY _____

NEXT CONFERENCE SCHEDULED FOR _____

JOINT PRE-TRIAL ORDER TO BE FILED VIA ECF BY _____

PL. TO SERVE DEF. BY: _____ DEF. TO SERVE PL. BY: _____

RULINGS: PLEASE TYPE THE FOLLOWING ON DOCKET SHEET

The Court hears argument concerning the production of ^{Lilly's} documents by plaintiff's expert David Egilman to Jim Gottstein, an attorney in an unrelated action in Alaska. For the reasons stated on the record, the Court concludes that the dissemination of the documents to Mr. Gottstein, and his public dissemination of those documents, violated the protective Order entered in this case (Case Management Order No. 3) and that the E.D.N.Y. has jurisdiction to enforce its orders. However,

As a magistrate judge is not authorized to grant injunctive relief or to enter an order of contempt for matters occurring outside her presence, the parties will have to apply to the District Court for relief.

The Court requests that Mr. Gottstein refrain from further disseminating the documents while this issue is being litigated and he agrees to comply with the Court's request.

EXHIBIT 10

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re: ZYPREXA PRODUCTS LIABILITY : MDL No. 1596
LITIGATION :
-----X
THIS DOCUMENT RELATES TO: :
ALL ACTIONS : **ORDER FOR MANDATORY**
: **INJUNCTION**
: :
: :
-----X

Upon receipt of the (i) Emergency Oral Joint Motion of members of the In Re Zyprexa Product Liability Litigation Plaintiffs' Steering Committee ("PSC") and Eli Lilly and Company to enforce compliance with Special Discovery Master Peter H. Woodin's Order dated December 15, 2006, Case Management Order No. 3 (CMO-3), and a joint request for mandatory injunction; (ii) the Report and Recommendation of Magistrate Mann dated December 18, 2006; and (iii) Mr. Gottstein's submission dated December 17, 2006; and upon having heard oral argument by counsel for the PSC, Eli Lilly and Company, and Mr. Gottstein (by his attorney, Mr. McKay), and relying on Mr. Gottstein's statements in his December 17, 2006 submission to Special Master Woodin, specifically that Mr. Gottstein has deliberately and knowingly aided and abetted Dr. David Egilman's breach of CMO-3, it is therefore

ORDERED that the Joint Motion for a Mandatory Injunction is hereby GRANTED, and Mr. Gottstein is enjoined from further dissemination of any of documents produced, pursuant to CMO-3, by Eli Lilly and Company (including all copies of any electronic documents, hard copy documents and CDs/DVDs);

It is hereby further ORDERED that:

(1) Special Master Woodin's Order dated December 15, 2006 is enforced, and Mr. Gottstein shall immediately return all documents produced, pursuant to CMO-3, by Eli Lilly and Company (including all copies of any electronic documents, hard copy documents and CDs/DVDs), and which were provided by David Egilman, M.D., M.P.H., or any other source, to the following address where they shall be maintained, under seal, until further Order:

Special Master Peter H. Woodin
JAMS
280 Park Avenue, 28th Floor
New York, New York 10017;

(2) Mr. Gottstein shall immediately, upon receipt of this Order, provide to Special Master Woodin and the parties a listing of all persons, organizations or entities to which any documents covered by this Order, or any subset thereof, were provided;

(3) Mr. Gottstein shall, within 24 hours of this Order, identify to Special Master Woodin and the parties, 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;

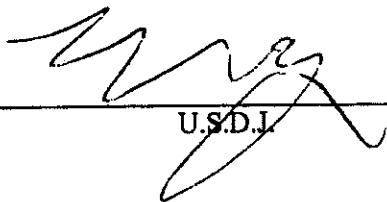
(4) Mr. Gottstein shall immediately take steps to retrieve any documents subject to this Order, regardless of their current location, and return all such documents to Special Master Woodin. This shall include the removal of any such documents posted on any website; and

(5) Mr. Gottstein shall take immediate steps to preserve, until further Order of the Court, all documents, voice mails, emails, materials, and information,

including, but not limited to all communications, that refer to, relate to or concern Dr. Egilman or any other efforts to obtain documents produced by Eli Lilly and Company.

SO ORDERED.

Dated: Brooklyn, New York
December 18, 2006



U.S.D.J.

EXHIBIT 11

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -x
IN RE: ZYPREXA :
PRODUCTS LIABILITY LITIGATION, :
: :
: :
- - - - -x

U.S. Courthouse
Brooklyn, New York

December 18, 2006
3:00 p. m.

TRANSCRIPT OF PHONE CONFERENCE
BEFORE THE HONORABLE BRIAN M. COGAN, DISTRICT COURT
JUDGE.

Lisa S. Cox, CCR, RMR
Official Court Reporter

1 APPEARANCES:

2

3 For the Plaintiffs:

4 LANIER LAW FIRM, PLLC
5 Tower 56
6 126 East 56th Street, 6th Floor.
7 New York, New York 10022
8 BY: EVAN M. JANUSH, ESQ.
9 RICHARD D. MEADOW, ESQ.

10 For Eli Lilly & Company:

11 PEPPER, HAMILTON, LLP
12 3000 Two Logan Square
13 Eighteenth and Arch Streets.
14 Philadelphia, Pennsylvania 19103
15 BY: SEAN P. FAHEY, ESQ.

16 LANE, POWELL
17 301 West Northern Lights Boulevard
18 Suite 301.
19 Anchorage, Alaska 99503
20 BY: BREWSTER H. JAMIESON, ESQ.

21 Special Master:

22 PETER H. WOODIN, ESQ.
23 280 Park Avenue
24 West Building, 28th Floor
25 New York, New York 11017.

REPRESENTING MR. GOTTSTEIN:

JOHN MCKAY, ESQ.

ALSO PRESENT:

JAMES GOTTSTEIN, ESQ.

24

25 REPORTED BY: LISA SCHMID, CCR, RMR

Lisa S. Cox, CCR, RMR
Official Court Reporter

1 THE COURT: Good afternoon, everyone.
2 It's Judge Cogan. Judge Cogan. Before we
3 call the case, is it everyone's preference to
4 wait and see if we can get Mr. Gottstein on,
5 or should we go without him?

6 MR. JAMIESON: This Mr. Jamieson, for
7 Eli Lilly, in Alaska. I have Mr. Gottstein's
8 office on the line, and he's going to click
9 back any moment, and so, he could be here for
10 the conference, I believe.

11 THE COURT: Well, I'm happy to hold,
12 if you all want to hold.

13 MR. FAHEY: Your Honor, this is Sean
14 Fahey on behalf of Eli Lilly. If you want to
15 just put us on hold, and if you have other
16 matters, we can just call back this line and
17 let you know when we have Mr. Gottstein on the
18 phone.

19 THE COURT: All right. Let's give
20 him no more than half an hour.

21 MR. FAHEY: We think it's within
22 minutes.

23 THE COURT: Okay. That's fine.
24 We'll be here.

25 MR. FAHEY: Okay.

1 THE COURT: Okay. Good bye.

2 (RECESS.)

3 THE COURT: Judge Cogan here. This
4 is Judge Cogan. Who do we have on the line?

5 MR. FAHEY: Sean Fahey, on behalf of
6 the Eli Lilly and Company.

7 MR. JANUSH: Evan Janush --

8 THE COURT: I'm sorry. Say it again,
9 please.

10 MR. JANUSH: Evan Janush,
11 J-A-N-U-S-H, on behalf the Lanier Law Firm,
12 plaintiff.

13 THE COURT: Okay.

14 MR. JAMIESON: Brewster Jamieson with
15 Lane, Powell in Anchorage, Alaska, on behalf
16 of the Eli Lilly Company.

17 MR. GOTTSTEIN: This Jim Gottstein.
18 I'm not a party or have made an appearance in
19 the case, and lastly, I have retained counsel,
20 so it seems like maybe I should -- we should
21 do this when he's got a chance to be here.

22 THE COURT: Are you a lawyer, Mr.
23 Gottstein?

24 MR. GOTTSTEIN: I am.

25 THE COURT: You like us to hold on

1 for a brief time while you get your lawyer on
2 the phone?

3 MR. GOTTSTEIN: If I can, yeah. And
4 how would I -- I can probably --

5 THE COURT: Just put us on hold.
6 We'll give you five minute to get your lawyer
7 on the phone.

8 MR. GOTTSTEIN: Thank you.

9 MR. JANUSH: Also present are
10 Mr. Peter Woodin, W-O-O-D-I-N, and Rick
11 Meadow, Richard D. Meadow, from my office.
12 There is Evan Janush from the Lanier Law Firm.
13 They just joined the call.

14 THE COURT: All right. Let's not
15 have appearances from anyone unless we think
16 there's a reasonable chance they'll be
17 speaking. And I just want to remind all
18 parties that before you start speaking, say
19 your name, because we are on the record here.

20 MR. JAMIESON: Your Honor, this
21 Brewster Jamieson in Alaska. It appears that
22 Mr. Gottstein's office has put us on hold, and
23 we have this very pleasant music playing. I
24 could call him and try to get them to take
25 that off if you'd like.

1 about that. Hello?

2 THE COURT: Yes, Mr. Gottstein.

3 MR. GOTTSTEIN: Yes. Can I
4 conference in my lawyer? I'll try to do that
5 right now.

6 THE COURT: Please do.

7 MR. GOTTSTEIN: Okay. I think
8 Mr. John McKay is on the line now, so --

9 THE COURT: Mr. McKay? This is Judge
10 Cogan in the Eastern District of New York.
11 Please try to keep your voice up. Are you
12 affiliated with a firm you'd like to have
13 shown on the record, as we are on the record?

14 MR. MCKAY: Hello?

15 THE COURT: Yeah.

16 MR. MCKAY: I'm sorry. Evan Janush
17 was muting that.

18 THE COURT: That's okay.

19 MR. JAMIESON: This is Brewster
20 Jamieson from Alaska. I'm not sure if Judge
21 Cogan is on the line.

22 THE COURT: I'm sorry. I am on the
23 line, and I just want to know if
24 Mr. Gottstein's lawyer would announce his
25 appearance one more time a little more

1 clearly, and his firm, if there is one.

2 MR. MCKAY: Yes, Your Honor. This is
3 John McKay.

4 THE COURT: Mr. McKay, you're very
5 faint. Can you speak up?

6 MR. MCKAY: Yes, Your Honor. We may
7 be at the --

8 THE COURT:

9 Yes. I can barely hear you.
10 Can you yell into the phone?

11 MR. MCKAY: Yes, Your Honor. If you
12 can't hear, we can probably try a direct line.
13 John McKay, M-C-K-A-Y, in Anchorage, Alaska.

14 THE COURT: All right. I was able to
15 hear that a little bit. All right.

16 MR. MCKAY: May I ask what court I am
17 in?

18 THE COURT: Yes. This is Judge Cogan
19 from the Eastern District of New York, and
20 even though we have given appearances already,
21 I'm going to ask the parties to do that one
22 more time, so Mr. McKay, you know who's on the
23 phone. So would everyone please do that once
24 again?

25 MR. FAHEY: Sure. This is Sean

1 Fahey, on behalf of Eli Lilly and Company.

2 MR. JANUSH: Evan Janush and Rick
3 Meadow, on behalf of plaintiff.

4 MR. WOODIN: Peter Woodin, Special
5 Discovery Master.

6 MR. JAMIESON: Brewster Jamieson for
7 Eli Lilly here in Anchorage Alaska.

8 THE COURT: All right. And so just
9 so we know what case this is about, this is In
10 Re: Zyprexa Products Liability Litigation,
11 Multi-district Litigation Number 1596. I'm
12 covering as the miscellaneous judge in the
13 Eastern District of New York, for Judge
14 Weinstein, who is outside of the district
15 today.

16 I understand there's an
17 application by the defendant, Eli Lilly. Just
18 so you know going in, everyone, I have
19 reviewed the Case Management Order Number 3,
20 that was signed by Judge weinstein on
21 August 3rd, 2004. I have also reviewed the
22 order entered by Mr. Woodin on the 15th of
23 December, 2006. I have also reviewed the
24 December 17th, 2006 -- I'll call it a draft
25 because it's labeled "draft" -- letter from

1 Mr. Gottstein. And lastly, I have reviewed
2 the proposed recommendation -- I'll call it
3 the report and recommendation from Magistrate
4 Judge Mann, in response to the parties'
5 earlier conference today, at 12:18.

6 Let Maine just hear briefly from
7 the defendants. Obviously, I'm familiar,
8 having read these papers, with what's going
9 on, but would you please just summarize for me
10 the nature of your application?

11 MR. FAHEY: Yes, Your Honor, this is
12 Sean Fahey, on behalf of Eli Lilly and
13 Company.

14 Your Honor, the application is
15 really at this point asking for Mr. Gottstein
16 to return the documents that we believe he
17 improperly obtained, in violation of CMO 3, to
18 Special Master Woodin, until such time as
19 there is a ruling about whether there is a
20 proper way that he can obtain them.

21 We are aware that he's already
22 disseminated these materials beyond the scope
23 of his case, where he has allegedly subpoenaed
24 them, including the New York Times, and there
25 may be other places.

1 So the first thing we're asking
2 for is for him to return all documents.
3 Second, I him to provide specific information
4 about who he disseminated the documents to,
5 and on what date. The third is to --
6 obviously, no further dissemination of the
7 materials, and the fourth is a requirement
8 that he preserve all emails and all
9 correspondence of any kind, whether it's voice
10 mail, written letters, emails, so that we can
11 pursue a contempt proceeding against both he
12 and Dr. Egilman, who we believe clearly
13 violated CMO 3.

14 THE COURT: All right.

15 Do the plaintiffs need to be
16 heard on this?

17 MR. JANUSH: No, Your Honor.

18 THE COURT: Okay. Mr. McKay, as I
19 said, I have read Mr. Gottstein's letter. Do
20 you have anything that you want to add to
21 that?

22 MR. MCKAY: Well, Your Honor, I don't
23 want to add anything because I am ahead of you
24 at this point --

25 THE COURT: I'm sorry, Mr. McKay.

1 You faded out. The only thing I heard for
2 sure was you that you didn't want to add
3 anything because I am a head of you at this
4 point.

5 MR. MCKAY: Yes, Your Honor. You
6 know that at only this time, Mr. Gottstein
7 this morning --

8 THE COURT: And he says it's still
9 morning here in Alaska.

10 MR. MCKAY: What I'm telling you,
11 Your Honor -- I apologize. I hope you can
12 hear me. What I'm telling you is that I have
13 not had an opportunity to review the documents
14 that you have referred to. I have received a
15 copy of the documents from my client, at least
16 some of the documents that you have referred
17 to, but I've only been able to begin reviewing
18 them, and in addition, Mr. Gottstein indicated
19 that the magistrate called him this morning.
20 I'm not sure that it's from a phone
21 conference, but the short of it is, we would
22 be not prepared at this time to fully or
23 fairly respond to the petition. I have not
24 seen a copy of the petition. I don't know if
25 Mr. Gottstein has it or not, but I have not.

1 In addition, I think the one thing I can add
2 in addition is that Mr. Gottstein would be
3 prepared to preserve the status quo by
4 agreeing -- if this has not already been done
5 -- not to further dissimilate the documents,
6 until we have had an opportunity to --

7 THE COURT: All right. Thank you,
8 Mr. McKay. I believe we got all of that.

9 Let me ask the defendant, Eli
10 Lilly this: Are you comfortable with the
11 offer that's been made to freeze the status
12 quo, in lieu of the mandatory injunction that
13 you are seeking?

14

15 MR. FAHEY: Your Honor, based on
16 Mr. Gottstein's prior contact and conclusions
17 with an expert, we're not comfortable with it.
18 We know that he's already disseminated
19 information. We have no problem with him
20 talking the time to more adequately respond to
21 the issues that we are presenting, but we do
22 believe, that he needs to immediately return
23 the documents in his possession to Special
24 Master Woodin, and provide the information as
25 to who has received the document.

1 THE COURT: All right, Mr. Fahey.

2 Let me ask you this. What's the rule or
3 statutory predicate for this application?

4 MR. FAHEY: It's a violation of
5 Section 37, and also what's provided for under
6 CMO 3.

7 THE COURT: You mean Rule 37?

8 MR. FAHEY: Sorry. Yeah, Rule 37.
9 It's also provided for under CMO 3.

10 THE COURT: Okay.

11 MR. FAHEY: And there is --

12 THE COURT: Are you still there,
13 Mr. Fahey?

14 MR. FAHEY: Yes, I'm here.

15 THE COURT: You kind of trailed off.
16 But I understand the basis for your relief is
17 Rule 37?

18 MR. FAHEY: Well, it's Rule 37. We
19 also believe the All Writs Act should apply,
20 since the action that Mr. Gottstein is
21 attempting to take into state court is
22 frustrating the purpose of federal litigation
23 and the orders issued by the federal court
24 much, and so that those are the bases for our
25 request.

