

EXHIBIT 1

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

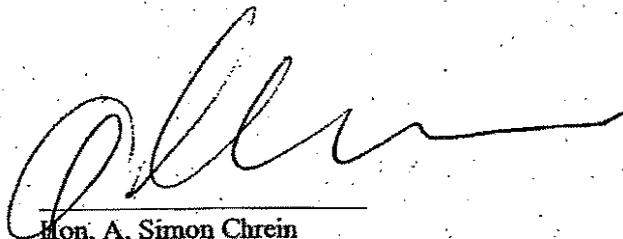
a. No disclosure pursuant to any provision of this Order shall waive any rights or privileges of any party granted by this Order.

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

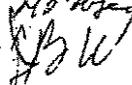
Disclosure of discovery materials designated Confidential other than in accordance with the terms of this Protective Order may subject the disclosing person to such sanctions and remedies as the Court may deem appropriate.



Hon. A. Simon Chrein
United States Magistrate Judge

Dated: August 3, 2004
Brooklyn, New York

SO ORDERED as appearing act of
Magistrate Judge and parties.
No objection being taken thereto.



Hon. Jack B. Weinstein
Senior District Judge

Dated: 8/3, 2004
Brooklyn, New York

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 _____, 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

To: Richard D. Meadow

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

Egilman MD, MPH
Associate Professor Of Community Medicine
University
Main Street
Providence, Massachusetts 02703
degilman@egilman.com
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 b*

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:

11/10/06

By:

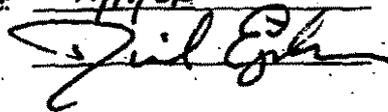
 MD 1018

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 statements.*

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:

11/14/06

By:

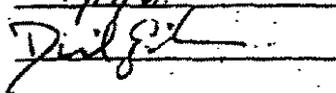


EXHIBIT D



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 16:37

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

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

-----X

3 IN RE:
4 ZYPREXA LITIGATION,

MDL 04 1596

5 United States Courthouse
6 Brooklyn, New York

-----X

7 January 17, 2007
8 11:00 a.m.

9 Before: TRANSCRIPT OF HEARING
10 HON. JACK B. WEINSTEIN, District Judge

11 APPEARANCES

12 Attorneys for Plaintiff:

13 DOUGLAS & LONDON, ESQ.
14 111 John Street
15 Suite 1400
16 New York, N.Y. 10038
17 BY: MICHAEL A. LONDON, ESQ.

18 THE MILLER FIRM
19 The Sherman Building
20 108 Railroad Avenue
21 Orange, Virginia 22960
22 BY: MICHAEL J. MILLER, ESQ.

23 FRED VON LOHMANN, ESQ.
24 Attorney for Electronic Frontier Foundation
25 454 Shotwell Street
San Francisco, Ca 94110

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

1 Attorneys for Defendant:

2 PEPPER HAMILTON
3 Attorney for Eli Lilly
3000 Two Logan Square

4 Eighteenth and Arch Streets
Philadelphia, Pa 19103-2799
5 BY: SEAN P. FAHEY, ESQ.
6 GEORGE A. LEHNER, ESQ.
7 NINA M. GUSSACK, ESQ.
8 ANDREW R. ROGOFF, ESQ.

9 McCARTER ENGLISH
10 Attorneys for Eli Lilly & Company
11 245 Park Avenue
12 New York, N.Y. 10167
13 BY: SAMUEL J. ABATE, JR., ESQ.

14 SHERMAN, SILVERSTEIN, KOHL, ROSE & PODOLSKY
15 Attorneys for Vera Sharav, David Cohen, AHRP
16 4300 Haddonfield Road
17 Suite 311
18 Pennsauken, New Jersey 08109
19 BY: ALAN C. MILSTEIN, ESQ.

20 KOOB & MAGOOLAGHAN
21 Attorneys for Dr. Eagleman
22 South Street Seaport
23 19 Fulton Street
24 New York, N.Y. 10038
25 BY: ALEXANDER A. REINERT, ESQ.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

68

1 APPEARANCES: (Continued)

2

3 EDWARD HAYES, ESQ.
4 Attorney for Mr. Gottstein

5 JOHN McKAY, ESQ.
6 Attorney for Mr. Gottstein

7

8 Allan R. Sherman, CSR, RPR
225 Cadman Plaza East
9 Brooklyn, New York 11201
Tel: (718) 260-2529 Fax: (718) 254-7237
10

11 Proceedings recorded by mechanical stenography, transcript
12 produced by computer.

13
14
15
16
17
18
19
20
21
22
23
24
25

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

69

1 THE CLERK: Civil cause for hearing: In Re Zyprexa
2 Litigation.

3 THE COURT: Appearances on the phone.

4 THE CLERK: On the telephone, would you note your
5 appearances please, slowly and spell your name so that the
6 court reporter can get it.

