

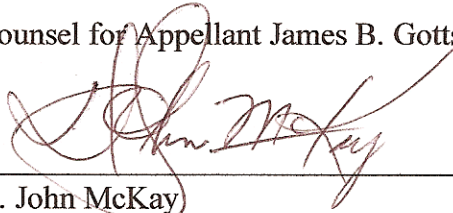
UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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IN RE: ZYPREXA LITIGATION : Docket No. 07-1107-cv  
: .  
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STIPULATION CONCERNING WITHDRAWAL  
OF APPEAL FROM ACTIVE CONSIDERATION,  
WITHOUT PREJUDICE, WITH LEAVE TO REACTIVATE

The undersigned counsel hereby stipulate that the appeal of Respondent-Appellant James B. Gottstein (Docket No. 07-1107-cv) shall be withdrawn from active consideration before the Court, such withdrawal to be without prejudice to reactivation by appellant's counsel by written notice to the Clerk of this Court on or before December 7, 2008. Mr. Gottstein and Petitioner-Appellee Eli Lilly & Company are actively engaged in settlement discussions, and the purpose of continuing the withdrawal of Mr. Gottstein's appeal is to allow the parties to conclude these. If not reactivated, these appeals are subject to dismissal with prejudice and without costs or attorneys' fees incurred to date. *See, Hertzner v. Henderson*, 292 F.3d 302 (2d Cir. 2002). Withdrawal of this appeal shall not operate as a dismissal of the appeal under FRAP 42(b). This stipulation may be executed in counterparts, and by signatures on fax or .pdf copies.

Counsel for Appellant James B. Gottstein



D. John McKay  
LAW OFFICES OF D. JOHN MCKAY  
117 E. Cook Ave.  
Anchorage, Alaska 99501  
(907) 274-3154

Counsel for Appellee Eli Lilly & Company

/s/

Nina M. Gussack, Esquire  
Sean P. Fahey, Esquire  
PEPPER HAMILTON LLP  
3000 Two Logan Square  
18<sup>th</sup> & Arch Streets  
Philadelphia, PA 19103  
(215) 981-4000