1 THE COURT: All right. Anything
2 further from anyone or from Mr. Gottstein's
3 lawyer?

4 MR. MCKAY: Your Honor, this is
5 nothing -- again, I'm at a significant
6 disadvantage. Number one, I haven't seen an
7 application. It sounds like the grounds for
8 the application are being researched as we
9 speak --

10 THE COURT: Mr. McKay, you trailed
11 off after you said, "The grounds of the
12 application are being thought of or researched
13 as we speak."

14 MR. MCKAY: As I understand,
15 Mr. Fahey is attempting to respond to your
16 question about the grounds for the
17 application. I understand it's a short
18 notice, but I have not seen an application. I
19 am also at a disadvantage of not seeing Mr.
20 Gottstein, where my client is. I cannot talk
21 to him about this now.

22 THE COURT: Okay.

23 MR. MCKAY: What I can tell you, Your
24 Honor, is what I have been able to see so far
25 is that Mr. Gottstein served the subpoena. He

1 did not receive these documents.

2 THE COURT: Pardon. I'm just
3 repeating what you said before you trail off.
4 You said he did not receive these documents.

5 MR. MCKAY: He did receive these
6 documents pursuant a subpoena that was issued.
7 The suggestion that he somehow acted
8 inappropriately, could not be trusted to enter
9 a stipulation, which he as an attorney is
10 offering here not to disclose those documents
11 further, is not warranted in part, Your Honor,
12 because if there was any failure, Eli Lilly
13 received notice on December 6th that the
14 documents had been requested. At this point,
15 I think what we know there is no immediate
16 response to that. I told him that without
17 knowing more than we know at this stage of the
18 record -- but what we know is that
19 Mr. Gottstein in a separate litigation --
20 there is certainly no reason to believe at
21 this point that he is not entitled to get
22 those documents and have those document for
23 use in the other litigation. Also, not to
24 make further use of those documents until
25 there's been --

1 THE COURT: Hold on, Mr. McKay. You
2 trailed off, again. Mr. McKay, we're not
3 hearing you. Is.

4 MR. MCKAY: I think I'm hearing you
5 say you're not hearing me.

6 THE COURT: You are correct.

7 MR. MCKAY: I'm not sure whether I
8 should start over.

9 THE COURT: No, I think I heard
10 everything you said. Let me just summarize
11 what I think you said, so that we have it on
12 the record here.

13 What you're saying is, number
14 one, that Eli Lilly had notice of this on
15 December 6th; number two, there is no reason
16 to distrust Mr. Gottstein, as he is an
17 attorney, and obtained these pursuant to a
18 subpoena in a separate case. And I think
19 you're main point is he ought to be trusted
20 with his proffer to keep the documents intact,
21 until a fuller hearing can be had. Have I got
22 it?

23 MR. MCKAY: That's right. And also,
24 there is no showing that any extraordinary
25 relief is necessary at this point,

1 particularly in light of the fact that the
2 distribution of the documents has already
3 occurred.

4 THE COURT: Particularly in light of
5 the fact that the distribution of these
6 documents has already occurred? Is that what
7 you're saying?

8 MR. MCKAY: Yes. There is no
9 suggestion by Eli Lilly that there is any
10 further relief necessary.

11 THE COURT: Okay.

12 MR. FAHEY: Your Honor, if I could
13 address two of the points that Mr. McKay just
14 spoke to?

15 THE COURT: Briefly, please.

16 MR. FAHEY: Lilly received notice on
17 December 6th of the subpoenas that call for
18 the production of documents on December 20th.
19 One week before that production date, we had
20 assurances from the producing party, meaning
21 the consulting expert of the Lanier Firm,
22 through the Lanier firm, that no document
23 production will be made.

24 We then found out on Friday
25 evening that, in fact, a second subpoena had

1 been sent, which was not copied to any of the
2 parties in the Alaska case or us, which called
3 for the immediate production of documents. So
4 there is no question that we acted as quickly
5 as we possible with the information we had.

6 And the second issue is, let me
7 be clear, you know. There is no kind of
8 wondering what our position for relief is.
9 It's Rule 37B, it's the All Writs Act. It's
10 also Section 18 USC 401 and 402, which is
11 criminal contempt proceedings, as well as the
12 inherent power of this Court to enforce its
13 own orders.

14 THE COURT: All right. Having
15 reviewed the papers -- and I should point out
16 the reason, Mr. McKay, you don't have the
17 petition, as you call it, is because this is
18 an oral application based on the emergency
19 nature of the relief sought. Having reviewed
20 the papers, I'm going to grant the
21 application. I think it's clear not only that
22 the facts are as stated in the Magistrate's
23 report and recommendation, but I can tell from
24 the December 17th draft letter from
25 Mr. Gottstein that he was aware that these

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 Official Court Reporter

1 documents were restricted, and that he
2 undertook procedures to help the experts,
3 Mr. Egilman, try to circumvent the
4 restrictions that were on him. He
5 deliberately aided and abetted Dr. Egilman in
6 getting these documents released from the
7 restriction that they were under, under the
8 protective order. He knew what he was doing,
9 and he did it deliberately. Those are my
10 findings, and it's on that basis that I grant
11 the relief.

12 I'd like the defendant, Eli
13 Lilly, to immediately fax to me a form of
14 written injunction that I will look over,
15 modify, and enter as I deem appropriate.

16 But I think, Mr. McKay, your
17 client should be on notice that as of this
18 moment, he is under a mandatory injunction to
19 return those documents to Mr. Woodin, to take
20 them down from any websites that he may have
21 posted them on, and to take any reasonable
22 effort to recover them from any sites or
23 persons to which he has delivered them.
24 Mr. McKay, is that clear?

25 MR. MCKAY: Your Honor, I could hear

1 you and --

2 THE COURT: Mr. McKay, we're not
3 hearing you after you said, "I can hear you."

4 MR. MCKAY: Your Honor, for the
5 record, yes, I could hear your ruling. I
6 would like to state for the record our
7 objection to both the timing and the findings.

8 THE COURT: Mr. McKay, let me stop
9 you because it's coming through faintly enough
10 for me to hear 90 percent of it, but the court
11 reporter, who is a couple of feet away, can't.

12 I understand you're preserving
13 all your objections. You're particularly
14 disputing the findings that I've made, and
15 you're about to say something about Mr. Fahey
16 suggesting criminal liability. That is not
17 the basis for my order, so you need not worry
18 about that.

19 MR. MCKAY: I understand it's not the
20 basis for your order, but I understand it's
21 the --

22 THE COURT: Mr. McKay, we didn't get
23 any of that.

24 MR. MCKAY: I'll try the speak up,
25 more clearly.

1 THE COURT: I think it's better if
2 you speak slower, and even this slow, okay?

3 MR. MCKAY: On behalf of AT&T or
4 whoever may be culpable, we apologize for the
5 faulty connection here.

6 Your Honor, particularly, I
7 would like to note for the record our
8 objection to your findings, for the injunction
9 granting, which suggests deliberate
10 wrongdoing, or don't believe are necessarily
11 warranted and we were certainly not given any
12 adequate opportunity, notice or opportunity to
13 respond to those kinds of allegations, and I
14 have not been given notice of a hearing.
15 These are serious allegations.

16 THE COURT: Mr. McKay, I have to
17 interrupt you. I don't want to stop you from
18 making your record, but you're not making it
19 anyway, because you're fading out so badly.

20 I will say any findings I have
21 made have been made exclusively on the basis
22 of the letter signed by your client. That's
23 the only evidence I have in front of me.

24 MR. MCKAY: It wasn't signed by my
25 client.

1 THE COURT: Mr. McKay, if your client
2 is not now denying that he sent this letter --

3 MR. MCKAY: I believe he is denying
4 that, Your Honor.

5 THE COURT: Okay. Well, then, you
6 know, I don't think we need to argue about it.
7 You have your objection. You know what to do
8 about an objection, and that's my ruling.
9 Please be guided accordingly.

10 MR. MCKAY: Your Honor?

11 THE COURT: Yes?

12 MR. MCKAY: May I, while we're on the
13 record here, and so that I can hear -- I
14 believe I can hear.

15 THE COURT: Mr. McKay, we are not
16 hearing you.

17 MR. FAHEY: Your Honor, this is Sean
18 Fahey. I believe he said he thought he heard
19 your ruling, but he wanted to make sure that
20 the order was faxed to him upon issue, which I
21 assume will be done anyway.

22 THE COURT: The defendants have
23 ordered a daily copy on the transcript, so
24 you'll get that, you know, sometime today or
25 tomorrow. Obviously, they will also fax you

1 the signed injunctive order, once I enter
2 that. I just wanted to give you and Mr. McKay
3 notice that my oral ruling is binding.

4 MR. MCKAY: Yes, I understand that,
5 Your Honor, and perhaps after the hearing is
6 concluded --

7 THE COURT: Sorry, Mr. McKay. You
8 said, "After the hearing is concluded" --

9 MR. MCKAY: I can give information to
10 the court staff, so that I can be given
11 copies.

12 MR. FAHEY: If you want to give me
13 your number -- this is Sean Fahey -- I can
14 send you whatever we're sent from the Court.

15 MR. MCKAY: That will be fine. I
16 will take care of this once the --

17 THE COURT: All right. I would like
18 the hearing to be concluded now. Anything
19 further.

20 MR. FAHEY: No, Your Honor. Thank
21 you.

22 MR. MCKAY: No, Your Honor.

23 THE COURT: Okay. Thank you all.

24 (PROCEEDINGS CONCLUDED.)

25

EXHIBIT 12

Fahey, Sean P.

From: John McKay [mckay@alaska.net]
Sent: Friday, December 22, 2006 7:16 PM
To: Peter Woodin
Cc: Fahey, Sean P.; Brewster Jamieson; Richard D. Meadow; Evan Janush; Jim Gottstein
Subject: Supplemental Information Re: Gottstein Compliance

Attachments: Addresses.pdf



Addresses.pdf (41
KB)

Master Woodin,

In the filing submitted to you yesterday regarding Mr. Gottstein's compliance with Judge Cogan's Order, we omitted two items, and I appreciate Mr. Fahey drawing this to my attention.

First, I inadvertently failed to include addresses for those listed in section 7 of the response, although Mr. Gottstein had timely compiled and forwarded them to me.

Second, with regard to when the documents were provided to the listed recipients, as Mr. Gottstein indicates in his certificate, he cannot be completely certain as to every individual. However, he informed me before leaving today on a long-scheduled trip with his family that to the best of his knowledge and recollection, all copies of the "DVD 1" that he mailed or gave to those listed were sent or given on December 12, 2006, and most of the copies of "DVD 2" that he mailed or gave to those listed were sent or given on December 13, 2006.

At this point, Mr. Gottstein has taken the steps that he can to retrieve any copies of the Egilman documents he made available to others. Thank you for updating us on the responses of those he has contacted and directed to return documents to you. Before he left, I was able to confirm with Mr. Gottstein that no one on the list has informed him that they are refusing to return the Egilman documents.

I believe that addresses all pertinent matters, and I don't anticipate being in the office for the remainder of the afternoon.
Happy holidays to all.

John McKay

EXHIBIT 13

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re: ZYPREXA PRODUCTS LIABILITY : MDL No. 1596
LITIGATION :
-----X

THIS DOCUMENT RELATES TO: :
ALL ACTIONS : **ORDER FOR TEMPORARAY
MANDATORY INJUNCTION**
:

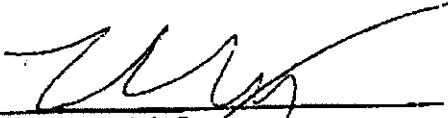
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Upon receipt of the (i) Emergency Oral Joint Motion of members of the In Re Zyprexa Product Liability Litigation Plaintiffs' Steering Committee ("PSC") and Eli Lilly and Company to enforce Case Management Order No. 3 (CMO-3), and joint request for a temporary mandatory injunction; and having heard oral submissions by the parties and Special Master Peter Woodin, it is therefore

ORDERED that the Joint Motion for a Temporary Mandatory Injunction is hereby GRANTED, and the following individuals (and their related entities and organizations) who have received documents produced by Eli Lilly and Company (including all copies of any electronic documents, hard copy documents and CDs/DVDs) are hereby enjoined from further disseminating these documents: Terri Gottstein, Jerry Winchester, Dr. Peter Breggin, Dr. Grace Jackson, Dr. David Cohen, Bruce Whittington, Dr. Stephen Kruszewski, Laura Ziegler, Judi Chamberlin, Vera Sherav, Robert Whittaker, and Will Hall. This temporary mandatory injunction further requires the removal of any such documents posted at any website, and communication of this Order to anyone to whom these documents have already been disseminated, informing them of the terms of this Order.

This injunction shall remain in full force and effect until January 3, 2007, at which time the Honorable Jack B. Weinstein will hear further argument from any interested parties.

SO ORDERED



Hon. Brian M. Cogan
United States District Judge

Dated: December 29, 2006 4:03 p.m.
Brooklyn, New York

EXHIBIT 14

Fahey, Sean P.

From: Jim Gottstein [jim.gottstein@psychrights.org]
Sent: Tuesday, December 19, 2006 2:32 AM
To: MadPride-aol.com
Cc: Jim Gottstein; mckay@alaska.net; Peter Woodin; EMJ@lanierlawfirm.com; RDM@lanierlawfirm.com; JamiesonB@LanePowell.com; Fahey, Sean P.
Subject: Zyprexa Documents

Dear Judi,

I mailed you a DVD (or two) with some documents on them pertaining to Zyprexa and have been orally ordered to have them returned to:

Special Master Peter H. Woodin
JAMS
280 Park Avenue, 28th Floor
New York, New York 10017

A copy of the proposed written order is posted at <http://psychrights.org/States/Alaska/CaseXX/EiILilly/ProposedOrder.pdf> with a comment about certain language which I strenuously disagree with and we are trying to get eliminated from the signed order.

Regardless, please return the DVD, hard copies and any other copies to Special Master Woodin immediately. If you have not yet received it, please return it to Special Master Woodin when you do receive it. In addition, please ensure that no copies exist on your computer or any other computer equipment, or in any other format, website(s) or FTP site(s), or otherwise on the Internet.

There is a question in my mind that the court actually has jurisdiction over me to issue the order. I believe I came into the documents completely legally, but the consequences to me if I am wrong about the jurisdiction issue are severe, so I will very much appreciate your compliance with this request.

Note New E-mail Address

James B. (Jim) Gottstein, Esq.

Law Project for Psychiatric Rights
406 G Street, Suite 206
Anchorage, Alaska 99501
USA
Phone: (907) 274-7686 Fax: (907) 274-9493
jim.gottstein[-at-]psychrights.org
<http://psychrights.org/>

Psych Rights ®
Law Project for
Psychiatric Rights

The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of unwarranted forced psychiatric drugging. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Extensive information about this is available on our web site, <http://psychrights.org/>. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.

Fahey, Sean P.

From: Jim Gottstein [jim.gottstein@psychrights.org]
Sent: Tuesday, December 19, 2006 2:34 AM
To: VERACARE
Cc: Jim Gottstein; mckay@alaska.net; Peter Woodin; EMJ@lanierlawfirm.com; RDM@lanierlawfirm.com; JamiesonB@LanePowell.com; Fahey, Sean P.
Subject: Zyprexa Documents

Dear Ms. Sharav,

I mailed you two DVDs with some documents on them pertaining to Zyprexa and have been orally ordered to have them returned to:

Special Master Peter H. Woodin
JAMS
280 Park Avenue, 28th Floor
New York, New York 10017

A copy of the proposed written order is posted at <http://psychrights.org/States/Alaska/CaseXX/EilLilly/ProposedOrder.pdf> with a comment about certain language which I strenuously disagree with and we are trying to get eliminated from the signed order.

Regardless, please return the DVD, hard copies and any other copies to Special Master Woodin immediately. If you have not yet received it, please return it to Special Master Woodin when you do receive it. In addition, please ensure that no copies exist on your computer or any other computer equipment, or in any other format, website(s) or FTP site(s), or otherwise on the Internet.

There is a question in my mind that the court actually has jurisdiction over me to issue the order. I believe I came into the documents completely legally, but the consequences to me if I am wrong about the jurisdiction issue are severe, so I will very much appreciate your compliance with this request.

Note New E-mail Address

James B. (Jim) Gottstein, Esq.

