

IN THE _____ COURT, STATE OF _____

_____))
_____) Case No. _____
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Certificate of Service

_____ (Movant) hereby certifies that on this
date, the following were mailed or hand delivered to _____

_____.

1. This Certificate of Service.
2. Motion and Memorandum for Summary Judgment;
3. Motion for Stay Pending Appeal;
4. Proposed form of Order for Stay Pending Appeal;
5. Motion for Appointment of Psychopharmacology Expert;
6. Certified Copy of Affidavit of Peter C. Gøtzsche, MD;
7. Certified Copy of Affidavit of Robert Whitaker; and
8. Certified Copy of written testimony of Grace E. Jackson, MD.

Dated: _____ By: _____

IN THE _____ COURT, STATE OF _____

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MOTION & MEMORANDUM FOR SUMMARY JUDGMENT

_____ (Movant) hereby moves for summary judgment against being forced to take psychotropic medication(s) against Movant's will.

In support of this motion, filed contemporaneously herewith, is the written testimony of Robert Whitaker, Peter C. Gøtzsche MD, and Grace E. Jackson, MD, in the form of certified copies of affidavits.

Robert Whitaker's written testimony establishes that:

(a) Neuroleptics, also called antipsychotics, increase the likelihood that a person will become chronically ill.

(b) Long-term recovery rates are much higher for unmedicated patients than for those who are maintained on neuroleptic drugs.

(c) Neuroleptics cause a host of debilitating physical, emotional and cognitive side effects, and lead to early death.

(d) The new “atypical” neuroleptics are not better than the old ones in terms of their safety and tolerability, and quality of life may even be worse on the new drugs than on the old ones.

(e) Non-medication approaches have been proven far more effective.

Dr. Gøtzsche's written testimony establishes that:

(a) Psychiatric hospitalization is associated with dramatically worse outcomes for patients with the risk of suicide increased 44 times for people admitted to a psychiatric hospital compared to no psychiatric treatment in the preceding year.

- (b) The first generation of drugs developed to treat people diagnosed with schizophrenia such as chlorpromazine (Thorazine), haloperidol (Haldol), trifluoperazine (Stelazine), thioridazine (Mellaril), and fluphenazine (Prolixin) were at first considered chemical lobotomies. They were designated "neuroleptics," meaning "seize the brain." They were also called "major tranquilizers" to distinguish them from the benzodiazepines such as Valium (Valium), known as "minor tranquilizers," which is misleading, as major or minor tranquilization can be obtained with either type of drug; it is simply a matter of dose.
- (c) Because these drugs block 70-90% of the dopamine transmission to certain receptors in the brain, the brain compensates by growing more dopamine receptors, causing psychotic symptoms if people abruptly withdraw from the drugs. These withdrawal, or "discontinuation" symptoms are almost always misinterpreted as symptoms of mental illness.
- (d) These drugs cause serious physical harm, including the often fatal Neuroleptic Malignant Syndrome and akathisia, which increases the risk of both suicide and homicide.
- (e) The second generation of neuroleptics, such as risperidone (Risperdal), olanzapine (Zyprexa), quetiapine (Seroquel), aripiprazole (Abilify) and ziprasidone (Geodon) started to be introduced in the mid-1990's. These neuroleptics were named "atypical antipsychotics" by drug companies based on their false assertions that they are more effective and less harmful than the first generation of neuroleptics.
- (f) Neuroleptics kill people. For every 100 patients with Alzheimer's disease or dementia there was one additional death, when compared to placebo.¹ People in the mental health system in the western world diagnosed with serious mental illness like schizophrenia now have about a 20 year reduced life expectancy compared to the general population, most of which is attributable to neuroleptic and other psychiatric drug use.
- (g) Neuroleptics cripple people. They cause irreversible brain damage in a dose related fashion and dramatically decrease people's prospects of getting back to a normal life; they create dependency, abstinence symptoms if people try to stop and supersensitivity psychosis. They are some of the most toxic drugs ever made apart from chemotherapy for cancer.
- (h) The primary benefit of neuroleptics being forced on a patient is to make it easier for the staff, not for the patient's benefit.