7 MR. CHABASINSKI: I'm Ted Chabasi nski ,
8 C-H-A-B-A-S-I -N-S-K-I and I'm representing Mi ndFreedom
9 International .

10 Judy Chamberl ain and Robert Whi tiker.

11 If you need any of those names spelled, I'll be glad
12 to do so but I think they are already on the record.

13 THE CLERK: Next.

14 MR. OAKS: This is David Oaks. I'm director of
15 MindFreedom. Oaks is spelled O-A-K-S. I'm director of
16 MindFreedom International.

17 THE CLERK: Next.

18 MR. LEIFER: Larry Leifer. I represent Adrian
19 Harvard in a tag-along case against Eli Lilly. I'm from
20 Maplewood, New Jersey.

21 I spell my last name L-E-I-F-E-R.

22 THE CLERK: Next.

23 (No verbal response.)

24 THE CLERK: Everyone on the telephone noted their
25 appearances. I think we are ready.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

70

1 THE COURT: Mr. Leifer.

2 MR. LEIFER: Yes, your Honor.

3 THE COURT: What is your interest in these
4 proceedings?

5 MR. LEIFER: Well, I wrote your Honor a brief
6 letter. I represent a woman named Adrian Harvard who took
7 Zyprexa for a period of a couple of months just before the
8 dear doctor letter, the first letter went out by Eli Lilly and
9 essentially ever since then she has had Type 2 diabetes. I
10 had mailed you an expert's report from a Ph.D. pharmacologist
11 named Jack Rosenberg.

12 THE COURT: You understand that this is on a
13 mandatory injunction?

14 MR. LEIFER: Then I have the wrong time to call you.
15 I'll politely bow out and try to reschedule with your Honor.

16 THE COURT: Whatever the motion is, get in touch

17 with Ms. June Lowe and she will schedule it if it's needed.
18 MR. LEIFER: Thank you very much.
19 THE COURT: You are welcome.
20 (Mr. Leifer disconnects from the phone connection.)
21 THE COURT: Mr. Gottstein, you are still under oath.
22 THE WITNESS: Yes, your Honor.
23 MR. HAYES: May I examine?
24 THE COURT: Have you finished your examination?
25 MR. FAHEY: We did receive some documents from Mr.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

71

1 Gottstein last evening so we want to just keep the record
2 clean.
3 I can continue.
4 THE COURT: Why don't you finish your direct.
5 MR. FAHEY: All right.
6 DIRECT EXAMINATION (Continued)
7 BY MR. FAHEY:
8 Q Mr. Gottstein, you produced some documents last evening,
9 correct?
10 A Yes.
11 Q And some of the documents that would otherwise be
12 responsive to the issues here today were not available to you,
13 correct?
14 A Yes, I produced some this morning as well.
15 Q I haven't seen those. But there were some documents that
16 were pieces of paper that were in Alaska that you were not
17 able to produce last night?
18 MR. MCKAY: Your Honor, I don't know how we want to
19 proceed on this but Mr. Gottstein spent until I think after
20 10:00 and was willing to go further.
21 He produced more -- he produced everything that I

22 know of that is responsive. I think there are a couple of
23 documents which we can still continue to try to produce. And
24 I believe that the documents that he is referring to that I
25 know of may have been produced. For example, there was a

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

72

Gottstein/Direct/Fahey

1 letter sent out by -- everything was done by E-mail pretty
2 much. There were one or two letters for people that he didn't
3 have E-mails for that he sent a letter saying please return
4 these documents.

5 I believe they have copies but I can't vouch for
6 that. That is the gist of it.

7 THE COURT: You have produced everything that you
8 have available?

9 MR. MCKAY: Certainly everything that they talked
10 about and wanted last night, we produced. There were certain
11 things that he had to try and get on line and get from Alaska
12 which he did, he sent to them this morning.

13 Yes, your Honor.

14 MR. FAHEY: The reason I wanted to put that on the
15 record is there were discussions last night with Mr.
16 Gottstein's counsel that some things including phone records
17 were not available.

18 And so I'm not quarreling that we all worked pretty
19 late last night to try to get Mr. Gottstein's documents but
20 the clear indication that I got is that there might be more in
21 Alaska that they were not able to collect. I'll just put that
22 on the record and we can continue.

23 MR. MCKAY: If you would like, on a break I can try
24 and get together with Mr. Fahey and there were some phone
25 logs. His secretary had written down from the message machine

Gottstein/Direct/Fahey

1 who had called. I will make sure that Mr. Fahey is able to
2 see them. It's brief, eight or 10 lines of what called.

3 THE COURT: If they are handwritten, you can fax
4 them to my office.

5 MR. MCKAY: They are electronic.

6 THE COURT: Or electronic, either.

7 MR. FAHEY: Thank you, your Honor.

8 Q Mr. Gottstein, yesterday you testified that your first
9 communication with Dr. Egilman was on November 28th, correct?