Law Project for Psychiatric Rights
406 G Street, Suite 206
Anchorage, Alaska 99501
USA
Phone: (907) 274-7686 Fax: (907) 274-9493
jim.gottstein[-at-]psychrights.org
<http://psychrights.org/>

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Law Project for
Psychiatric Rights

The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of unwarranted forced psychiatric drugging. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Extensive information about this is available on our web site, <http://psychrights.org/>. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.

EXHIBIT 15

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -x
IN RE: ZYPREXA :
PRODUCTS LIABILITY LITIGATION, :
:
:
- - - - -x

U.S. Courthouse
Brooklyn, New York

December 20, 2006
4:00 p. m.

TRANSCRIPT OF PHONE CONFERENCE
BEFORE THE HONORABLE BRIAN M. COGAN, DISTRICT COURT
JUDGE.

Lisa S. Cox, CCR, RMR
Official Court Reporter

1 APPEARANCES:

2

3 For the Plaintiffs:

4 LANIER LAW FIRM, PLLC
5 Tower 56
6 126 East 56th Street, 6th Floor.
7 New York, New York 10022
8 BY: EVAN M. JANUSH, ESQ.
9 RICHARD D. MEADOW, ESQ.

10 ALEXANDER, HAWES & AUDET, LLP.
11 221 Main Street
12 Suite 1460
13 San Francisco, California.
14 BY: WILLIAM M. AUDET, ESQ.

11

12

13 For Eli Lilly & Company:

14 PEPPER, HAMILTON, LLP
15 3000 Two Logan Square
16 Eighteenth and Arch Streets.
17 Philadelphia, Pennsylvania 19103
18 BY: SEAN P. FAHEY, ESQ.

17

18 LANE, POWELL
19 301 West Northern Lights Boulevard
20 Suite 301.
21 Anchorage, Alaska 99503
22 BY: BREWSTER H. JAMIESON, ESQ.

21

22

23 Special Master:

24 PETER H. WOODIN, ESQ.
25 280 Park Avenue
West Building, 28th Floor
New York, New York 11017

Lisa S. Cox, CCR, RMR
Official Court Reporter

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REPRESENTING MR. GOTTSTEIN:
JOHN MCKAY, ESQ.

REPORTED BY:
LISA SCHMID, CCR, RMR.
USDC - EDNY

Lisa S. Cox, CCR, RMR
Official Court Reporter

1 THE COURT: Good afternoon. Are we
2 ready to proceed?

3 MR. FAHEY: We are, Your Honor.

4 THE COURT: All right. This is In
5 re: Zyprexa Products Liability Litigation,
6 MDL Number 1596. We are on the record. Will
7 counsel please state their appearances?

8 MR. FAHEY: This is Sean Fahey on
9 behalf of Eli Lilly and Company.

10 MR. JANUSH: Rick Meadow and Evan
11 Janush from the Lanier Law Firm, plaintiffs.

12 THE COURT: Anyone else?

13 MR. AUDET: Bill Audet, A-U-D-E-T.
14 I'm a member of the Zyprexa Plaintiffs'
15 Steering Committee.

16 MR. MCKAY: John McKay, Anchorage,
17 Alaska. I am appearing especially on behalf
18 of Mr. James Gottstein, without waiving any
19 jurisdictional objections, Your Honor.

20 THE COURT: All right.

21 MR. WOODIN: And, Judge, you have
22 Peter Woodin, Special Discovery Master.

23 MR. JAMIESON: And also, Judge, you
24 have Brewster Jamieson with Lane, Powell,
25 local counsel for Eli Lilly in Anchorage,

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1 Alaska.

2 THE COURT: Mr. Fahey, why don't we
3 start with you? Tell me where we are.

4 MR. FAHEY: Your Honor, with your
5 permission, I would like to have Special
6 Master Woodin provide an update on the
7 compliance with Your Honor's order of Monday.

8 THE COURT: That's fine.

9 MR. WOODIN: Your Honor, Judge, this
10 morning, as of this morning, I had not
11 received from Mr. Gottstein the documents that
12 he had been ordered to return to me. I had
13 not received a list of parties to whom he's
14 disseminated the documents, and I had not
15 received any information about the particular
16 documents that were given to the individuals
17 or organizations. All three of those things
18 in your order, you directed him to provide to
19 me, either immediately or within 24 hours.

20 I sent him an email. Actually, I
21 sent his counsel an email and copied him and
22 counsel for both the PSC and Lilly on that
23 email, requesting -- noting that I had not
24 received any of these materials or
25 information, and asking Mr. Gottstein's

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1 counsel to either inform me whether or not
2 Mr. Gottstein intends to comply with the
3 order, and if so, when I could expect
4 compliant. I have had no further update with
5 respect to that email. So, I pass it on, Your
6 Honor.

7 THE COURT: All right. Before we
8 hear from Mr. McKay, anyone else need to be
9 heard?

10 MR. FAHEY: No, Your Honor.

11 THE COURT: All right. Mr. McKay,
12 you're sounding like you're coming through a
13 lot clearer than last time we spoke, and I'm
14 glad to hear that.

15 Why don't you tell me where we are
16 with regard to compliance with the order?

17 MR. MCKAY: Thank you, Your Honor.
18 My understanding of the nature of this hearing
19 is simply to visit the status on the nature of
20 compliance with the order, is that correct?

21 THE COURT: That's correct.

22 MR. MCKAY: Your Honor, what I can
23 tell you is that -- and for the record, I'll
24 just note the continuing objection that
25 Mr. Gottstein has concerning the issue of

1 jurisdiction over him in this matter. That it
2 is his intention to fully cooperate with the
3 Court and the parties in responding to your
4 order, and he has been, and continues to, and
5 so if I can let you know exactly what he has
6 been doing, and any remaining issues, I will
7 do that.

8 First of all, after the hearing,
9 the form of proposed order was circulated, and
10 I attempted to comment on that, and also to
11 offer a stipulated agreement, after discussion
12 with counsel, that would resolve these issues,
13 but basically was told that my comments were
14 not -- no one was interested in comment from
15 me, and there was nothing to discuss.

16 So, without waiting for the
17 issuance of a formal order, my client
18 communicated with those with to whom he had
19 disseminated the materials. My understanding
20 is that he had sent copies to a number of
21 people. He communicated with them, asked that
22 they be turned over to the Special Master,
23 with directions on how to do that. And he
24 also copied the Special Master and counsel
25 with these communications.

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1 So while it may be technically
2 correct that Mr. Woodin has not been provided
3 a list, in list form, Mr. Gottstein has been
4 doing other things, using his time to try to
5 comply with the order. He's provided the
6 information that will be on the list, that
7 he's trying to prepare for the Special Master,
8 but he's already provided the names. He just
9 has not provided them to him in list form, as
10 opposed to providing him with copies of all
11 the communications that went to all of these
12 people identifying who they were, because that
13 has already been done.

14 THE COURT: Mr. McKay, let me
15 interrupt you, so I'm sure I understand.
16 You're saying he has sent Mr. Woodin emails or
17 copied him on emails containing the names of
18 the people who got the information, so your
19 position is that Mr. Woodin, in fact, has the
20 names of those people?

21 MR. MCKAY: Yes, Your Honor. He did
22 that. He did that first, so that any further
23 possibility of things being out there that
24 might Lilly might feel has prejudiced their
25 position would be taken care of.

1 MR. WOODIN: Your Honor, if I may
2 interject -- this is Peter Woodin. I did
3 receive -- I was copied on about ten or 12
4 emails that Mr. Gottstein sent to various
5 individuals.

6 THE COURT: Okay.

7 Continue, Mr. McKay.

8 MR. MCKAY: And to his knowledge, he
9 has contacted everyone to whom he sent these.
10 I can tell you that I discussed it with him
11 thoroughly, and that he believes in good faith
12 that he has done that. If, by chance, he
13 thinks of anybody else, he will obviously
14 immediately do the same with them, and contact
15 counsel and the Special Master, but it's not
16 like he's fully satisfied that, and done that.

17 In addition to that, after the
18 hearing, Your Honor, before Your Honor on
19 Monday, counsel stayed on the phone with the
20 Discovery Master, and had a brief discussion,
21 and in that discussion, it was agreed that
22 instead of Mr. Gottstein in Anchorage sending
23 documents to Mr. Woodin -- I believe in New
24 York -- that instead, we could provide them
25 Mr. Jamieson here in town, who is local

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1 counsel for Eli Lilly in Anchorage. And
2 shortly after the hearing, I put in a call to
3 Mr. Jamieson to talk about making arrangements
4 for doing that and to address a couple of
5 questions that he needed to be answered in
6 connection with that. He didn't have an
7 opportunity to call me back. I followed up
8 with a later call, and in fact, to this day, I
9 have not received a return call on that.

10 Nonetheless, Mr. Gottstein has now
11 gone ahead, without waiting for an answer,
12 that he has delivered to Mr. Jamieson's office
13 copies of DVDs containing the documents that
14 he has. There are a couple of remaining
15 copies that he has in electronic form, which
16 I'll address in a minute, but any copies that
17 he has -- he basically had copies in three
18 different formats. One was documents that
19 Dr. Egilman had sent to him. As I understand
20 it, these documents came in two different
21 days, two days in row, partly in one day and
22 partly on another day. He has those documents
23 on a DVD, and sent them in that form, I
24 believe, to these people that he contacted to
25 get them returned. He had apparently one or

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1 two documents from that that he had put on a
2 flash drive, you know. Is Your Honor familiar
3 with what that is?

4 THE COURT: I am.

5 MR. MCKAY: All right. And when we
6 were talking to make sure that he was
7 completely retrieving these from every
8 possible place that he might have copies of
9 these documents, he brought this up. He
10 remembered that he had a copy of a document on
11 that, and he believe he's copied that document
12 on a DVD for the plaintiffs, as well.

13 And then the other thing is that he
14 has a copy on his computer. The copies that
15 were not on his computer have been turned over
16 to local counsel for Lilly. One of the
17 questions I was trying to get answered from
18 Lilly's attorney, that I would like to so
19 acknowledge and get an opportunity, but I
20 haven't been able to do it before that, is
21 whether it's sufficient to simply certify for
22 him to erase these from his computer, certify
23 that that's been done, or whether he wants
24 another copy of what's on the computer, which
25 he's already gotten on DVD form to be made,

1 before he erases it from the computer. So
2 that's one question. So you know that there
3 is still a copy that we still need to address
4 that's on his computer.

5 The other thing is that, in
6 addition, Mr. Gottstein is aware that his
7 computer system is routinely backed up, and
8 he's taken steps to reach a technician.
9 Mr. Gottstein is -- there's a long-scheduled
10 trip that he was about to leave on, so he's
11 been diligently working to get this taken care
12 of before he goes -- but he contacted a
13 computer technician -- and I don't know if the
14 parties had even thought of this -- but he's
15 trying to make sure if there is any backup
16 copy of this in existence, that that is also
17 wiped clean. So he's taking steps to do that.
18 He has not been able to do that himself, and
19 he so far, has not been able to get the
20 technician to do that, but he is taking good
21 faith steps to set that in motion, and it will
22 be done.

23 And then in addition, there's a
24 document that he had started that he believes
25 that he started to create. He's a solo

1 practitioner, and I can tell you that he is
2 working many long hours to try and do this, to
3 the disadvantage of other commitments. He's
4 been doing what he can. But he believes that
5 he started a document sometime in the past,
6 before all this came up, trying to create for
7 himself a word-searchable version of this
8 document, PDF document. He went on his
9 computer to try to find that document, in the
10 interest of making sure he had everything that
11 was being sought. And at that time -- at this
12 time, he's still been unable to locate it on
13 his computer. Assuming that it does exist and
14 assuming he can find it, he will destroy that
15 document. But I want you to know that it may
16 exist, and he has not -- if it does exist,
17 he's not yet located it.

18 And then finally, the biggest
19 difficulty that he's encountered at this point
20 is an apparently conflicting provision of the
21 order which requires him to immediately turn
22 over any copies that he has, and any related
23 documents, and at the same time, to give an
24 accounting in the form of an identifying
25 documents by Bates Stamp Number. There are

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1 two problems with this, Your Honor. He does
2 not have any sort of an index of these
3 documents by Bates Stamp, and apparently, my
4 understanding is there are over 800 files, and
5 it's an enormous task to try to identify these
6 documents by Bates Stamp. In addition, it
7 would require that he retain a copy in order
8 to be able to do this. He is undertaking to
9 comply, but this is one of the problems, that
10 he can't both immediately have given this back
11 and be using it to try to comply with the
12 order, to try to identify it by Bates Stamps.
13 It seems like there are simpler ways of doing
14 this, than to identify documents by a Bates
15 Stamp system, that he has not had any reason
16 to initiate himself, that he doesn't have an
17 index for.

18 So I would suggest that perhaps the
19 Court could clarify that either it's not
20 necessary to do that, or that he could order
21 to parties to provide him a Bates Stamped
22 index that would facilitate compliance with
23 that part of the order.

24 THE COURT: All right. Let he hear
25 from either Mr. Woodin or Mr. Fahey on this.

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1 MR. FAHEY: Your Honor, I just want
2 to take the issues in the order that they were
3 presented by Mr. McKay.

4 THE COURT: This is Mr. Fahey, right?

5 MR. FAHEY: With respect to the
6 contact to individuals that Mr. Gottstein
7 might have further disseminated these
8 documents to, on that issue -- there is two
9 issues I would like to follow up on.

10 The first is that a number of the
11 email addresses that Mr. Gottstein has emailed
12 to do not identify the recipient. It might be
13 something like "Jen" or "Mad" at something,
14 where there's really no description of who was
15 the recipient of the document, who the
16 intended recipient of the document was. So I
17 still think that, despite the emails that
18 Mr. Gottstein has sent out, we do still need a
19 list to understand who the intended recipients
20 of these documents were.

21 Second of all, I would like -- and
22 I think it's necessary for Mr. Gottstein at
23 some point, hopefully by the end of the day,
24 to certify that he has sent out emails to all
25 the people he is currently aware of. We

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1 received another series of emails yesterday
2 morning, and then received another one today.
3 And so, up until Mr. McKay just said what he
4 said, we had no idea when this list would stop
5 being generated.

6 The second issue, which I think is
7 more concerned to the compliance with the
8 order, is that when Mr. Gottstein contacts the
9 individuals who he has sent the materials to,
10 he expresses concern about whether the order
11 is appropriate, whether it's binding on him,
12 tells the recipient that he disagrees with it.
13 The most recent email, it says -- he said,
14 "And it seems inevitable we will be taking
15 steps to challenge the order's validity," and
16 then he says, "But in the meantime, it should
17 be complied with." So we're concerned that
18 the message that the recipient of these
19 disseminated documents is receiving is that
20 mixed message, quite frankly, Your Honor, and
21 we would like there to be no confusion about
22 what this Court ruled, and we, briefly, don't
23 think there's any confusion that this Court
24 clearly has jurisdiction over Mr. Gottstein,
25 based on his conduct.

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1 The second issue relating to the
2 materials -- if Mr. Gottstein has a third
3 party that is doing the deletion of his backup
4 files, we would like them to -- Mr. Gottstein
5 can immediately delete the documents from his
6 computer, and we would like the third party to
7 certify that that deletion has occurred, and
8 also certify once the backup materials are
9 eliminated, that that has also occurred.

10 You know, we were just notified,
11 you know, minutes before this call that the
12 documents had, in fact, that were in hard copy
13 were sent to our local counsel's office, and
14 I'm pleased to hear that.

15 MR. JAMIESON: Sean, Brewster
16 Jamieson. I have only received copies of CDs.
17 I did not receive any hard copy documents.

18 MR. MCKAY: I don't believe there are
19 any hard copy documents.

20 MR. FAHEY: That's what I understood.
21 I understood that.

22 And then, Your Honor, with your
23 permission, I would address the question of
24 Mr. McKay. It may be able to cut through the
25 Bates label issue.

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1 THE COURT: Why don't you?

2 MR. FAHEY: If Mr. Gottstein was able
3 to give us an understanding of what he sent to
4 each of these recipients -- if he sent
5 different things to each recipient, then we
6 may still have the issue with Bates labeling.
7 If all he did was copy the universe of
8 documents to all recipients, then that may be
9 something that can be handled in a different
10 way.

11 THE COURT: Mr. McKay, do you know
12 the answer?

13 MR. MCKAY: I think so, for our
14 purposes, Your Honor, and I appreciate that.
15 That was why I was trying to contact
16 Mr. Jamieson, see if we could cut through
17 this.

18 My understanding is that the
19 documents -- Dr. Egilman sent some documents
20 to him on day one, and that some additional
21 documents, some additional portion of the
22 documents on day two.