¹ Schneider LS, et al. *JAMA* 2005;294:1934–43.

- (i) There are feasible, less restrictive and less intrusive alternatives that provide a much greater probability of recovery without the great risk of harm.

Dr. Jackson's written testimony confirms the Whitaker testimony, and describes in some detail the brain damage caused by neuroleptics, summarizing it as follows:

Evidence from neuroimaging studies reveals that **old and new** neuroleptics contribute to the progressive shrinkage and/or loss of brain tissue. Atrophy is especially prominent in the frontal lobes which control decision making, intention, and judgment. These changes are consistent with *cortical* dementia, such as Niemann-Pick's or Alzheimer's disease.

Evidence from postmortem analyses in lab animals reveals that **old and new** neuroleptics induce a significant reduction in total brain weight and volume, with prominent changes in the frontal and parietal lobes.

Evidence from biological measurements suggests that **old and new** neuroleptics increase the concentrations of tTG (a marker of programmed cell death) in the central nervous system of living humans.

Evidence from *in vitro* studies reveals that haloperidol reduces the viability of hippocampal neurons when cells are exposed to clinically relevant concentrations. (Other experiments have documented similar findings with the second-generation antipsychotics.)

Shortly after their introduction, neuroleptic drugs were identified as chemical lobotomizers. Although this terminology was originally metaphorical, subsequent technologies have demonstrated the scientific reality behind this designation.

Neuroleptics are associated with the destruction of brain tissue in humans, in animals, and in tissue cultures. Not surprisingly, this damage has been found to contribute to the induction or worsening of psychiatric symptoms, and to the acceleration of cognitive and neurobehavioral decline.

(boldfacing in original, underlining added)

This testimony establishes that (1) forcing psychotropic drugs on Movant is not in Movant's best interests and (2) there are less intrusive alternatives.

There being no genuine factual dispute over these dispositive issues, Movant is entitled to a decision in Movant's favor as a matter of law.

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MOTION FOR STAY PENDING APPEAL

_____ (Movant), in order to avoid irreparable harm should the court issue an order requiring Movant to take psychotropic medication(s) against Movant's will (Forced Drugging Order), hereby prophylactically moves for a stay pending appeal. The reason this motion is made in advance of such a ruling is Movant anticipates that should this court issue a Forced Drugging Order, Movant would otherwise immediately be subjected to such forced drugging and effectively denied his right to seek a stay pending appeal.

This motion should be granted because Movant faces irreparable harm should the stay be denied as shown by the written testimony of Robert Whitaker, Peter C. Gøtzsche MD, and Grace E. Jackson, MD, establishing:

(a) Neuroleptics, also called antipsychotics, increase the likelihood that a person will become chronically ill.

(b) Long-term recovery rates are much higher for unmedicated patients than for those who are maintained on neuroleptic drugs.

(c) Neuroleptics cause a host of debilitating physical, emotional and cognitive side effects, and lead to early death.

(d) The new “atypical” neuroleptics are not better than the old ones in terms of their safety and tolerability, and quality of life may even be worse on the new drugs than on the old ones.

and

Evidence from neuroimaging studies reveals that **old and new** neuroleptics contribute to the progressive shrinkage and/or loss of brain tissue. Atrophy is especially prominent in the frontal lobes which control decision making, intention, and judgment. These changes are consistent with *cortical* dementia, such as Niemann-Pick's or Alzheimer's disease.

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Evidence from biological measurements suggests that **old and new** neuroleptics increase the concentrations of tTG (a marker of programmed cell death) in the central nervous system of living humans.

Evidence from *in vitro* studies reveals that haloperidol reduces the viability of hippocampal neurons when cells are exposed to clinically relevant concentrations. (Other experiments have documented similar findings with the second-generation antipsychotics.)