10 A I believe that is what I said, yes.

11 Q Was that a telephone communication or an E-mail
12 communication?

13 A Telephone.

14 Q Telephone?

15 A Telephone.

16 Q And can you tell us what Dr. Egilman told you about his
17 plan with respect to the Zyprexa documents that were produced
18 in the Zyprexa litigation?

19 MR. HAYES: Objection. That is assuming a fact I
20 think not in evidence about his plan.

21 THE COURT: Yes, reframe.

22 Q Could you tell me what Dr. Egilman told you about the
23 Zyprexa documents that were produced in the Zyprexa
24 litigation?

25 A He said that he had some documents and they -- he really

Gottstein/Direct/Fahey

1 didn't describe them that much but that -- you know, that they
2 contained some alarming things in them. I don't really

3 remember the specifics of it or that he really told me very
4 much about them but I got the impression that they were what I
5 would consider hot or very -- they would be of great interest
6 to me.

7 Q Why didn't he just send them to you that day?

8 A Well, you're asking me why he didn't do things so I can't
9 really say why he didn't do anything.

10 Q Did you ask him to send you the documents immediately?

11 A No.

12 Q Why not?

13 A Because I understood they were under a protective order.

14 Q So what did he tell you about the documents to cause you
15 to understand that they were subject to a protective order?

16 A What did he tell me? He told me that there are a lot of
17 documents, that things like newspaper articles and press
18 releases were under this protective order. He told me -- I
19 think he probably told me about -- I don't know. Basically,
20 he suggested that I subpoena them, basically.

21 Q Why was that?

22 A I think because he thought they should become public.

23 Q And he understood that he could not send them directly to
24 you without a subpoena, correct? He conveyed that to you?

25 A Could you ask the question again?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

75

Gottstein/Direct/Fahey

1 Q Sure.

2 After the conversation with Dr. Egilman on
3 November 28, you understood that the only way you could access
4 the Zyprexa documents that were subject to a protective order
5 was to subpoena them from Dr. Egilman, correct?

6 A Yes.

7 Q He was not free to disclose them to you unless he
8 complied with the protective order at issue in the Zyprexa
9 litigation, correct?

10 A Yes.

11 Q And you understood that?

12 A Yes.

13 Q And he understood that?

14 A Well, that was my impression.

15 Q And so the plan after the call was for you to first find
16 a case that you could use to issue a subpoena, correct?

17 MR. HAYES: Objection again to the word the plan.
18 It implies he had -- it might be his plan, somebody else's
19 plan.

20 Objection.

21 MR. FAHEY: I'll rephrase.

22 Q Did you hang up the phone of November 28 expecting never
23 to talk to or communicate with Dr. Eglman again?

24 A No.

25 Q What were your intentions or did you discuss with Dr.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

76

Gottstein/Direct/Fahey

1 Eglman how he would proceed?

2 A In some ways. I said I needed to get an appropriate case
3 to do it.

4 Q Because you didn't have one on November 28th, correct?

5 A Correct.

6 Q And what else did you tell Dr. Eglman?

7 A Well, I think I've testified about some of it before.
8 I'm not sure what happened in what conversation but we talked
9 about this issue of timing and my typical case is very, very
10 quick as I testified yesterday. And so he said -- I get --
11 these happen in a matter of days and maybe a petition gets

12 filed in the morning and they want to do the hearing that
13 afternoon and he said I can't get them to you that fast, I
14 have to give them reasonable notice.

15 So we talked about that a little bit and as I said
16 yesterday, I said well, even though -- they normally are held
17 the same day or within -- basically the same day, that I
18 always ask for a continuance because I need to prepare. And I
19 said that is usually not more than three days. So that was
20 that and he wanted a week or 10 days basically.

21 Q Why did he want 10 days?

22 A Well, maybe it wasn't 10 days. He basically wanted more
23 time. He was pushing for more time and I was kind of pushing
24 that I wanted them quicker.

25 Q Okay.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

77

Gottstein/Direct/Fahey

1 I'm going to hand the witness a document and ask
2 that it be marked Petitioner 2.

3 THE COURT: So marked.

4 (So marked in evidence as Petitioner's Exhibit 2.)

5 Q Could you tell the Court what that document is?

6 A That is a copy of an E-mail that he sent to me I believe
7 after our conversation on the 28th.

8 Q That is an E-mail that you produced last night?

9 A Yes, I think so.

10 Q What is the subject line of that E-mail?

11 A SubTina.

12 Q And that is an E-mail from Dr. Egilman to you, correct?

13 A Right.

14 Q And so why was Dr. Egilman sending you his contact
15 information?

16 MR. MCKAY: Your Honor, this has all been covered
17 yesterday. This has been asked and answered is the objection.

18 THE COURT: Not in connection with the specific
19 document.

20 You may continue.

21 MR. FAHEY: Thank you, your Honor.

22 A It was just his contact information.

23 Q For what purpose were you getting his contact
24 information?

25 A To serve the subpoena on him. His E-mail and phone

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

78

Gottstein/Direct/Fahey

1 numbers are on there as well.