23 MR. FAHEY: Day one is which day?

24 MR. MCKAY: The reason I'm saying
25 that is I'm not entirely sure which day it

1 was.

2 OPERATOR: The following participant
3 has joined the conference: Unknown caller.

4 THE COURT: Well, Mr. Unknown Caller
5 --

6 MR. JANUSH: This is -- sorry, Judge.
7 This is Evan Janush. I had gone into my own
8 office and left Mr. Meadow. I apologize.

9 THE COURT: Thank you, Mr. Janush.

10 MR. MCKAY: Your Honor, what I was
11 explaining was that the question was what
12 documents -- my understanding is that
13 whichever date they came in -- I think it was
14 Monday and Tuesday, whether it could have been
15 Tuesday and Wednesday, whatever day they came
16 in, on the first day the documents came in,
17 Mr. Gottstein sent -- I think created a DVD
18 from the documents that had come
19 electronically, and sent them out to some
20 people.

21 On the second day, he sent
22 documents to some other people. At that time,
23 some additional documents had come from
24 Dr. Egilman. So those were included on the
25 DVDs that went to the second round of people.

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1 So my understanding is that the
2 DVDs came either in one batch of documents or
3 the other batch of documents. One would be
4 the universe, the other, what had come in the
5 first day. I think it's easy enough to
6 identify them in that fashion, without going
7 through, you know, hours or hundreds of hours
8 of recording thing with Bates Stamps that may
9 or may not correspond to something you already
10 have, and seems like an unnecessary exercise.
11 If we could agree on that, that would be
12 helpful.

13 MR. FAHEY: There's nothing that we
14 have. We still don't know what documents were
15 disseminated, so if you can identify which
16 recipients received a portion of the documents
17 and which recipients received the bolus of
18 documents, and we can confirm, based on the
19 DVDs you sent over, which is which, we may be
20 able to alleviate the issue of the Bates
21 Numbers.

22 MR. MCKAY: Let me say this,
23 Mr. Fahey. I don't know whether it will be
24 possible to do that, and I simply don't know
25 because I don't know if Mr. Gottstein knows.

1 To the best of his ability, he will give you
2 that information. If he doesn't know or
3 remember exactly who got which one, you know,
4 that's something that we'll just to have deal
5 with, but what I can tell you is that what we
6 can tell you is that these are the recipients,
7 and to answer your question about the list,
8 we're happy to provide you and will provide
9 you with the list. And I understand that your
10 comment that some of the emails addresses may
11 not be clear, and we'll certainly remedy that
12 promptly. He's working on this, and he is one
13 person, and trying to do the things that he
14 can here.

15 But I can guess what I'm saying is
16 that what we can tell you is that he can
17 identify to the best of his ability, which
18 people got which documents, but I don't think
19 the additional requirement of identifying the
20 documents that one set or the other of these
21 people got by Bates Stamp Number is going to
22 be necessary or productive, and hopefully, we
23 can agree on that. We can say this set of
24 documents went to some people. This set of
25 documents went to other people. To the best

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1 of our knowledge, these are the people to whom
2 those two different sets of documents went.
3 Is that adequate?

4 MR. FAHEY: I think so. The other
5 issue, though, is we're aware that I believe
6 at least someone from the New York Times had
7 access to a database remotely. So we would
8 need to know the recipients or anybody who
9 accessed that database remotely and could have
10 downloaded documents to their own servers.

11 MR. MCKAY: That's correct, and I
12 am -- the short answer is, we will get you
13 whatever information there is to be gotten to
14 you, we will get that to you. And I
15 understand that -- I will find out from
16 Mr. Gottstein what the data was that was
17 available for the Judge.

18 Judge, for your information, my
19 understanding is that there was a set of these
20 documents on a computer that was accessible by
21 someone at the New York Times, through
22 Mr. Gottstein. For your information, it was
23 not put on the computer on the way that it was
24 available to the public. It required a
25 password to get in. It was something that was

1 not generally available. My understanding is
2 that it's not something that might have been
3 accessed by anybody in the world, and to the
4 extent that there is a record of who accessed
5 it, we're attempting to obtain that
6 information for you, as well.

7 THE COURT: All right. Anything
8 further?

9 MR. FAHEY: No. I think, Your Honor,
10 it just leaves the issue of the mixed message
11 that we believe Mr. Gottstein is sending in
12 his communication relating to compliance with
13 the paragraph of the order requiring him to
14 take all necessary steps to obtain the
15 documents' return.

16 THE COURT: Yes. I understand that
17 concern. I'm not sure what you propose we do
18 about it. It does seem to me that, whether
19 stemming from that or just stemming from the
20 original dissemination of the documents, you
21 may have monetary relief that you want to seek
22 from Mr. Gottstein at some point.

23 It seems clear from the way that
24 you have described the emails going out that
25 he has at least directed the people to comply,

1 and I think what you're suggesting is that
2 he's done it in a kind of backhanded way,
3 which might dissuade them from actually
4 complying, and I suppose if you want to move
5 against him because he has attempted to find a
6 way to evade the intent of the order, you can
7 do that, but since the messages have gone out,
8 what would you propose we do about it at this
9 point.?

10 MR. FAHEY: I would just ask that the
11 that perhaps the jurisdictional issue be
12 resolved. That appears to be one of the
13 largest hurdles to Mr. Gottstein's concern
14 about the validity of this order. I think the
15 Second Circuit law is very clear on the issue
16 that where a person intentionally conspires,
17 as Your Honor found, to violate an order that
18 relates to the District, then that infers
19 jurisdiction on the person.

20 MR. MCKAY: May I respond to that?

21 THE COURT: You can respond, but
22 perhaps I'll anticipate your response. You
23 know, Mr. Gottstein has preserved his
24 objection to that, but as far as I'm
25 concerned, that is not an issue. The fact of

1 the matter is, it's not just Second Circuit
2 law, it's Supreme Court law. So, you know, I
3 see my order as being effective until the
4 Second Circuit tells me otherwise, and I'm
5 not -- I see no more power I have other than
6 to say that.

7 MR. FAHEY: Thank you, Your Honor.

8 MR. MCKAY: And I would appreciate a
9 brief opportunity to respond, Your Honor.

10 THE COURT: Go ahead.

11 MR. MCKAY: First of all, I take
12 exception to any suggestion that Mr. Gottstein
13 has been doing anything other than acting in
14 complete good faith. He's not trying to
15 factor anything here. I also note for the
16 record that it is my understanding, having
17 been present at the proceedings and having
18 looked at the order that you issued, that you
19 did not make a finding that Mr. Gottstein has
20 engaged in a conspiracy. And in fact, I don't
21 believe that he did -- but the fact that you
22 didn't make a finding is a statement that was
23 just made.

24 The reason that he -- and I should
25 also note that had we been given prior notice

1 and any kind of a written application stating
2 the grounds for the relief sought, it might
3 have been easier to address some of these
4 issues.

5 But, that said, I think when
6 somebody who is not a party to your lawsuit,
7 your multi-district litigation, receives an
8 order arising out of something he did in a
9 case in Alaska, subpoenaing documents, that
10 Eli Lilly could have said to Dr. Egilman,
11 certain objections, don't provide that.
12 Obviously, there will be a question about the
13 timing of that -- but in any event, he has
14 taken action in an Alaska case to obtain
15 documents that he believes are pertinent to
16 that litigation. When, in the context of
17 that, a Judge in New York tells him that he
18 has violated an order in a New York case that
19 he not a party to, it, at least, in fairness,
20 raises a reasonable question about that issue.
21 And without --

22 THE COURT: Mr. McKay, Mr. McKay, let
23 me interrupt you, please. Okay. I understand
24 your position on the record, and I'm not going
25 to argue the legal point with you. The

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1 findings I made are on the record as
2 previously stated, and they're in the
3 injunction order that was previously issued.

4 MR. MCKAY: Yes, Your Honor, and they
5 don't include any finding of a conspiracy, and
6 my sole point here is to say that, Your Honor,
7 Mr. Gottstein is not arguing with you here.
8 He is not trying to -- in fact, he is trying
9 to fully comply, and I think you can see from
10 what I have said today, that he has been,
11 fully complying with what you have ordered
12 regardless of any objections that he might
13 have. But I want to -- he did not want to
14 prejudice his position that he might still
15 wish to assert, on reflection, without waiting
16 to comply with your order, and so by sending
17 out -- are you still there.?

18 THE COURT: Still here.

19 MR. MCKAY: So without -- by sending
20 out these emails without any reference to
21 reserving his objection, he was concerned that
22 he might waive that. But he also made a it
23 very clear that there was a Court Order. I
24 think he referenced the Court Order, gave the
25 people access to the Court Order, so that it

1 was clear what the Court had done. So it was
2 not in any way an effort to keep people from
3 knowing or believing that the Court had issued
4 an order, and exactly what it said.

5 THE COURT: All right. Let me just
6 say, I don't have the emails in front of me,
7 and I'm not going to make any ruling against
8 him based on the description of the emails
9 that counsel had given me. It does seem to
10 me, based on the description, that he at least
11 told the recipients --

12 OPERATOR: The following participant
13 has joined the conference.

14 MR. WOODIN: Peter Woodin. Your
15 Honor --

16 THE COURT: Yes, I know. You got
17 dropped and you're back.

18 MR. WOODIN: Yeah.

19 THE COURT: Okay. It does seem to
20 me, Mr. McKay, that at the very least, there
21 was no need for him to assert his position to
22 third parties, and it may have been
23 ill-advised for him to do so. But I am not
24 making any findings on that, at this point.
25 That will be for Judge Weinstein, when he gets

1 back, if indeed there is a written application
2 for specific sanctions.

3 I do hear you, Mr. McKay, in
4 talking about the compliance efforts that have
5 been made. It is clear that some level of
6 compliance efforts have been made. The only
7 thing I need to know is, you know, we now
8 have, as far as I'm concerned, passed the
9 deadline on the list of people who are
10 supposed to be recipients, who are supposed to
11 have been identified. And I understand your
12 point that we have got email names, that
13 you're willing to tell us who those recipients
14 are -- but by close of business tomorrow, so
15 there is no ambiguity, I want that list sent
16 to Mr. Woodin, okay?

17 MR. MCKAY: That will be done, Your
18 Honor. Your Honor, just so you know, Mr.
19 Gottstein, this morning, hours ago, early this
20 morning, had advised Mr. Woodin in response to
21 his email, that he was preparing that list for
22 him, and would try to get it to him today.

23 THE COURT: Okay.

24 MR. MCKAY: So there is no objection
25 to that. He fully intends to comply with

1 that, and I appreciate you hearing us out on
2 the others issues.

3 THE COURT: All right. That's fine.

4 All right. Anything further?

5 MR. FAHEY: Your Honor, I would just
6 ask that Mr. Gottstein, through his counsel,
7 certify by the end of day today that any
8 documents on his computer have been deleted.

9 THE COURT: Any problem with that,
10 Mr. McKay? That's a two-line declaration.

11 MR. MCKAY: Your Honor, subject to
12 the understanding that we all, I believe, have
13 now, that there's no need for him to retain
14 them so that he can -- subject to the
15 understanding that there is no longer any
16 requirement that he identify documents by
17 Bates Stamp Number or otherwise, we have no
18 problem with that, but it would be impossible
19 to comply with that part of the order if he
20 were to eradicate the documents. I believe if
21 that requirement is no longer there, then he
22 can identify them by referring to the two sets
23 of documents.

24 THE COURT: You understand that, Mr.
25 Fahey, right?

1 MR. FAHEY: Yes. The only thing I
2 want to clarify is when he says, "Or
3 otherwise," I know he's already told us that
4 he will identify which groups of recipients
5 which received which batch of documents.

6 MR. MCKAY: To the best of his
7 ability, he will do that.

8 THE COURT: All right, gentlemen.
9 I'm here tomorrow, if you need me further, and
10 Judge Weinstein will be back on Tuesday.

11 MR. JAMIESON: For the record, this
12 is Brewster Jamieson in Alaska. Could I have
13 a direction as to whom I could send these CDs
14 that were delivered to me at the beginning of
15 this call.?

16 THE COURT: Mr. Woodin.

17 MR. JAMIESON: I'll do that by FedEx
18 tonight.

19 MR. WOODIN: Very good.

20 MR. MCKAY: Excuse me. May I ask one
21 other question, to make sure we're completely
22 clear on this? The question that I wanted to
23 ask a couple days ago, so we could comply with
24 this, is there any reason that we can't simply
25 do as Mr. Fahey's just suggested, and certify

1 that the documents on the computer have been
2 erased? I mean, we don't need to make another
3 copy of what's on the computer if we've
4 already sent this out.

5 THE COURT: My understanding is that
6 you do not, no.

7 MR. FAHEY: And you're representing
8 that they're the identical copies of the
9 documents that have already been sent to our
10 office.

11 MR. MCKAY: What I'm doing is, I will
12 make sure that whatever representation is to
13 be made will be made, you know, as far as what
14 the documents are. I need to check with
15 Mr. Gottstein to make sure exactly which
16 documents were sent to your office, and what
17 they contain exactly -- but I will make sure
18 that if you don't already have a copy of these
19 documents, that you will get them.

20 THE COURT: Right. In other words,
21 what has been produced, need not be produced.
22 What has not, if anything, needs to be
23 produced quickly.

24 MR. MCKAY: Understood.

25 THE COURT: All right. Thank you

1 all. If I don't speak to you, have a happy
2 holiday.

3 MR. FAHEY: Thank you, Your Honor.

4 MR. MCKAY: Thank you, Your Honor.

5 (PHONE CONFERENCE WAS CONCLUDED.)

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Lisa S. Cox, CCR, RMR
Official Court Reporter

EXHIBIT 16

PsychRights®

Law Project for
Psychiatric Rights, Inc.

December 21, 2006

Special Master Peter H. Woodin
JAMS
280 Park Avenue, 28th Floor
New York, New York 10017

Re: Zyprexa Products Liability Litigation, MDL 1596 ("Federal Litigation")
Certification of James Gottstein

I, the undersigned, James B. Gottstein, make the following representations concerning compliance with the order signed by Hon. Brian Cogan on December 19, 2006, ("Order") in the above-referenced federal litigation, directing the return of documents provided to me by Dr. David Egilman pursuant to subpoena ("Egilman Documents") issued by the Superior Court for the State of Alaska, Third Judicial District, in *In the Matter of the Guardianship of B.B.*, Case No. 3AN-04-545 P/G. and specified other relief, as that Order has been amended in the course of the Status Hearing conducted before Judge Cogan on December 20, 2006 ("Status Hearing").

For the record, I wish to note my continuing objection to the court's assertion of authority over me and the propriety of the issuance of this Order, including but not limited to objections relating to the court's jurisdiction to issue the Order, to the denial of due process with respect to proceedings culminating in the Order, and in particular to certain "findings" made in the Order. Dr. Egilman provided the documents at issue pursuant to my subpoena in the above-referenced state court litigation, only after following my instruction to give immediate notice of my subpoena to him to Eli Lilly and Company ("Lilly") as a party that had produced a portion of the subpoenaed documents in the Federal Litigation, and affording Lilly a reasonable opportunity to direct him to object to production. It was and remains my belief that I was doing nothing wrong when I received and made use of the documents thereafter produced to me by Dr. Egilman. I understand the parties to the Federal Litigation may see this differently, though I would note that to my knowledge, neither Judge Cogan, Judge Weinstein, nor any other court has ever ruled that disclosure of the Egilman Documents is not in the public interest. That may be a matter for another day. My purpose here is simply to note, as my counsel did in the Status Hearing, the continuing nature and reservation of this objection, and the fact that in voluntarily undertaking the steps outlined in the Order, I am not thereby submitting to the jurisdiction of the court or waiving my objections.

All representations herein are made in good faith, in an effort to fully cooperate with the court and parties to the Federal Litigation, and are based on what I know or recall at this time, having made diligent and extensive efforts considering the time allotted to ensure the accuracy hereof. To my knowledge, I have made all disclosures and undertaken all activities encompassed by the Order. Should I subsequently discover or recall any information which, had I been aware of it at this time, should have been provided pursuant to the Order, I will promptly supplement this document by communicating it to the Special Discovery Master.

The Order specifies the return of documents produced by Lilly pursuant to CMO-3 and which were provided to me by Dr. David Egilman "or any other source." I have no independent knowledge of the source of the documents sent to me by Dr. Egilman, but am assuming for

present purposes that all of the Egilman Documents were provided to him pursuant to CMO-3. To my knowledge, I have not obtained documents provided pursuant to CMO-3 from any other source, subject to the caveat set forth in section 6 below.