Shortly after their introduction, neuroleptic drugs were identified as chemical lobotomizers. Although this terminology was originally metaphorical, subsequent technologies have demonstrated the scientific reality behind this designation.

Neuroleptics are associated with the destruction of brain tissue in humans, in animals, and in tissue cultures. Not surprisingly, this damage has been found to contribute to the induction or worsening of psychiatric symptoms, and to the acceleration of cognitive and neurobehavioral decline.

(boldfacing in original, underlining added)

This written testimony was the fundamental basis for the Alaska Supreme Court granting a Stay Pending appeal in *Bigley v. Alaska Psychiatric Institute*, Case No. S-13116, Alaska Supreme Court, a copy of which is attached hereto as Exhibit A.²

Dated: _____ By: _____

² See, also, the cross-examination of Dr. Jackson on her written testimony and redirect, available on the Internet at <http://psychrights.org/States/Alaska/CaseXX/3AN-08-493PS/14may08bigley.pdf>.

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ORDER GRANTING MOTION FOR STAY PENDING APPEAL

Upon consideration of the motion for stay pending appeal in this matter, and any oppositions thereto, it is hereby ORDERED, the motion for stay pending appeal is GRANTED.

IT IS FURTHER ORDERED, should no appeal be filed within the time allowed to file such an appeal, the stay shall terminate.

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MOTION FOR APPOINTMENT OF PSYCHOPHARMACOLOGY EXPERT

_____ (Movant) hereby moves the court for the appointment of a qualified expert in psychopharmacology acceptable to Movant, such as Peter C. Gøtzsche MD, to assist the court in this matter. Movant has filed a motion for summary judgment based on the written testimony of Robert Whitaker, Peter C. Gøtzsche MD, and Grace E Jackson, establishing

- (e) Neuroleptics, also called antipsychotics, increase the likelihood that a person will become chronically ill.
- (f) Long-term recovery rates are much higher for unmedicated patients than for those who are maintained on neuroleptic drugs.
- (g) Neuroleptics cause a host of debilitating physical, emotional and cognitive side effects, and lead to early death.
- (h) The new “atypical” neuroleptics are not better than the old ones in terms of their safety and tolerability, and quality of life may even be worse on the new drugs than on the old ones.
- (i) Non-medication approaches have been proven far more effective.

and

Evidence from neuroimaging studies reveals that ***old and new*** neuroleptics contribute to the progressive shrinkage and/or loss of brain tissue. Atrophy is especially prominent in the frontal lobes which control decision making, intention, and judgment. These changes are consistent with *cortical* dementia, such as Niemann-Pick’s or Alzheimer’s disease.

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(boldfacing in original, underlining added)

In going to a hearing in spite of the motion for summary judgment, Movant needs to be able to present live testimony in opposition to being ordered to take psychotropic drugs against his wishes.

Forced psychiatric drugging has been equated with the intrusiveness of electroshock and lobotomy,³ and a deprivation of Movant's fundamental constitutional

³ *Myers v. Alaska Psychiatric Institute*, 138 P. 3d 238, 242 (Ak. 2006); *Jarvis v. Levine*, 418 N.W.2d 139, 146 (Mn. 1988); *In re K.K.B.*, 609 P.2d 747, 749 (Ok. 1980).

rights.⁴ Without access to such expert testimony, Movant will be denied the right to due process of law.

Dated: _____ By: _____

⁴ See, *Mills v. Rogers*, 457 U.S. 291, n16, 102 S.Ct. 2442 (1982). See, also, *Sell v. United States*, 539 U.S. 166, 178, 123 S.Ct. 2174 (2003), which while involving forcing someone to take psychotropic drugs to make him competent to stand trial, re-affirmed, "an individual has a 'significant' constitutionally protected 'liberty interest' in 'avoiding the unwanted administration of antipsychotic drugs,'" necessitating the same sort of due process analysis as applies to the deprivation of fundamental constitutional rights.