2 Q And you told Dr. Egilman that once you had the documents
3 from the Zyprexa litigation, that you would be able to
4 disseminate them broadly, correct?

5 A Did I tell him that?

6 Q Yes.

7 A I'm not sure if I told him that. I -- I think that --
8 one way or another he knew that I intended to distribute them
9 once I felt that I had them free and clear of any
10 restrictions.

11 Q Now, after you sent the second subpoena that we talked
12 about yesterday, the subpoena that you issued on December 11th
13 that called for the production of documents quote as soon as
14 you can, close quote, did Dr. Egilman tell you that his
15 lawyers for the Lanier law firm had told him not to produce
16 documents?

17 A Absolutely not.

18 Q Did Dr. Egilman tell you that Lilly's lawyers had told
19 him not to produce documents?

20 A Absolutely not.

21 Q Did he ever tell you that he had ever been told by
22 anybody that he should not be producing documents pursuant to
23 your subpoena?

24 A Could you ask that question again. That is a really
25 broad -- I think the protective order itself says that he is

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

79

Gottstein/Direct/Fahey

1 not to produce it so do you mean orally or written or what?

2 Q I'm just asking you whether Dr. Egilman ever communicated
3 to you that. I asked about Lilly's lawyers and about the
4 Lanier law firm. Now I'm broadening it to anyone.

5 A You mean after the subpoena was issued?

6 Q Yes.

7 A No.

8 Q Did you ever have any conversations with the Lanier law
9 firm?

10 A I don't believe so.

11 Q Do you know who Mark Lanier is?

12 A No. I mean maybe he is in -- did he write me a letter?
13 No, not really.

14 Q And maybe I can give you some context here.

15 Some of the documents you produced last night
16 related to a conversation about whether you should go to the
17 New York Times on Friday December 15 and tell them that you
18 had been instructed that the documents had been improperly
19 produced under the protective order?

20 MR. HAYES: December 15?

21 A That doesn't sound right to me.

22 Q Who is Ms. Salwin?

23 MR. MCKAY: If there is a document that he is
24 referring to --

25

THE COURT: Is there a document referred to?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

80

Gottstein/Direct/Fahey

1 Who is this person?

2 Spell it.

3 MR. FAHEY: I think Mr. Gottstein could probably
4 spell it better than I can.

5 Is it S-A-L-W-I-N?

6 A S A L W I N.

7 MR. MCKAY: It's a person who Mr. Gottstein had an
8 attorney/client relationship with.

9 MR. FAHEY: There were documents produced last night
10 relating to the Ms. Salwin in the Lanier law firm and the New
11 York Times.

12 MR. MCKAY: I don't know what documents you are
13 referring to but I do know that you asked specifically if
14 there were any people for whom the attorney/client privilege
15 was asserted. We told you two people, myself and a woman that
16 Mr. Gottstein contacted before me. And Ms. Gussack said if
17 any documents were produced that related to that, that the
18 assumption would be that they would not be used since we were
19 trying to accommodate you by giving you everything possible.
20 So I don't know what this document is. I don't mean to be
21 arguing in the abstract.

22 MR. FAHEY: I'm not trying to discuss what he spoke
23 to with Ms. Salwin, I'm just trying to see if we can jog his
24 memory about the communications that he may or may not have
25 said from the Lanier law firm on December 15 relating to

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

81

Gottstein/Direct/Fahey

1 whether he should communicate with the New York Times prior to

2 the publication of these documents on December 17.

3 MR. MCKAY: The answer to his question is that he
4 didn't know the man and he didn't have any conversations with
5 the man.

6 MR. FAHEY: I'm just simply trying to see whether --
7 A Not just for -- I'm very reluctant to talk about Ms.
8 Salwin at this point for reasons that I --

9 MR. MCKAY: Let's find out what the question is.
10 Q I'm talking about the Lanier law firm, not Ms. Salwin.

11 A What is the question?

12 Q Did you receive communications from either the Lanier
13 firm or Dr. Egilman after you had possession of the documents
14 but before they had been disseminated on December 17 in the
15 New York Times?

16 MR. MCKAY: Objection. The question is compound and
17 confusing.

18 Q I'll break it down.

19 Did you ever have any communications with Dr.
20 Egilman between the time that you received the documents and
21 December 17 when the New York Times published a portion?