1. I certify that after issuance of Judge Cogan's Order I did not further disseminate the Egilman Documents (and in fact had voluntarily refrained from further distribution of Egilman Documents after receiving a letter from Lilly's counsel requesting this in the preceding week).

2. All documents provided by Dr. Egilman to me pursuant to my subpoena were received electronically. I do not have, and have not had, paper copies of any of the Egilman Documents. On December 20, 2006, after receiving clarification that the court and counsel for Lilly were dropping the requirement that I create a "Bates stamp" index of documents so that I no longer needed to preserve copies for that purpose, I deleted all Egilman Documents from my computer. Before doing so, I made a copy these documents on a DVD, labeled "All Z Docs 12/20/06." I have delivered this DVD today to my counsel, D. John McKay, for forwarding to you. Except as specified in items 5 and 6 below, I no longer have in my possession or control any copies of the Egilman Documents.

3. In addition to the aforementioned copies of the Egilman Documents sent electronically to and residing in my computer, I made a number of copies of these documents on DVDs, burned from my computer and distributed these copies. As noted further in section 7 below, I have retrieved or made a good faith effort to retrieve all of these copies. Those DVDs that I have been able to retrieve myself, or that were still in my possession, were turned over to local counsel for Eli Lilly yesterday for forwarding to the Special Master, per agreement. I have asked all others to whom I distributed the DVDs to turn over what I gave them to the Special Master and ensure that no copies exist. In addition, I happen to have copied one of the Egilman Documents onto a "flash drive." I have deleted it, and before doing so, I burned a copy of it onto a DVD that was among those delivered yesterday to counsel for Lilly, on a DVD labeled "from flash drive."

4. I have located the .pdf file Mr. McKay referred to in the December 20 status hearing, a word-searchable compilation of the Egilman Documents and the dozen or so files that were added together to make that file that I had created. As Mr. McKay promised, I have deleted that document from my computer.

5. While the Order does not specifically mention or address back-up copies, in an effort to fully cooperate in good faith with the intent of the order, I have taken steps to secure the removal of any copies of the Egilman Documents that might exist in any medium, in any location, where my computer is routinely backed up. I do not have the necessary access or technical expertise to accomplish this, but I have given directions to the individual who does have it to accomplish this as soon as practicable, and to ensure the security of the backup media in the meanwhile. Earlier this week I provided you with a copy of communication with this technician to this effect, and when the task is completed, my counsel will secure a certification to this effect and forward it to you.

6. In the course of my longstanding representation of clients and other advocacy work with respect to a variety of mental health-related issues, including but not limited to my work for the Law Project for Psychiatric Rights (PsychRights) and my successful prosecution of litigation culminating in the Alaska Supreme Court's ruling in *Myers v. Alaska Psychiatric Institute*, 138 P.3d 238 (Alaska 2006) restricting forced drugging, I have had occasion to acquire and publicly disseminate many, many documents relating to mental health treatment and related issues. These

documents, and the litigation and other activities to which they relate, have often specifically concerned the use of drugs, including but not limited to Eli Lilly's drug Zyprexa, which is the subject of your above-referenced MDL products liability litigation. I have routinely made such documents available publicly to anyone interested in the rights of people diagnosed with serious mental illness, and will continue to do so, on my website and otherwise. I know that such documents collected and utilized in the past include a substantial number of documents specifically concerning Zyprexa, including but not limited to numerous Zyprexa-related documents that have previously been produced pursuant to the Federal Freedom of Information Act. Because of the voluminous nature of these documents previously in my possession, and the fact that due to the Order I am unable to ascertain the identity of all the items contained in the Egilman Documents that were temporarily in my possession, I wish to note that it is possible that contained within the Egilman Documents are items that I and others have previously, and entirely appropriately, possessed and used. I simply do not know, and compliance with the court's order makes it impossible for me to determine this now. I suspect that it is not unlikely, however, since it is my understanding that some of the files encompassed by the court's protective order include a number of documents such as newspaper articles and other items that are already public and may well be in my independently and previously existing collection of documents. Therefore, while I can certify in complete good faith that I have deleted and/or returned all of the Egilman Documents, I cannot warrant that I have no copies of any documents that might coincidentally be found among the hundreds and hundreds of files comprising the Egilman Documents.

7. The lists in the subsections below identify, to the best of my ability, the persons, organizations or entities who obtained copies of Egilman Documents through me. I am informed that in the course of the Status Hearing, the court amended its Order to eliminate the requirement that I create an index identifying by Bates stamp number which documents were disseminated to whom. All those who received copies of the Egilman Documents from me or through me received all or a portion of one of two datasets. On Tuesday, December 12, 2006, Dr. Egilman first sent me documents I had requested in my subpoena to him. When I received these, comprising 356 documents, I burned copies of them onto one or more identical DVDs labeled "356 ZDocs" or "Zdocs 356" (hereinafter referred to as "DVD 1") On the following day, Dr. Egilman electronically sent me additional documents pursuant to the subpoena, and when I received these I burned new identical DVDs, labeled "ZDocs 12/13/06," or "12/13/06 ZDocs" (hereinafter referred to as "DVD 2") which new DVD 2 contained both the documents that arrived that day, and the documents that arrived the day before. (A .pdf file showing a photocopy of each of the aforementioned DVDs delivered to local counsel for Lilly yesterday, for forwarding to the Special Master is attached hereto as Exhibit 1.) All those who received DVD copies of Egilman Documents from me received one of these two datasets, either by getting one of the DVDs, or accessing the document electronically from my computer. I cannot recall with absolute certainty who got which of the two datasets.

Those to whom copies were provided received these copies either in person, on DVDs, or via U.S. Mail, on DVD, or by accessing an Internet FTP server(s), as FTP files. Before the Order was signed, I began the process of contacting those to whom I had provided copies to secure their return. As to those I contacted by e-mail for this purpose, I copied the Special Discovery Master and counsel. Those to whom I gave copies to in person, I personally met with to retrieve their copies.

a) Those to whom I provided copies in person, and from whom I was subsequently able to personally retrieve these copies, all in DVD format, are as follows:

Recipient

- Terrie Gottstein
- Jerry Winchester

Format

DVD 1
 DVD labeled "from J. Winchester," provided to
 Lilly counsel

To the best of my memory, I distributed no other copies in person.

b) Those who did not receive copies from me in person include the following. The notation indicating whether they received DVD 1 or DVD 2 or both, and/or whether they accessed the documents from an Internet FTP Server, reflects the best of my knowledge at this time:

Recipient	Affiliation or Other Identification	Format
Alex Berenson	New York Times	DVD 1, DVD 2, FTP Access.
Dr. Peter Breggin	Prominent psychiatrist of conscience, expert witness, and prolific author	DVD 1, possibly DVD 2.
Dr. Grace Jackson	Perhaps the most knowledgeable psychiatrist expert on psychopharmacology in the US, if not world, with respect to mechanisms of action in the brain and body	Both DVDs
Dr. David Cohen	Florida International University	Both DVDs, I believe
Bruce Whittington	PsychRights Executive Director	DVD 1
Dr. Stephen Kruszewski	Psychiatrist	Only DVD 2, I believe, maybe both
Laura Ziegler	Psychiatric Survivor/Activist	DVD 1 only, I believe
Judi Chamberlin	Psychiatric Survivor/Activist Icon, author of "On Our Own."	DVD 1 only, I believe
Vera Sherav	Alliance for Human Rights Protection	DVD 2, two copies
Robert Whitaker	Former medical/science journalist, and author of <i>Mad In America: Bad Science, Bad Medicine and the Enduring Mistreatment of the Mentally Ill</i>	Both DVDs, I think.
Steve Cha	House Committee on Government Reform (Minority Office)	DVD 2
Will Hall	Psychiatric Survivor/Activist, co-founder of the Freedom Center in Northampton, MA	Either or both DVDs and I believe FTP
Singeha Prakash	National Public Radio	DVD 2

c) Also, a .pdf file containing the FTP logs from my computer relating to the Egilman Documents is attached hereto as Exhibit 2, insofar as it may in some cases constitute the best evidence, or supplemental evidence, of to whom Egilman Documents were provided, and/or of which documents were provided to whom.

Finally, I certify that I have taken steps to preserve, until further order of the court, all documents, voice mails, emails, materials and information, including but not limited to all

communications that refer to, relate to or concern Dr. Egilman or any other efforts to obtain documents produced by Eli Lilly and Company in the Federal Litigation, reserving all rights and without waiving any objections that might be made to actually producing such documents based on any privilege or other provision of law, and subject to the caveat set forth in section 6.

**James B.
Gottstein, Esq.**

Digitally signed by James B. Gottstein, Esq.
DN: cn=James B. Gottstein, Esq., c=US,
o=Law Project for Psychiatric Rights,
email=jim@psychrights.org
Reason: I attest to the accuracy and integrity
of this document
Date: 2006.12.21 17:35:10 -09'00'

James B. Gottstein

EXHIBIT 17

grace jackson

From: grace jackson [gracejackson1@suddenlink.net]
Sent: Tuesday, December 19, 2006 7:51 AM
To: 'Jim Gottstein'
Cc: 'mckay@alaska.net'; 'Peter Woodin'; 'EMJ@lanierlawfirm.com'; 'RDM@lanierlawfirm.com'; 'JamiesonB@LanePowell.com'; 'Faheys@pepperlaw.com'
Subject: RE: Zyprexa Documents

I am mailing these documents to Special Master Woodin via FED EX this morning. I have not opened any of the documents and possess no copies of them.
Grace E. Jackson, MD

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

From: Jim Gottstein [mailto:jim.gottstein@psychrights.org]
Sent: Tuesday, December 19, 2006 2:10 AM
To: grace jackson
Cc: Jim Gottstein; mckay@alaska.net; Peter Woodin; EMJ@lanierlawfirm.com; RDM@lanierlawfirm.com; JamiesonB@LanePowell.com; Faheys@pepperlaw.com
Subject: Zyprexa Documents

Dear Dr. Jackson,

I mailed you DVD (or maybe two) with some documents on them pertaining to Zyprexa and have been orally ordered to have them returned to:

Special Master Peter H. Woodin
JAMS
280 Park Avenue, 28th Floor
New York, New York 10017

A copy of the proposed written order is posted at <http://psychrights.org/States/Alaska/CaseXX/EilLilly/ProposedOrder.pdf> with a comment about certain language which I strenuously disagree with and we are trying to get eliminated from the signed order. Regardless, please return the DVD, hard copies and any other copies to Special Master Woodin immediately. If you have not yet received it, please return it to Special Master Woodin when you do receive it. In addition, please ensure that no copies exist on your computer or any other computer equipment, or in any other format, website(s) or FTP site(s), or otherwise on the Internet.

There is a question in my mind that the court actually has jurisdiction over me to issue the order. I believe I came into the documents completely legally, but the consequences to me if I am wrong about the jurisdiction issue are severe, so I will very much appreciate your compliance with this request.

Note New E-mail Address

James B. (Jim) Gottstein, Esq.

Law Project for Psychiatric Rights

12/19/2006

406 G Street, Suite 206
Anchorage, Alaska 99501
USA
Phone: (907) 274-7686 Fax: (907) 274-9493
jim.gottstein[-at-]psychrights.org
<http://psychrights.org/>

Psych Rights ®
Law Project for
Psychiatric Rights

The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of unwarranted forced psychiatric drugging. We are further dedicated to exposing the truth about these drugs and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Extensive information about this is available on our web site, <http://psychrights.org/>. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.

EXHIBIT 18

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CHAIRMAN

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L. MICA, FLORIDA
G. GLUTKOWICHT, MINNESOTA
MARK E. BOLDER, INDIANA
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KENNY MARCHANT, TEXAS
LYNN A. WESTMORELAND, GEORGIA
PATRICK T. McHENRY, NORTH CAROLINA
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VIRGINIA FOXX, NORTH CAROLINA
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DISTRICT OF COLUMBIA

BERNARD SANDERS, VERMONT,
INDEPENDENT

December 21, 2006

BY FIRST-CLASS MAIL

Special Master Peter H. Woodin
JAMS
280 Park Avenue, 28th Floor
New York, NY 10017

Re: In re: Zyprexa Products Liability Litigation, MDL No. 1596 (E.D.N.Y.)

Dear Special Master Woodin:

I am currently the Ranking Member — and will in January become the Chairman — of the Committee on Government Reform of the U.S. House of Representatives, the House's principal investigative committee. The Government Reform Committee has broad jurisdiction over the operations of the federal government (Rules of the House of Representatives, Rule X.1(h) (109th Cong.)), and general oversight responsibility to “determine whether laws and programs addressing subjects within [its] jurisdiction ... are being implemented and carried out in accordance with the intent of Congress” (Rule X.2(b)(1)).

As you may be aware, James B. Gottstein of the Law Project for Psychiatric Rights recently provided the minority staff of the Committee with certain documents related to Zyprexa. Those documents relate to drug safety, a matter within the Committee's oversight jurisdiction.

On Wednesday, December 20, 2006, Mr. Gottstein advised us that the U.S. District Court for the E.D.N.Y. had entered an order in the above-referenced case directing him to “immediately take steps to retrieve any documents subject to th[e] Order, regardless of their current location, and return all such documents to Special Master Woodin.” (Order for Mandatory Injunction at 2 (Dec. 18, 2006)). Mr. Gottstein asked that we return to you the documents he provided to the Committee, and delete any copies on Committee computers.

It is my understanding that the District Court's December 18 Order is not directed to the Committee, or any of its Members or staff. Furthermore, any attempt to compel the Committee, or any of its Members or staff to return the documents provided to us by Mr. Gottstein would conflict with the absolute privilege afforded to Members of Congress under the Constitution's

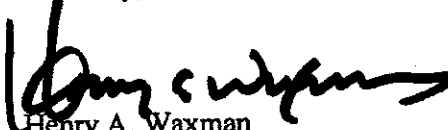
Special Master Peter H. Woodin
December 21, 2006
Page 2

Speech or Debate Clause (U.S. Const. art. I, § 6, cl. 1; See *Eastland v. United States Serviceman's Fund*, 421 U.S. 491 (1975); *Gravel v. U.S.*, 408 U.S. 606 (1972); *Brown & Williamson Tobacco Corp. v. Williams*, 62 F.3d 408 (D.C. Cir. 1995)).

Nevertheless, out of deference to Mr. Gottstein's wishes, and out of a sense of comity and respect for a coordinate branch of the federal government, we are voluntarily returning the documents provided to us by Mr. Gottstein. Enclosed please find a disc of documents. We have also voluntarily deleted all copies of these documents on Committee computers.

Thank you for your attention.

Sincerely,



Henry A. Waxman
Ranking Minority Member

Enclosures

cc: Honorable Tom Davis, Chairman
James B. Gottstein, Esq.

EXHIBIT 19

NEUROPSYCHIATRY
STEFAN P. KRUSZEWSKI, M.D.

732 Forest Road
Harrisburg, Pennsylvania 17112

T 717-599-5787
F 717-599-5197

skruszewski@spkmd.com
www.spkmd.com

January 9, 2007

Via Overnight Delivery

Special Master Peter H. Woodin
JAMS
280 Park Avenue, 28th Floor
New York, New York 10017

RE: In re: Zyprexa Products Liability Litigation

Dear Master Woodin:

On December 19, 2006, I received an email from Jim Gottstein, an acquaintance, informing me that he had mailed me an unsolicited DVD containing documents Mr. Gottstein had obtained regarding Zyprexa. Mr. Gottstein's email instructed that he was being ordered to contact everyone that he had mailed discs requesting their immediate return. I sent a reply email to Mr. Gottstein the morning of December 19th that I had not received any such documents or DVDs but that if I did receive any such package, I would immediately return them unopened to your attention. A copy of my email exchange with Mr. Gottstein is attached for your reference.

I later received notice that I was named in a Temporary Mandatory Injunction issued December 29, 2006 (later extended until January 16, 2007). Please be advised that I am not a party to the underlying litigation nor do I believe I am subject to the court's jurisdiction in this matter. Further, I believe that these documents are in the public domain and cannot be considered confidential. Despite these concerns, I am however, complying with Mr. Gottstein's request.

Please find enclosed a brown envelope addressed to me from the Pennsylvania Psychiatric Society, postmarked January 3, 2007 which contains an **unopened**, smaller, bubble mailer from Office Depot, also addressed to my attention [albeit incorrectly], that has a return address of PsychRights, 406 G Street, Suite 206, Anchorage, Alaska 99501 and is postmarked December 13, 2006.