22 A Did I have communications with Dr. Egilman?

23 Q Yes.

24 A Yes.

25 Q How many times did you talk to him?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

82

Gottstein/Direct/Fahey

1 A I don't know. I don't know.

2 Q 10 times?

3 A You know, maybe a range around that. So it might have
4 been five less or a few more.

5 Q What did you talk about?

6 A I think most of it was around the New York Times story
7 and their desire to have -- to break it.

8 Q What were the other parts?

9 THE COURT: You say their, who do you mean?

10 THE WITNESS: The New York Times desire to be able
11 to break the story.

12 Q What did Dr. Egilman say about that?

13 A That was basically it. I mean -- that was basically it.

14 Q 10 calls and I'm just trying to understand what those 10
15 calls involved, if it was just about the New York Times
16 breaking the story?

17 A It may not have been 10 -- I'm sorry for interrupting
18 you. Well, I -- for example -- I mean there were other news
19 outlets that I was going to send them to. And I ended up not
20 doing that.

21 Q Why?

22 A To accommodate the New York Times's desire to break the
23 story.

24 Q Who communicated that desire?

25 A Well, Alex Berenson called me about that.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

83

Gottstein/Direct/Fahey

1 Q What did he say?

2 A He said basically that if anybody else breaks it, they
3 are not going to run the story.

4 Q So what? Why was that important to you?

5 A Well, because I think the New York Times is maybe the
6 best place to have had this happen from my perspective.

7 Q And from Dr. Egilman's perspective also?

8 MR. HAYES: Objection. If he knows.

9 Q All these questions are if he knows.

10 A I think that Dr. Egilman thought it was a good place. I

11 don't know. My impression was that --

12 MR. HAYES: Objection to the witness speculating.

13 If he has a basis for it, fine but if he is speculating.

14 THE COURT: Overruled.

15 A I think he wanted the New York Times to be the first to
16 publish it.

17 Q Why do you think that?

18 A Because he wanted me to not send it to other news
19 outlets.

20 Q What did he tell you about why you shouldn't send it to
21 other news outlets?

22 A Basically, the same thing, that the New York Times
23 wouldn't run it if someone else broke it.

24 Q And you spoke to Dr. Egilman -- did you speak to him on
25 December 14? Do you remember? That was a Thursday.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

84

Gottstein/Direct/Fahey

1 A I don't know. I forwarded Mr. Jamison's fax to him, the
2 fax that Mr. Jamison sent to me that was I think even
3 addressed to Dr. Egilman but was not actually faxed to Dr.
4 Egilman. So I thought he should have that so I forwarded that
5 along to him. I don't know if we spoke on the 14th for sure
6 or not. I don't know.

7 Q Did you speak on the 15th which was a Friday?

8 A I don't believe so.

9 Q How about the 16th?

10 A It's possible. I'm more certain that we didn't on
11 the 16th.

12 Q Why is that?

13 A Because once, you know, Eli Lilly actually got moving on
14 this, then we didn't talk anymore.

15 Q Why is that?

16 A Well, it didn't seem like, you know, there was any
17 reason. I think that -- I'm trying to remember what the
18 Lanier's law firm's letter said about it. He may have been
19 instructed not to talk about it at that point.

20 Q It was clear to you at least by the time that you
21 received the Lanier law firm letter that they believed the
22 documents had not been produced properly pursuant to the
23 subpoena?

24 A The Lanier firm?

25 Q Yes.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

85

Gottstein/Direct/Fahey

1 A Well, there is something in there about -- I'm not sure
2 that was really clear to me. I'd have to look at the letter
3 again. I knew that they were upset about it. I remember they
4 said that they had advised Eli Lilly to immediately object to
5 it. That part, I remember, because --

6 THE COURT: Do you want to look at the letter?

7 MR. FAHEY: I'm going to get a copy of the letter.

8 THE WITNESS: Yes, your Honor.

9 THE COURT: You can get it.

10 MR. VON LOHMANN: Is that the December 15th letter?

11 MR. FAHEY: Yes.

12 MR. VON LOHMANN: I have that right here from your
13 exhibit.

14 THE COURT: Mark it if you are going to show it. Do
15 you want Petitioner's 2 in evidence?

16 MR. FAHEY: Yes, your Honor.

17 THE COURT: Admitted.

18 (So marked.)

19 MR. HAYES: Let's check to make sure we have the

20 right letter.

21 THE WITNESS: Do you want to give him your copy, Mr.
22 Von Lohmann?

23 MR. VON LOHMANN: I trust that I'll get it back.
24 This was already submitted as an exhibit to a prior Eli Lilly
25 file.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

86

Gottstein/Direct/Fahey

1 MR. FAHEY: We're going to mark that as Petitioner
2 Exhibit 4.

3 THE COURT: 3.

4 Admitted.

5 (So marked in evidence as Petitioner's Exhibit 3.)

6 Q Could you tell me when you are done reading, sir.

7 A Yes.

8 (Pause.)

9 Okay.

10 Q And you received a copy of this letter, correct?

11 A Yes.

12 Q If you turn to the second page.

13 A Yes.

14 Q The paragraph: Please further note that by providing a
15 copy of this letter to Mr. Gottstein, do you see that
16 paragraph?

17 A Yes.

18 Q Is this the only communication you received from the
19 Lanier firm relating to the Zyprexa documents?

20 A I think so but I'm not positive.

21 Q What is in your mind that is making you hesitate?

22 A You raised this question with Ms. Salwin but that wasn't
23 from them. I think it is.

24 Q Let me just ask you --

25 A I don't remember.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

87

Gottstein/Direct/Fahey

1 Q Let me ask you just a simple question.

2 Were you ever asked by the Lanier firm to call the
3 New York Times and convey to them that the documents had not
4 been produced properly pursuant to the protective order?

5 A I don't think so.

6 Q Did Dr. Egilman tell you that he ever spoke to a person
7 named Rick Meadow?

8 A He mentioned that he spoke to someone. These names don't
9 really mean anything to me, so I don't necessarily focus on
10 them. I know that he spoke with someone at the Lanier firm or
11 he told me that he had.

12 Q What did he tell you that the Lanier firm had said?

13 A I don't remember. Something other than in this --
14 nothing that is I think inconsistent with that letter. So.

15 Q I'm not sure how you are reading this letter, so why
16 don't you just tell us what you remember Dr. Egilman telling
17 you about his conversation with the Lanier law firm?

18 A What I'm saying is that I don't really remember the
19 specifics about it. One thing, I get so many -- it's not that
20 this isn't important but I get so many calls and E-mails that
21 it's almost unimaginable and I just don't remember everything.
22 So I don't remember what he said about his conversation.

23 Q Was it that the Lanier firm thought that you should
24 produce the document?

25 MR. MCKAY: Objection to foundation. Can we

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

88

Gottstein/Direct/Fahey

1 establish when we are talking about. Was it after the
2 documents had already been sent out by Mr. Gottstein?

3 MR. FAHEY: Mr. Gottstein hasn't told us when the
4 documents were sent out.

5 MR. MCKAY: Ask.

6 MR. FAHEY: I have asked.

7 A So what is the question?

8 Q I'm trying to narrow down the possibilities of the things
9 that Dr. Egilman might have told you about his conversation
10 with Rick Meadow or the Lanier Law firm.

11 A It might help me to remember if you ask specifically did
12 he say this or did he say that. That might help me remember.

13 Q Did he tell you that the Lanier firm had told him not to
14 produce the documents and that you should not either?

15 A Certainly not before I had gotten them and had already
16 distributed them.

17 Q But before the December 17th publication in the New York
18 Times?

19 A I don't know if he told me that on the phone. That's
20 what I meant -- he didn't tell me anything inconsistent with
21 the letter because the letter of the 15th is pretty clear on
22 not produce part. He may have told me that but I understood
23 that.

24 Q You understood that both the Lanier firm and Lilly
25 believed that the documents had not been produced pursuant to

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

1 the protective order before they published in the New York
2 Times?

3 A I don't know what they believed but I know that's what
4 they said.

5 Q Let's ask it that way.

6 You were told by the Lilly lawyers that they
7 believed prior to the publication of the December 17th New
8 York Times article that you had obtained those documents in
9 violation of a protective order in this case, correct?

10 A I got two threatening letters from Eli Lilly on the 15th.
11 So I think that's probably right but I would want to look at
12 them again to see what it was that they put in those letters.

13 Q One of the letters was from me?

14 A Yes, I guess it was, yes.

15 Q And the other letter that you received was from the
16 Lanier law firm saying that the documents were not produced
17 pursuant to the protective order and that was before the New
18 York Times publication of the documents on December 17,
19 correct?

20 A Can I look at that letter again?

21 Q Sure.

22 A That is not clear to me that they said that --

23 MR. HAYES: I object. The letter is whatever it
24 is. He is characterizing it.

25 THE COURT: The witness is refreshing his

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

90

Gottstein/Direct/Fahey

1 recollection. He may.

2 A I mean I'm just skimming it again. It says that Lilly's
3 position was that it was provided in violation.

4 Q Did you understand the Lanier firm to disagree with that
5 position?

6 A You know, how can I comment -- they didn't say they
7 disagreed. They didn't say they agreed.

8 Q Did Dr. Egilman tell you that he had spoken with Rick
9 Meadow on December 13 and that Rick Meadow had told him not to

10 produce documents pursuant to the subpoena?

11 A I don't remember him saying that.

12 Q Did Dr. Egilman tell you that on December 13 he told Rick
13 Meadow that he would not produce documents pursuant to the
14 subpoena?

15 A He did not tell me that.

16 Q I want to talk to you a little bit about the people that
17 you distributed the documents to once you received them. And
18 yesterday I believe you said you spoke with Mr. Whittaker
19 before he received the documents?