The envelope from the Pennsylvania Psychiatric Society was delivered to me on January 4, 2007. At that time, I opened the outside envelope and upon discovery that the bubble

Special Master Peter H. Woodin
January 9, 2007
Page 2

mailer from PsychRights was inside, immediately closed the outer envelope. It is my assumption that the unopened bubble mailer contains the DVD that Mr. Gottstein emailed me about on December 19, 2006. Per Mr. Gottstein's original email request along with the notices that I have received regarding the Injunction and ongoing hearings on this matter, I hereby certify to you and all interested parties that I am voluntarily returning, **unopened**, the envelope sent by Jim Gottstein. I further certify that I have not viewed these documents, nor have I disseminated them in any fashion.

I trust that this submission will satisfy the court in this matter. If you have any questions, please feel free to contact me. Thank you for your prompt attention to this matter.

Sincerely,

s/ Stefan P. Kruszewski, M.D.

Stefan P. Kruszewski, M.D.

Attachment and Enclosures

cc: Jim Gottstein, Esquire (via email and without enclosures)
Sean Fahey, Esquire (via email and without enclosures)

EXHIBIT 20

D. JOHN McKAY
Attorney at Law
117 E. Cook Ave.
Anchorage, Alaska 99501

Telephone
(907) 274-3154

Fax
(907) 272-5646

January 13, 2007

By E-mail

Peter Woodin, Special Master
JAMS
280 Park Ave., 28th Floor
New York, New York 10017

Re: Zyprexa Proodructs Liability Litigation, MDL 1596 (“Federal Litigation”)
Supplemental Response of James Gottstein

Dear Mr. Woodin,

The following is an update and supplement to James Gottstein’s December 21, 2006, Compliance Certification (“Compliance Certification”). Mr. Gottstein has cut short his vacation with his family and has now returned to help ensure that these matters are addressed before further proceedings scheduled in this matter.

1. Mr. Gottstein’s office received, in his absence, the DVD he had sent in December to Mr. Will Hall, returned to him by Mr. Hall pursuant to the court’s order. This DVD is being delivered to you.

2. On December 26, 2006, I sent a transmittal letter to you, accompanying the DVD provided to you with the items burned from Mr. Gottstein’s computer before they were erased, as described in ¶2, p. 2 of the Compliance Certification. It is not clear that a copy of this transmittal letter was copied to counsel. In case it was not, I am attaching a .pdf copy with the e-mail transmission of this letter to you.

3. As noted in our earlier filings, Mr. Gottstein made his best, good faith efforts to fully comply with the court’s order, notwithstanding that he was in the middle of religious holidays and preparing to leave with his family on vacation, with an extended absence from his office. Since taking the steps described in the Compliance Certification, Mr. Gottstein has discovered one

additional document from Dr. Egilman that should have been erased from his computer, and would have been erased with the rest in accordance with the procedure set forth in ¶2, p.2 had it been noticed at the time. The reason it was overlooked had to do with the fact that it was in an isolated e-mail as an attachment. Mr. Gottstein wishes to emphasize that this document was never distributed by him to anyone else, at all, in any medium. This document may or may not be among those already burned to DVDs and delivered to you. Erring on the side of caution, though, instead of simply deleting it, Mr. Gottstein has preserved this long enough that it could be burned to another DVD. Now that he is back and has been able to do this, he has deleted this final "Egilman Document" from his computer. The DVD containing this one document will be delivered to you.

Sincerely,

/s/djmckay/

D. John McKay
Attorney for James Gottstein

cc: Sean Fahey (via e-mail)
Evan Janush (via e-mail)
James Gottstein (via e-mail)

EXHIBIT 21

- [MFI Campaigns](#)
- [Personal Stories](#)
- [MFI Shield](#)
- [Knowledge Base](#)
- [MindFreedom News](#)
- [Events](#)
- [MFI FAQ](#)
- [MFI Blog](#)
- [Affiliates & Sponsors](#)
- [For MFI Members](#)

MFI E-News Free Public Alerts

upcoming events

- MindFreedom Choice in Mental Health Care Conference
Wisdom House, Litchfield, Connecticut, USA
2007-07-12
- ICSPP 2007

Welcome to MindFreedom International

MFI vision: Unite in a spirit of mutual cooperation for a nonviolent revolution in mental health.

MFI is an independent nonprofit coalition defending human rights and promoting humane alternatives in mental health. While the majority of MFI members have personally experienced mental health system abuse, membership is open to all who support these goals.

MFI Featured News

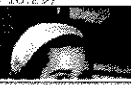
MF Radio Carries News About Controversy Regarding Eli Lilly Secret Zyprexa Documents

(Published: 2007-01-01 17:34)
Update 1: Attorney Ted Chabasinski (pictured here) reported on MF Radio shortly after his court appearance on behalf of MindFreedom 1/3/07 to challenge Eli Lilly suppression of secret files on the psychiatric drug Zyprexa. Ted was followed by regularly-scheduled guest Pat Risser who announced he is one of those who, acting on his own, has distributed Eli Lilly secret files about their psychiatric drug Zyprexa. You may hear the archived show.
[read more](#)



Help wanted in MFI office

(Published: 2006-12-13 16:29)
Update 1: Please spread the word about this ideal paid position for a dedicated office



MFI News

Eli Lilly Targets Free Speech in Battle Over Secret Zyprexa Documents

(Published: 2006-12-20 10:52)
Update 21: 7 Jan. 2007 3 pm EST -- Eli Lilly tries to expand court gag order to include free speech about their previously-secret Zyprexa documents. MindFreedom appears in court tomorrow to defend the public right to know the contents of secret Eli Lilly documents about psychiatric drug Zyprexa. MindFreedom's attorney calls for criminal prosecution of Eli Lilly executives.
[read more](#)

PsychRights hires executive director

(Published: 2006-12-22 08:00)
PsychRights.org, a sponsor group of MindFreedom International, has filled its opening for Executive Director.
[read more](#)

Two articles & editorial: NY Times spotlights PsychRights exposure of Eli Lilly fraud

(Published: 2006-12-17 00:10)
The NY Times has now run two articles (including a front page article), PLUS an

Join, Renew, Donate to MindFreedom International.

Mad Market Books & Gear

We are MFI



Jim Gottstein of PsychRights
Jim Gottstein is a psychiatric survivor who is also a Harvard-trained attorney, and founder of MindFreedom Sponsor Group PsychRights. Jim blew the whistle on Eli Lilly by releasing their secret documents about the psychiatric drug Zyprexa to The New York Times. Jim is also president of National

EXHIBIT 22

[Zyprexa-discuss] okay, got it...

David Oaks [oaks at mindfreedom.org](mailto:oaks@mindfreedom.org)

Sat Dec 30 21:53:22 EST 2006

- Previous message: [\[Zyprexa-discuss\] tor link does not work](#)
 - Next message: [\[Zyprexa-discuss\] new alert](#)
 - Messages sorted by: [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)
-

Okay, I got it... people can just go to the Tor instructions page...

Good enough, we can just tell people that... if..... if....

The big question I have though... is can people still get the documents that way...

but how to let anyone know it still works without disclosing identity? via the wiki?

- Previous message: [\[Zyprexa-discuss\] tor link does not work](#)
 - Next message: [\[Zyprexa-discuss\] new alert](#)
 - Messages sorted by: [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)
-

[More information about the Zyprexa-discuss mailing list](#)

EXHIBIT 23

[Zyprexa-discuss] zyprexakills.us live

Rafael [rafi at phantomcynthetics.com](mailto:rafi@phantomcynthetics.com)

Sun Dec 24 22:22:39 EST 2006

- Previous message: [\[Zyprexa-discuss\] google ad word campaign](#)
 - Next message: [\[Zyprexa-discuss\] zyprexakills.us live](#)
 - **Messages sorted by:** [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)
-

OK - we are live, and in control of our pbwiki.

Please contact me for the password.

zyprexakills.us should be propogating and making a webhop over to zyprexa.pbwiki.com until we get our own wiki running.

great work!
/rafi

- Previous message: [\[Zyprexa-discuss\] google ad word campaign](#)
 - Next message: [\[Zyprexa-discuss\] zyprexakills.us live](#)
 - **Messages sorted by:** [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)
-

[More information about the Zyprexa-discuss mailing list](#)

EXHIBIT 24

[Zyprexa-discuss] [Fwd: Re: zyprexakills.us live]

Rafael [rafi at phantomcynthetics.com](mailto:rafi@phantomcynthetics.com)

Sun Dec 24 23:55:22 EST 2006

- Previous message: [\[Zyprexa-discuss\] zyprexakills.us live](#)
- Next message: [\[Zyprexa-discuss\] update 2 look okay?](#)
- Messages sorted by: [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)

On second thought, we are going to sit on zyprexakills.us for now.

We have it on reserve, but for now lets stick with zyprexa.pbwiki.com for organizing and promotional purposes.

Sorry for the confusion.

/rafi

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

Subject: Re: [\[Zyprexa-discuss\] zyprexakills.us live](#)

Date: Sun, 24 Dec 2006 23:05:35 -0500

From: Rafael <[rafi at phantomcynthetics.com](mailto:rafi@phantomcynthetics.com)>

To: [zyprexa-discuss at acm.jhu.edu](mailto:zyprexa-discuss@acm.jhu.edu)

References: <[458F43FF.9030606 at phantomcynthetics.com](mailto:458F43FF.9030606@phantomcynthetics.com)>

The password for editing the wiki (zyprexa.pbwiki.com) is "eli lilly rocks"

you may want to use Tor for edits.

/rafi

Rafael wrote:

> OK - we are live, and in control of our pbwiki.

>

> Please contact me for the password.

>

> zyprexakills.us should be propogating and making a webhop over to

> zyprexa.pbwiki.com until we get our own wiki running.

>

> great work!

> /rafi

>

> [Zyprexa-discuss mailing list](#)

> [Zyprexa-discuss at acm.jhu.edu](mailto:zyprexa-discuss@acm.jhu.edu)

> <http://lists.acm.jhu.edu/mailman/listinfo/zyprexa-discuss>

Zyprexa-discuss mailing list

[Zyprexa-discuss at acm.jhu.edu](mailto:zyprexa-discuss@acm.jhu.edu)

<http://lists.acm.jhu.edu/mailman/listinfo/zyprexa-discuss>

- [Previous message: \[Zyprexa-discuss\] zyprexakills.us live](#)
- [Next message: \[Zyprexa-discuss\] update 2 look okay?](#)
- **Messages sorted by:** [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)

[More information about the Zyprexa-discuss mailing list](#)

EXHIBIT 25

[Zyprexa-discuss] update 2 look okay?

David Oaks [oaks at mindfreedom.org](mailto:oaks@mindfreedom.org)

Mon Dec 25 12:25:12 EST 2006

- Previous message: [\[Zyprexa-discuss\] \[Fwd: Re: zyprexakills.us live\]](#)
 - Next message: [\[Zyprexa-discuss\] update 3 look okay?](#)
 - Messages sorted by: [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)
-

Hi Zyprexa Discuss list:

Way to go!

Later today I hope to get out an alert about the below piece I've added to our web site....

If anyone can possibly look at it to double-check accuracy, to the extent you can, I'd appreciate it...

I'm not looking for perfection, just want to get that info out to our news announcement list with basic accuracy...

If you do have an important change, please let me know exactly what to change...

For instance, should I advertise this e-mail list on the alert?

Okay, here's what I put up -- Update 2

<http://www.mindfreedom.org/know/psych-drug-corp/eli-lilly-secrets/>

Note I've added another URL on there, by a member of MindFreedom Eric, who has put the documents on his weblog.

- Previous message: [\[Zyprexa-discuss\] \[Fwd: Re: zyprexakills.us live\]](#)
 - Next message: [\[Zyprexa-discuss\] update 3 look okay?](#)
 - Messages sorted by: [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)
-

[More information about the Zyprexa-discuss mailing list](#)

EXHIBIT 26

[Zyprexa-discuss] update 3 look okay?

Rafael rafi at phantomcynthetics.com

Mon Dec 25 12:53:30 EST 2006

- Previous message: [\[Zyprexa-discuss\] update 3 look okay?](#)
 - Next message: [\[Zyprexa-discuss\] update 3 look okay?](#)
 - **Messages sorted by:** [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)
-

zyprexakills.pbwiki.com is dead. We can't access it anymore since we don't have the password. The person who anonymously created the original wiki left us with no way to edit it.

we are now using zyprexa.pbwiki.com. zyprexakills.us points to zyprexa.pbwiki.com, but we haven't yet decided whether to publicize our newly purchased domain.

I know this is a little confusing, but we are working this out pretty quickly.

I would publicize zyprexa.pbwiki.com as I think that is the safest bet for now.

/rafi

David Oaks wrote:

> I've already changed to update 3....

>

> All I need... someone take a look and say, "go for it, publicize it."

>

> ~~~~~

>

> I added:

>

> <http://zyprexakills.us/>

>

> I left on the following link... but I'm a bit lost, because the above

> seems extremely helpful and recent, the below seems a bit dated, but

> I left both on

>

> <http://zyprexakills.pbwiki.com>

>

>

> ~~~~~

>

> Hi Zyprexa Discuss list:

>

> Way to go!

>

> Later today I hope to get out an alert about the below piece I've

> added to our web site....

>

> If anyone can possibly look at it to double-check accuracy, to the

> extent you can, I'd appreciate it...
>
> I'm not looking for perfection, just want to get that info out to our
> news announcement list with basic accuracy...
>
> If you do have an important change, please let me know exactly what
> to change...
>
> For instance, should I advertise this e-mail list on the alert?
>
> Okay, here's what I put up -- Update 2
>
> <http://www.mindfreedom.org/know/psych-drug-corp/eli-lilly-secrets/>
>
> Note I've added another URL on there, by a member of MindFreedom
> Eric, who has put the documents on his weblog.
>
>
>
>
>
>
>

> [Zyprexa-discuss mailing list](#)
> [Zyprexa-discuss at acm.jhu.edu](#)
> <http://lists.acm.jhu.edu/mailman/listinfo/zyprexa-discuss>

-
- [Previous message: \[Zyprexa-discuss\] update 3 look okay?](#)
 - [Next message: \[Zyprexa-discuss\] update 3 look okay?](#)
 - **Messages sorted by:** [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)

[More information about the Zyprexa-discuss mailing list](#)

EXHIBIT 27

[Zyprexa-discuss] update 3 look okay?

Rafael rafi at phantomcynthetics.com

Mon Dec 25 12:54:34 EST 2006

- Previous message: [\[Zyprexa-discuss\] update 3 look okay?](#)
 - Next message: [\[Zyprexa-discuss\] Front Page NYTimes story on Diabetes](#)
 - Messages sorted by: [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)
-

Also, we want to be collecting all mirrors of the memos on the zyprexa.pbwiki.com site.

/rafi

David Oaks wrote:

> I've already changed to update 3....

>

> All I need... someone take a look and say, "go for it, publicize it."

>

> ~~~~~

>

> I added:

>

> <http://zyprexakills.us/>

>

> I left on the following link... but I'm a bit lost, because the above

> seems extremely helpful and recent, the below seems a bit dated, but

> I left both on

>

> <http://zyprexakills.pbwiki.com>

>

>

> ~~~~~

>

>

> Hi Zyprexa Discuss list:

>

> Way to go!

>

> Later today I hope to get out an alert about the below piece I've

> added to our web site....

>

> If anyone can possibly look at it to double-check accuracy, to the

> extent you can, I'd appreciate it...

>

> I'm not looking for perfection, just want to get that info out to our

> news announcement list with basic accuracy...

>

> If you do have an important change, please let me know exactly what

> to change...

>

> For instance, should I advertise this e-mail list on the alert?

>

> Okay, here's what I put up -- Update 2

>

> <http://www.mindfreedom.org/know/psych-drug-corp/eli-lilly-secrets/>
>
> Note I've added another URL on there, by a member of MindFreedom
> Eric, who has put the documents on his weblog.
>
>
>
>
>

> [Zyprexa-discuss mailing list](#)
> [Zyprexa-discuss at acm.jhu.edu](#)
> <http://lists.acm.jhu.edu/mailman/listinfo/zyprexa-discuss>

-
- Previous message: [[Zyprexa-discuss](#)] [update 3 look okay?](#)
 - Next message: [[Zyprexa-discuss](#)] [Front Page NYTimes story on Diabetes](#)
 - **Messages sorted by:** [[date](#)] [[thread](#)] [[subject](#)] [[author](#)]

[More information about the Zyprexa-discuss mailing list](#)

EXHIBIT 28

[Zyprexa-discuss] please note....

David Oaks [oaks at mindfreedom.org](mailto:oaks@mindfreedom.org)

Tue Dec 26 12:06:32 EST 2006

- Previous message: [\[Zyprexa-discuss\] Front Page NYTimes story on Diabetes](#)
 - Next message: [\[Zyprexa-discuss\] zyprexa updates](#)
 - **Messages sorted by:** [\[date \]](#) [\[thread \]](#) [\[subject \]](#) [\[author \]](#)
-

THANKS everyone for the bits of updated info that helped us get out an alert yesterday on the Zyprexa documents issue (copied at bottom).

I was in the middle of making gravy from scratch for the second time of my life and was hitting a few wrong buttons, but I think it worked out.

Just found this out....

Please NOTE that a court order is requiring Jim Gottstein to save any and all relevant emails he receives (or sends) on the matter of the suppressed and released Zyprexa documents.

I have made some minor changes on the MindFreedom alert on our web site today, it's now update 5.

I guess people know by now that the original download site is now apparently working again... it's listed on the wiki mirror page and the MindFreedom alert page.

This is the disclaimer we have on our web site, I don't know if I've covered the basics (let me know if you can think of anything)..... it applies to anything we post on this list:

"Disclaimers: In the public interest, MindFreedom is forwarding these anonymous alerts. MFI did not originate these alerts, MFI does not vouch for their authenticity or accuracy, that's all the information we have, MFI is not providing advice about the legality of downloading the materials, MFI is not encouraging anyone to do illegal activities."

AT BOTTOM is the alert we sent out to several thousand people... if you want to get these occasional human rights alerts directly in the future, instructions on how to get the free alerts is at very bottom.

Thanks again!

David

P.S. Yesterday I learned *NOT* to add the "drippings stuff" to the "brothy stuff" *before* making the roux stuff... but the gravy all worked out... apologies to sensibilities any vegetarians.

~~~~~

From: [oaks at mindfreedom.org](mailto:oaks@mindfreedom.org)

Subject: "We are all Jim" Eli Lilly secrets on Zyprexa exposed  
Date: December 25, 2006 4:23:13 PM PST  
To: [news at mindfreedom.org](mailto:news@mindfreedom.org)

MindFreedom News - 25 December 2006  
<http://www.mindfreedom.org> - please forward

"We are all Jim!" - Eli Lilly secrets on Zyprexa exposed

How \*you\* may be able to keep a spotlight on Zyprexa

Grassroots campaign keeps exposed documents exposed

A grassroots Internet campaign today is outflanking well-heeled attorneys from the huge drug company Eli Lilly who are still trying to suppress internal documents about their psychiatric drug Zyprexa.

And you may participate, including by downloading the secret documents yourself, if you so choose:

<http://www.mindfreedom.org/know/psych-drug-corp/eli-lilly-secrets/>

The anonymous individuals distributing this unusual "Christmas gift" of hundreds of Zyprexa documents are apparently counting on the fact that many courts are closed today.

Background:

The NY Times ran three pieces this past week based on revelations from courageous attorney Jim Gottstein who exposed court materials showing that Eli Lilly covered up hazards about Zyprexa, and marketed to unapproved populations.

Even though the Eli Lilly materials are now exposed, Eli Lilly attorneys have still been attempting to suppress these in-house documents and keep them from being disseminated, including filing in court against Jim Gottstein and his law firm.

"The genie is out of the bottle. But Eli Lilly is still paying their hard-hitting attorneys to try to cover-up evidence of their fraud," said David Oaks, director of MindFreedom International. "This is reminiscent of the way the Nixon administration tried to keep the Pentagon Papers secret even after the materials were in the hands of the NY Times."

Enter the Internet. Unknown individuals have placed a digital folder of several hundred megs of Eli Lilly documents into areas of the Internet where anyone may download the materials. Apparently, these individuals don't expect any court orders over Christmas.

In the public interest, MindFreedom is forwarding the anonymous alert. To view the forwarded alert go to:

<http://www.mindfreedom.org/know/psych-drug-corp/eli-lilly-secrets/>

or <http://tinyurl.com/yx6k9x>

or see this wiki edited by anonymous individuals:

<http://zyprexa.pbwiki.com>

Disclaimers: MFI did not originate these alert, MFI is not advising or encouraging any illegal activity, MFI does not vouch for authenticity or accuracy of alerts, that's all the information we have, MFI is not providing advice about the legality of downloading the materials.

As background, you may read the text of the three recent pieces in the NY Times about Zyprexa here:

<http://www.mindfreedom.org/aff-spon/act/usa/psychrights/nytimes-gottstein-vs-eli-lilly>

or <http://tinyurl.com/y CSGCV>

"Even though Jim legally revealed Zyprexa materials to the NY Times to alert the public," said Oaks, "Eli Lilly lawyers are still going after him to try to put their horses back in the barn. Today everyone on the Internet 'can be Jim' if they choose to download secret Eli Lilly documents themselves. By the way, Jim Gottstein or his group PsychRights have nothing to do with these alerts. He's on vacation."

Please forward.

~~~~~

Forwarded by MindFreedom International

<http://www.mindfreedom.org>

MindFreedom is a nonprofit human rights group that unites 100 sponsor and affiliate groups with individual members, and is accredited by the United Nations as a Non-Governmental Organization (NGO) with Consultative Roster Status.

MindFreedom is one of the very few totally independent groups in the mental health field with no funding from governments, drug companies, religions, corporations, or the mental health system. While most of MindFreedom's members are psychiatric survivors, *all* who support human rights are invited to join and become active leaders.

For more info:

<http://www.mindfreedom.org>

MindFreedom International Office: 454 Willamette, Suite 216 - POB 11284; Eugene, OR 97440-3484 USA

web site: <http://www.mindfreedom.org>
e-mail: office(at)mindfreedom(dot)org
office phone: (541) 345-9106
toll free: 1-877-MAD-PRIDe or 1-877-623-7743
fax: (541) 345-3737

Please forward.

"Human salvation lies in the hands of the creatively maladjusted." - Martin Luther King, Jr.

~~~~~

Want to get off this MF News e-mail announcement list? Two easy ways:

1) To unsubscribe e-mail a blank email to [mindfreedom-news-unsubscribe at intenex.net](mailto:mindfreedom-news-unsubscribe@intenex.net). Be sure to "reply" when you get the automatic unsubscribe confirmation message.

2) If you have any trouble getting off this list e-mail to [office\(at\)mindfreedom\(dot\)org](mailto:office@mindfreedom.org) with these words in the subject line: unsubscribe mindfreedom-news

- 
- Previous message: [\[Zyprexa-discuss\] Front Page NYTimes story on Diabetes](#)
  - Next message: [\[Zyprexa-discuss\] zyprexa updates](#)
  - **Messages sorted by:** [\[ date \]](#) [\[ thread \]](#) [\[ subject \]](#) [\[ author \]](#)

---

[More information about the Zyprexa-discuss mailing list](#)



# **EXHIBIT 29**

# [Zyprexa-discuss] report: a mirror site receives note from Eli Lilly attorneys

Asheesh Laroia [asheesh at asheesh.org](mailto:asheesh@asheesh.org)  
Sat Dec 30 15:41:59 EST 2006

- Previous message: [\[Zyprexa-discuss\] report: a mirror site receives note from Eli Lilly attorneys](#)
  - Next message: [\[Zyprexa-discuss\] report: a mirror site receives note from Eli Lilly attorneys](#)
  - **Messages sorted by:** [\[ date \]](#) [\[ thread \]](#) [\[ subject \]](#) [\[ author \]](#)
- 

On Sat, 30 Dec 2006, David Oaks wrote:

> A site apparently offering Zyprexa documents has apparently received a  
> note from Eli Lilly attorneys ordering the site owner to stop.

That's interesting. I wonder on what grounds. Is the note on the web somewhere?

> By the way, my guess is Eli Lilly attorneys may be on this e-mail  
> list by now. If so, hi! At least someone may be getting paid a high  
> hourly rate to read about human rights violations related to Eli Lilly.

Remember that, as with most Mailman lists, you can look at the subscriber list if you log in to the listinfo page.

-- Asheesh.

--

If you want your spouse to listen and pay strict attention to every word you say, talk in your sleep.

---

- Previous message: [\[Zyprexa-discuss\] report: a mirror site receives note from Eli Lilly attorneys](#)
  - Next message: [\[Zyprexa-discuss\] report: a mirror site receives note from Eli Lilly attorneys](#)
  - **Messages sorted by:** [\[ date \]](#) [\[ thread \]](#) [\[ subject \]](#) [\[ author \]](#)
- 

[More information about the Zyprexa-discuss mailing list](#)

# **EXHIBIT 30**

# [Zyprexa-discuss] report: a mirror site receives note from Eli Lilly attorneys

Rafael rafi at [phantomcynthetics.com](mailto:phantomcynthetics.com)

Sat Dec 30 19:00:00 EST 2006

- Previous message: [\[Zyprexa-discuss\] report: a mirror site receives note from Eli Lilly attorneys](#)
  - Next message: [\[Zyprexa-discuss\] report: a mirror site receives note from Eli Lilly attorneys](#)
  - Messages sorted by: [\[ date \]](#) [\[ thread \]](#) [\[ subject \]](#) [\[ author \]](#)
- 

Hi David,

I understand that the .onion mirror is still active, but you need to be on the Tor network (<http://zyprexa.pbwiki.com/Tor%20Instructions>) to be able to see it.

I am pleased that Lilly has so far not sent our wiki a takedown notice. Perhaps they understand that we are operating fully within the parameters of the law - conducting an independent analysis and conversation around these matters and lawfully linking to, but not hosting, the evidence.

I am also pleased that they continue to carry on with their self-destructive legal maneuvers. The end result will be nothing but more bad press. Their marketing department must not understand what they are trifling with.

Or, perhaps, there really is something more in those memos that no one has yet to turn up - something that they fear more than all the bad press over an free speech skirmish. Maybe running an Optical Character Recognition engine over the memos and making them searchable will accelerate these discoveries.

I am wondering if we should post links to their threats against joysoup up on our wiki?

/Rafi

David Oaks wrote:

> Thanks... glad someone is out there!

>

> We've just done an Update 10 with the link to the exchange of e-mail  
> with Eli Lilly today:

>

> <http://www.mindfreedom.org/know/psych-drug-corp/eli-lilly-secrets/>

>

> Actually, I'd appreciate it if anyone can review our alert, and that  
> linked e-mail exchange, and spot anything that needs correction if  
> explanation. If so, spell it out me like I'm three years old  
> (preferably with sentences or paragraphs to insert or add or change.)

>

> Then I'd like to 'get this out.'

>

> By the way, Mailman lists can be set so that only the administrator  
> has access to the listinfo.  
>  
> David  
>  
>  
> On Dec 30, 2006, at 12:41 PM, Asheesh Laroia wrote:  
>  
>> On Sat, 30 Dec 2006, David Oaks wrote:  
>>  
>>> A site apparently offering Zyprexa documents has apparently  
>>> received a note from Eli Lilly attorneys ordering the site owner  
>>> to stop.  
>> That's interesting. I wonder on what grounds. Is the note on the  
>> web somewhere?  
>>  
>>> By the way, my guess is Eli Lilly attorneys may be on this e-mail  
>>> list by now. If so, hi! At least someone may be getting paid a  
>>> high hourly rate to read about human rights violations related to  
>>> Eli Lilly.  
>> Remember that, as with most Mailman lists, you can look at the  
>> subscriber list if you log in to the listinfo page.  
>>  
>> -- Asheesh.  
>>  
>> --  
>> If you want your spouse to listen and pay strict attention to every  
>> word you say, talk in your sleep.  
>  
> David Oaks, Director  
> MindFreedom International  
> 454 Willamette, Suite 216 - POB 11284  
> Eugene, OR 97440-3484 USA  
>  
> web: <http://www.mindfreedom.org>  
> email: [oaks at mindfreedom.org](mailto:oaks@mindfreedom.org)  
> office phone: (541) 345-9106  
> fax: (541) 345-3737  
> member services toll free in USA: 1-877-MAD-PRID[e] or 1-877-623-7743  
>  
> United Action for Human Rights in Mental Health.  
>  
> MindFreedom International is an independent  
> non-profit uniting 100 sponsor groups  
> to win human rights & alternatives in mental health.  
> Accredited by the United Nations as a  
> Non-Governmental Organization (NGO) with  
> Consultative Roster Status.  
>  
> Join now! <http://www.mindfreedom.org/join-donate>  
>  
> "Human salvation lies in the hands of the  
> creatively maladjusted." - Martin Luther King, Jr.  
>  
>  
>  
>  

---

  
> [Zyprexa-discuss mailing list](#)  
> [Zyprexa-discuss at acm.jhu.edu](mailto:Zyprexa-discuss@acm.jhu.edu)

> <http://lists.acm.jhu.edu/mailman/listinfo/zyprexa-discuss>

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- Previous message: [\[Zyprexa-discuss\] report: a mirror site receives note from Eli Lilly attorneys](#)
  - Next message: [\[Zyprexa-discuss\] report: a mirror site receives note from Eli Lilly attorneys](#)
  - **Messages sorted by:** [\[ date \]](#) [\[ thread \]](#) [\[ subject \]](#) [\[ author \]](#)
- 

[More information about the Zyprexa-discuss mailing list](#)

# **EXHIBIT 31**

# [Zyprexa-discuss] tor link does not work

David Oaks [oaks at mindfreedom.org](mailto:oaks@mindfreedom.org)

Sat Dec 30 21:29:07 EST 2006

- Previous message: [\[Zyprexa-discuss\] have copy](#)
  - Next message: [\[Zyprexa-discuss\] okay, got it...](#)
  - Messages sorted by: [\[ date \]](#) [\[ thread \]](#) [\[ subject \]](#) [\[ author \]](#)
- 

Someone said that they thought the tor download link on the wiki was working...

... it is not as of now... it goes no where.

So it's apparently conclusive: I know of no source for anyone to download these documents at this time.

If someone does know, they may want to edit the wiki to reflect that...

But please -- if you do so -- build a bridge to "non-geeks."

Some of my favorite books are the "For Dummies" books. Yeah, sometimes those books really are dumb... but often those books smash smash SMASH the wall between those out-of-the-know and those in-the-know. That's why they're so popular! I love that attitude.

So take a lesson from some of the most popular series of how-to books of all times....

If you have some knowledge (such as about Tor).... spell it out in even a few simple steps and introductory info on the wiki.

And of course, leave NO acronyms unexplained... we already know you're smart!

David

~~~~~

Disclaimers: In the public interest, MindFreedom is forwarding the anonymous alerts referred to on this page and in our emails. MFI did not originate these alerts, MFI does not vouch for their authenticity or accuracy, that's all the information we have, MFI is not providing advice about the legality of downloading the materials, MFI is not encouraging anyone to do illegal activities, and MFI is not providing these materials for download.

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MindFreedom International
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web: <http://www.mindfreedom.org>

email: [oaks at mindfreedom.org](mailto:oaks@mindfreedom.org)

office phone: (541) 345-9106

fax: (541) 345-3737

member services toll free in USA: 1-877-MAD-PRID[e] or 1-877-623-7743

United Action for Human Rights in Mental Health.

MindFreedom International is an independent
non-profit uniting 100 sponsor groups
to win human rights & alternatives in mental health.
Accredited by the United Nations as a
Non-Governmental Organization (NGO) with
Consultative Roster Status.

Join now! <http://www.mindfreedom.org/join-donate>

"Human salvation lies in the hands of the
creatively maladjusted." - Martin Luther King, Jr.

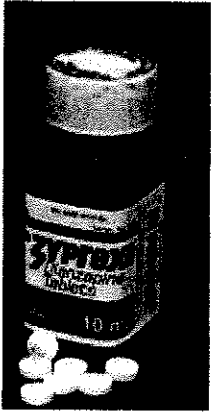
-
- Previous message: [[Zyprexa-discuss](#)] have copy
 - Next message: [[Zyprexa-discuss](#)] okay, got it...
 - **Messages sorted by:** [[date](#)] [[thread](#)] [[subject](#)] [[author](#)]

[More information about the Zyprexa-discuss mailing list](#)

EXHIBIT 32

Info on "ZyprexaKills" Campaign

Update 11: 30 Dec. 2006 7 pm PST -- Secret Eli Lilly documents about fraudulent marketing of the psychiatric drug Zyprexa are apparently available once more for free download. Eli Lilly sent an email today threatening legal action against a MindFreedom member to try to suppress the documentation. But an anonymous campaign using a sophisticated Internet privacy system is still apparently making the material available free to the public.



Zyprexa is a neuroleptic psychiatric drug manufactured by Eli Lilly.