20 A Yes.

21 MR. MILSTEIN: The he being Mr. Whittaker or Mr.
22 Gottstein?

23 THE WITNESS: It's before Mr. Whittaker received
24 them.

25 Q What did you tell him?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

91

Gottstein/Direct/Fahey

1 A That I had gotten these documents pursuant to a subpoena
2 and that I was sending them to him.

3 Q What did he say?

4 A Thank you. I don't know exactly, but thank you, I think
5 he indicated he would be interested in them.

6 Q And you understood that he would disseminate them to
7 others?

8 A No.

9 Q You didn't?

10 A No.

11 Q What did you think he was going to do with them?

12 A He is an expert on the treatment of schizophrenia. He
13 wrote a book that I think is the best book in the last 50

14 years on the subject called Mad In America, Bad Science, Bad
15 Medicine and the Enduring Mistreatment of the Mentally Ill.
16 And so he is the one that got the FOIA documents, Freedom of
17 Information Act documents on the approval that showed what I
18 would consider kind of the way that the studies were kind of
19 misrepresented or cooked or something that resulted in the
20 approval of Zyprexa. And he -- and that was part of, it was
21 in the book and anyway so he was an expert.

22 Q Let me bring you back to my question.

23 What did you think he was going to do with the
24 documents that you were going to send him? That was my
25 question.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

92

Gottstein/Direct/Fahey

1 A I thought he would be very interested in them and he very
2 well might write an article. He has a continuing interest in
3 this as an author and journalist so I thought he would be
4 interested in them.

5 Q You thought he would publish the documents, right?

6 A I didn't know if he would -- that he might.

7 Q And he might communicate them to others?

8 A Well, I didn't think that he would. I didn't think that
9 he would do that but I don't know.

10 Q So let me understand this.

11 You were sending documents to a person who had
12 published information about Zyprexa in the past and you're
13 telling us today that you thought you were going to send those
14 documents to him and that he was just going to leave them in a
15 desk in his office and not communicate them to anyone?

16 MR. MCKAY: Objection.

17 A I didn't say that.

18 THE COURT: He didn't say that.

19 Can't you move ahead.

20 Are we going to go through each person?

21 MR. FAHEY: I'd like to just understand what his
22 communications were just with the people that he communicated
23 with prior to sending the documents.

24 Q Did you communicate with anyone else prior to sending the
25 documents?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

93

Gottstein/Direct/Fahey

1 A I think I gave you a list.

2 Do you recall who I said yesterday? There is Alex
3 Berenson. There was Steve Cha, Vera Sharav, Will Hall. If I
4 could look at the list again, I might be able to -- there may
5 have been someone else. There were people that I talked to
6 that I was going to but I ended up not sending them to.

7 Q At least for the people you have identified so far, you
8 called them or E-mailed them or somehow communicated with them
9 to let them know that Zyprexa documents were on the way,
10 right?

11 A Yes.

12 Q For each of those individuals, you expected them to
13 further disseminate the materials, correct?

14 A I don't think each -- not each of them.

15 Q The majority of them you expected to further disseminate
16 the documents, right?

17 A Who are we talking about? We are talking about Cha and
18 Sharav and Hall and Berenson. Wasn't there one other one?

19 Oh, Whiti ker. A majority, yes.

20 Q That is a yes?

21 A Yes.

22 Q Okay.

23 Now, you started speaking, one of the E-mails you
24 produced last night was relating to a communication with Alex
25 Berenson prior to the time that you received the documents.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

94

Gottstein/Direct/Fahey

1 I'm not asking you about that document but I just wanted to
2 know when was the first time you started to talk to Alex
3 Berenson about Zyprexa?

4 A I don't know exactly. You probably know better than I do
5 because you have those E-mails and I haven't had a chance to
6 look at them. I may even have had -- I think I produced all
7 of the communications I ever had with Berenson or -- well, my
8 E-mail program crashed so if there was some before June, they
9 wouldn't be there. So I may have spoken to him before this,
10 unrelated to it but probably not. I don't remember. You
11 might have something that might help me refresh my
12 recollection.

13 Q I'm just trying to get a general understanding of how
14 soon -- let me ask you this one.

15 Before you talked to Dr. Egilman on November 28, did
16 you have any discussions with Alex Benson about the Zyprexa
17 documents in this litigation?

18 A No.

19 Q After that conversation with Dr. Egilman on
20 November 28th, how soon after that conversation did you start
21 to have communications with Alex Berenson about the Zyprexa
22 documents?