Update 11: Eli Lilly Threatens A Second MindFreedom Member with Legal Action. But Secret Eli Lilly Documents on Zyprexa Are Said to be Accessible Once More via a Grassroots Internet Campaign

Updated information:

30 December 2006 -- 7 pm PST.

In rapidly unfolding events today, Eli Lilly attorneys have threatened a second MindFreedom member -- Eric Whalen -- with legal action, because Eric allegedly made copies of suppressed documents about Eli Lilly's psychiatric drug Zyprexa available for free public download on his blog.

A copy of the e-mail between Eli Lilly and Eric (in which Eli Lilly mentions MindFreedom) is here.

A copy of the court order is here.

Eric has reportedly complied with the court order.

But according to an anonymous report, the secret "ZyprexaKills" documents are still apparently available to those who are able to use a sophisticated Internet privacy protection system called "Tor."

More information on Tor can be found via a on this controversy here (not sponsored by MindFreedom):

<http://www.mindfreedom.org/know/psych-drug-corp/eli-lilly-secrets/zyprexakills>

12/30/2006

<http://zyprexa.pbwiki.com>

For approximately the six last days, a grassroots campaign reportedly made these secret documents available from multiple sites, and hundreds of individuals reportedly have downloaded the suppressed materials.

Attorney Jim Gottstein of PsychRights apparently began the furor by courageously making suppressed Zyprexa documents available, resulting in three recent pieces in the NY Times.

Since Eli Lilly attorneys are apparently now monitoring this web page, then here's a message just for them them: The highly-paid attorneys for Eli Lilly need to do a better job advising their clients early on about what is illegal criminal fraud when it comes to promoting and marketing their products. After all, that kind of criminal illegality by Eli Lilly, including hiding these facts from the public, can and does kill people. And no amount of money can wipe clean a guilty conscience. MindFreedom only supports nonviolent activism... and we applaud those who have peacefully resisted attempts by Eli Lilly and their attorneys to suppress the truth. (Also, please note the capitalization in the name 'MindFreedom.')

~~~~~

### **[EARLIER ALERT - Downloading links reportedly appear not to work at this time.]**

There is a wiki where anonymous individuals are editing and adding information about locations for download, mirror sites, email lists, etc. here:

<http://zyprexa.pbwiki.com>

other places where documents are offered for download include:

- <http://files-upload.com/files/34036/ZyprexaKills.tar.gz.html>
- <http://www.joysoup.net/archives/06/12/23/08052.html>

The file itself appears to be about 269 megs of material in the compressed download.

Please note that Eli Lilly has sought and obtained a court order requiring attorney Jim Gottstein to cease and desist from disseminating any of the files about Eli Lilly, and Jim is complying. The court is also requiring Jim to save all copies of his email for possible examination by the courts. While Jim disputes the validity of the injunction against him to suppress the Eli Lilly files, he is asking everyone to return the documents as required by the court order here:

<http://psychrights.org/States/Alaska/CaseXX/EilLilly/InjunctionOrder.pdf>

Disclaimers: In the public interest, MindFreedom is forwarding the anonymous alerts referred to on this page and in our emails. MFI did not originate these alerts, MFI does not vouch for their authenticity or accuracy, that's all the information we have, MFI is not providing advice about the legality of downloading the materials, MFI is not encouraging anyone to do illegal activities, and MFI is not providing these materials for download.

### **Background on Revealing the Secret Zyprexa Documents**

A grassroots Internet campaign is outflanking well-heeled attorneys from the huge drug company Eli Lilly who are still trying to suppress internal documents about their psychiatric drug Zyprexa.

<http://www.mindfreedom.org/know/psych-drug-corp/eli-lilly-secrets/zyprexakills>

12/30/2006

The NY Times ran three pieces this past week based on revelations from courageous attorney Jim Gottstein who exposed court materials showing that Eli Lilly covered up hazards about Zyprexa, and marketed to unapproved populations.

Even though the Eli Lilly materials are now exposed, Eli Lilly attorneys have still been attempting to suppress these in-house documents and keep them from being disseminated.

"The genie is out of the bottle. But Eli Lilly is still paying their hard-hitting attorneys to try to cover-up evidence of their fraud," said David Oaks, director of MindFreedom International. "This is reminiscent of the way the Nixon administration tried to keep the Pentagon Papers secret even after the materials were in the hands of the NY Times."

Enter the Internet.

Unknown individuals have placed a digital folder of several hundred megs of Eli Lilly documents into areas of the Internet where anyone may download the materials. Apparently, these individuals don't expect any court orders over Christmas.

As background, you may read the text of the three recent pieces in the NY Times about Zyprexa here:

<http://www.mindfreedom.org/aff-spon/act/usa/psychrights/nytimes-gottstein-vs-eli-lilly>

or <http://tinyurl.com/ycsgcv>

"Even though Jim legally revealed Zyprexa materials to The NY Times to alert the public," said Oaks, "Eli Lilly lawyers are still going after him to try to put their horses back in the barn. Today everyone on the Internet 'can be Jim' if they choose to download secret Eli Lilly documents themselves. By the way, Jim Gottstein or his group PsychRights have nothing to do with this alert. He's on vacation."

### **Other actions you can take:**

Those interested may apparently "vote" on this Zyprexa Memos story on an area of the web called "Digg" which is popularity-based:

[http://www.digg.com/security/Zyprexa\\_Memos\\_Leaked\\_using\\_Tor](http://www.digg.com/security/Zyprexa_Memos_Leaked_using_Tor)

There is also now an e-mail list, not sponsored by MFI, that is discussing this grassroots campaign:

<http://lists.acm.jhu.edu/mailman/listinfo/zyprexa-discuss>

Please forward.

Related content

- NY Times spotlights PsychRights exposure of Eli Lilly fraud

# **EXHIBIT 33**

# [Zyprexa-discuss] Challenging the injunction

Rafael rafi at phantomcynthetics.com

Wed Jan 3 11:03:01 EST 2007

- Previous message: [\[Zyprexa-discuss\] Challenging the injunction](#)
  - Next message: [\[Zyprexa-discuss\] Accessing the memos](#)
  - Messages sorted by: [\[ date \]](#) [\[ thread \]](#) [\[ subject \]](#) [\[ author \]](#)
- 

One relatively safe way to disseminate these files is to upload them anonymously to a free file sharing service - this was how the original file was seeded.

Search for "free file sharing service" and you will find quite a few.

I would really like to see this mailing list start digging into these memos, instead of just plotting how to disseminate them.

Eventually, we should start posting about specific memos, quoting important highlights and excerpts.

Folks should know that after running the OCR engine - <http://sourceforge.net/projects/tesseract-ocr> - the total size of the distro is reported to drop to < ~300K - small enough to attach to an email.

Once the memos are text, it might be interesting to analyze them using something like this too:

<http://chir.ag/tech/download/tagline/> (follow the link down to the live demos to see this in action).

- Rafi

Eric Whalen wrote:

> I'm not completely sure what I'm talking about. The injunction seems to  
> be in effect until January 3rd. Is there anyone willing to challenge the  
> protective order if that's what needs to be done? What's the legal  
> situation after the 3rd. I know the documents are available through the  
> Tor network. Making the documents available that way limits their  
> availability to people able and willing to use the Tor network.  
> Is there anything going on with this.

>  
> Zyprexa-discuss mailing list  
> [Zyprexa-discuss at acm.jhu.edu](mailto:Zyprexa-discuss@acm.jhu.edu)  
> <http://lists.acm.jhu.edu/mailman/listinfo/zyprexa-discuss>  
>

---

- Previous message: [\[Zyprexa-discuss\] Challenging the injunction](#)
- Next message: [\[Zyprexa-discuss\] Accessing the memos](#)

- **Messages sorted by:** [[date](#)] [[thread](#)] [[subject](#)] [[author](#)]

---

[More information about the Zyprexa-discuss mailing list](#)



# **EXHIBIT 34**

# [Zyprexa-discuss] Fwd: <http://zyprexa.pbwiki.com/>

Rafael rafi at [phantomcynthetics.com](mailto:phantomcynthetics.com)  
Thu Jan 4 13:40:50 EST 2007

- Previous message: [\[Zyprexa-discuss\] Fwd: http://zyprexa.pbwiki.com/](#)
  - Next message: [\[Zyprexa-discuss\] New Zyprexa Article](#)
  - Messages sorted by: [\[ date \]](#) [\[ thread \]](#) [\[ subject \]](#) [\[ author \]](#)
- 

Hi David,

Thank you very much for your reasonable response and for keeping us in the loop.

We are in the process of contacting representation on this matter. We believe that we are operating fully within the law and are providing an important forum for discussing the impact of these memos.

We are reviewing our options as outlined under the Safe Harbor provisions:  
<http://www.chillingeffects.org/dmca512/faq.cgi>

We are not hosting any copyrighted materials or violating any court orders.

Can you please let us know how these matters typically proceed? What are the next steps, and how can we contest the takedown?

Sorry for getting pbwiki involved in this matter. Your company provides an excellent and easy to use service, and and your measured response is a testimony to your company's maturity.

Thank you for all your help,  
- Rafi

David Weekly wrote:

> FYI - we've received an improperly formatted DMCA takedown notice for  
> content on your PBwiki.

>

> We're not going to act on it, but if we do receive such a notice that  
> is properly formatted, we will legally have to turn the site private  
> unless you give notice that you plan to legally contest the takedown.  
> Please let me know if you have questions about this.

>

> Yours,

> David Weekly

> CEO of PBwiki

>

> ----- Forwarded message -----

> From: \*PBWiki Support\* <[support@pbwiki.com](mailto:support@pbwiki.com)> <<mailto:support@pbwiki.com>>>

> Date: Dec 31, 2006 3:02 PM

> Subject: Fwd: <http://zyprexa.pbwiki.com/>

> To: [legal@coceve.com](mailto:legal@coceve.com) <<mailto:legal@coceve.com>>

>  
>  
>  
> ----- Forwarded message -----  
> From: \*Fahey, Sean P.\* <Faheys at pepperlaw.com  
> <mailto:Faheys at pepperlaw.com>>  
> Date: Dec 29, 2006 9:30 PM  
> Subject: <http://zyprexa.pbwiki.com/>  
> To: [support at pbwiki.com](mailto:support at pbwiki.com) <mailto:support at pbwiki.com>  
> Cc: "Carissimi, Vincent V." <CARISSIV at pepperlaw.com  
> <mailto:CARISSIV at pepperlaw.com>>  
>  
> The pbwiki listed above is facilitating the unlawful sharing of  
> copyright protected material, and breach of a Federal Court order.  
> Please shut it down immediately, and delete all cached material.  
>  
> Sean P. Fahey  
> Attorney at Law  
> Pepper Hamilton LLP  
> 3000 Two Logan Square  
> Eighteenth and Arch Streets  
> Philadelphia, PA 19103-2799  
> 215.981.4296 - Direct  
> 610.999.1502 - Mobile  
> 215.981.4750 - Fax  
> 215.689.4642 - Direct Fax  
> [faheys at pepperlaw.com](mailto:faheys at pepperlaw.com) <mailto:faheys at pepperlaw.com>  
> [www.pepperlaw.com](http://www.pepperlaw.com)  
>  
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> sender to this effect.  
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> [www.pbwiki.com](http://www.pbwiki.com) <<http://www.pbwiki.com>> -- make a wiki as easily as a  
> peanut butter sandwich!  
> -----  
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> \_\_\_\_\_  
> Zyprexa-discuss mailing list  
> [Zyprexa-discuss at acm.jhu.edu](mailto:Zyprexa-discuss at acm.jhu.edu)  
> <http://lists.acm.jhu.edu/mailman/listinfo/zyprexa-discuss>  
>

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- Previous message: [[Zyprexa-discuss](#)] Fwd: <http://zyprexa.pbwiki.com/>
- Next message: [[Zyprexa-discuss](#)] [New Zyprexa Article](#)
- **Messages sorted by:** [ [date](#) ] [ [thread](#) ] [ [subject](#) ] [ [author](#) ]

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[More information about the Zyprexa-discuss mailing list](#)

# **EXHIBIT 35**



SEARCH THIS BLOG

SEARCH ALL BLOGS

BlogThis!

GET YOUR OWN BLOG

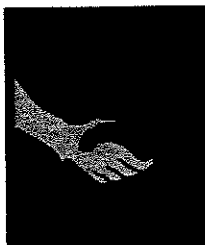
NEXT BLOG»

Speaking the truth  
to power

# ALLIANCE FOR HUMAN RESEARCH PROTECTION

A catalyst for public debate

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[November 2006](#)  
[December 2006](#)

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[Zyprexa Injunction - News Flash](#)

[When Marketing Trumps Science - Medicine is Debased](#)

[NEJM Covering Up for National Kidney Foundation \(an industry front group\)](#)

[PsychRights Calls For "Dear Doctor" Letter Restricting Zyprexa to Current Users](#)

[Court Allows Eli Lilly To Bury Zyprexa Documents](#)

[Nursing Homes a Dumping Ground for Antipsychotics](#)

[Battle over drugs hits crescendo: Lawsuit claims official who pushed drug was rewarded](#)

[GAO Report Confirms Pharma productivity Declining Since 1999](#)

## Zyprexa Injunction - News Flash



### News Flash

Several individuals including your esteemed author have just received an injunction (see below) in an apparent attempt to try to get the Zyprexa cat back into the bag. AHRP did not post these documents but others have. News travels fast and multiplies on the internet. As we said before all the king's horses....can't put Humpty Dumpty together again!

The handling of the Eli Lilly-diabetes Zyprexa lawsuits is appalling.

In the first round 8,000 plaintiffs sued for failure to warn about the risks of diabetes--Lilly agreed to a \$690 million settlement with a gag imposed on those who were victimized.

How can such gag orders be justified???

In the second round, we're told another 4,000 persons allege they have been injured by this highly toxic drug. Secret documents from the first case reveal that Eli Lilly knew about the diabetes risk at least by 1999--but the company and its representatives lied and used deceptive marketing campaigns--Viva Zyprexa--the documents' content was partially laid out in front page news reports in The New York Times.

So what does a U.S. court do about corporate misconduct? Rather than holding Lilly accountable for its deceptive practices that concealed the evidence, the court is shielding the giant corporation from the revelations contained in its own documents about its own marketing strategy!

The court in what seems to us as warped wisdom is chasing after those who are trying to bring the documents to the public arena--let the truth be discovered.

Which is More Dangerous to Your Health - the Flu or the FDA?

Blood substitute 'a disaster' - Northfield still plans to seek FDA approval

**Links**

- AHRP Main Website
- PsychRights
- Pharma Marketing Blog
- Integrity in Science
- GoosNews
- Yolande Lucire
- Scientific Misconduct Blog
- Honest Medicine

**Feeds**

ATOM feed



Something is warped in this picture. The court is helping Lilly intimidate public advocates by issuing Temporary Mandatory Injunctions.

See the court injunction several of us received below. But the Internet is an uncontrolled information highway --you never know where or when the court suppressed documents may surface!

The documents appear to be downloadable at <http://files-upload.com/files/34070/ZyprexaKills.tar.gz.html> at least as of now. It also appears to be at <http://www.joysoup.net/archives/06/12/23/08052.html>

The injunction we received is below:

UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF NEW YORK  
 -----X  
 In re: ZYPREXA PRODUCTS LIABILITY : MDL No. 1596  
 LITIGATION :  
 -----X  
 THIS DOCUMENT RELATES TO: :  
 : **ORDER FOR TEMPORARAY**  
 : **MANDATORY INJUNCTION**  
 :  
 ALL ACTIONS :  
 :  
 -----X

Upon receipt of the (i) Emergency Oral Joint Motion of members of the In Re Zyprexa Product Liability Litigation Plaintiffs' Steering Committee ("PSC") and Eli Lilly and Company to enforce Case Management Order No. 3 (CMO-3), and joint request for a temporary mandatory injunction; and having heard oral submissions by the parties and Special Master Peter Woodin, it is therefore

ORDERED that the Joint Motion for a Temporary Mandatory Injunction is hereby GRANTED, and the following individuals (and their related entities and organizations) who have received documents produced by Eli Lilly and Company (including all copies of any electronic documents, hard copy documents and CDs/DVDs) are hereby enjoined from further disseminating these documents: Terri Gotstein, Jerry Winchester, Dr. Peter Breggin, Dr. Grace Jackson, Dr. David Cohen, Bruce Whittington, Dr. Stephen Kruszewski, Laura Ziegler, Judi Chamberlin, Vera Sherav, Robert Whittaker, and Will Hall. This temporary mandatory injunction further requires the removal of any such documents posted at any website, and communication of this Order to anyone to whom these documents have already been disseminated, informing them of the terms of this Order.