23 A Within a few days, I think.

24 Q How did that communication start? Did you call him or
25 did he call you?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

Gottstein/Direct/Fahey

1 A I believe he called me.

2 Q And how did he get your name, do you know?

3 A I don't know for sure but -- I don't know for sure.

4 Should I speculate?

5 MR. HAYES: Objection.

6 Q Do you think Dr. Egilman gave them to him?

7 A Do I think.

8 THE COURT: Sustained.

9 Q Do you know how he got them?

10 MR. MCKAY: Just asked and answered.

11 THE COURT: Overruled.

12 A Do I know how? I think that he was independently aware
13 of what I was doing.

14 Q How do you think he became independently aware of what
15 you were doing?

16 A I believe that I had E-mailed him before.

17 Q Before what?

18 A Maybe earlier in the year or a couple of years ago
19 sometime because I had been trying to get publicity about this
20 stuff for years really. So I made contacts with a lot of
21 reporters and things and I believe that I had contacted
22 Mr. Berenson before.

23 Q What caused him to call you three days after your
24 conversation with Dr. Egilman?

25 A This would be around what? The second of December or

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

Gottstein/Direct/Fahey

1 something?

2 Q Early December.

3 A What caused him to call me?

4 MR. HAYES: Objection. First, he has to establish
5 that he knows he talked to him.

6 Objection.

7 THE COURT: Overruled.

8 A I think he was working on a story on this.

9 Q Why did he call you? What did he tell you when he called
10 you?

11 A He told me that he had given Dr. Egilman my name.

12 Q Alex Berenson had given Dr. Egilman your name?

13 A Yes.

14 Q Is that how Dr. Egilman came to contact you on
15 November 28.

16 A I think so.

17 Q And you said that he had told you that he had given Dr.
18 Egilman your name.

19 Help me understand that.

20 What did he say?

21 A He said that Dr. Egilman had some documents that he
22 wanted to get to the New York Times and that he had, you know,
23 thought that I might be someone who would subpoena them.

24 Q You could help get Dr. Egilman to have the documents
25 or -- strike that.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

97

Gottstein/Direct/Fahey

1 Alex Berenson told you that Dr. Egilman thought you
2 would be someone who would help him, meaning Dr. Egilman, get
3 the Zyprexa documents to the New York Times, right?

4 A Well, I don't -- I wouldn't -- what I said was that he
5 thought I was someone who might subpoena the documents.

6 Q And so how -- so Alex Berenson gives Dr. Egilman your
7 name, correct, that's what he said?

8 A That's what he said.

9 Q Then Dr. Egi lman calls you on November 28 and says I have
10 some documents you might want to subpoena, right?

11 A Did he say that exactly? I think that's the import of
12 it.

13 Q And did the two of you when you were talking on
14 November 28 talk about this relationship you both had with
15 Alex Berenson?

16 A I may have mentioned that I tried to contact him before,
17 that I might have tried to contact him before.

18 THE COURT: Him is who?

19 THE WITNESS: Mr. Berenson.

20 Q Did you tell Dr. Egi lman that you had spoken with Alex
21 and that you understood that he had given Dr. Egi lman your
22 name?

23 A Yes, I think at some point that was communicated one way
24 or another.

25 Q So in fact the call was not as you said in your letter

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

98

Gottstei n/Di rect/Fahey

1 out of the blue, right?

2 A It was out of the blue.

3 Q But you knew it was coming?

4 A No, no, Dr. Egi lman called me first. That was out of the
5 blue.

6 Q Okay. That is a fair point.

7 But after the November 28 letter you learned that it
8 was not out of the blue, it was actually orchestrated by Dr.
9 Egi lman and Alex Berenson, right?

10 A Well, I don't know how that is inconsistent with what I
11 wrote in my letter. It was out of the blue.

12 Q It was out of the blue for you, right?

13 A Yes.

14 Q But it was not out of the blue for Dr. Egilman or Alex
15 Berenson?

16 MR. MILSTEINN: Objection, your Honor.

17 The question is just argument at this point.

18 THE COURT: I don't believe it is.

19 A So I mean out of the blue -- I mean -- it seemed that --
20 it's like I said, what Alex Berenson told me was that he had
21 told Dr. Egilman that I might be someone who would subpoena
22 the documents so I don't know where out of the blue comes into
23 that.

24 THE COURT: Move to something else.

25 Q After the conversation that you had with Dr. Egilman on

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

99

Gottstein/Direct/Fahey

1 November 28, you agreed to subpoena the documents, correct?

2 A Yes.

3 Well, to at least try to. To try and find a case to
4 do that.

5 Q Okay.

6 And you continued to communicate with Alex Berenson
7 prior to your receipt of the documents relating to the
8 articles that he was planning or hoping to write about
9 Zyprexa, correct?

10 A Prior to?

11 Q Yes.

12 A There may have been some.

13 Q And you spoke to him on a number of occasions as well?

14 A I'm not sure about prior to.

15 Q Okay.

16 Do you remember sending Alex Berenson an E-mail on
17 December 8th saying it was nice chatting with you, if you

18 called again, I would make what I think is an important
19 clarification to a critique that you had been both discussing?

20 A A critique?

21 Q A criticism.

22 A I don't remember that. It sounds unrelated. Because I
23 was trying to -- I had other stories that I wanted Alex
24 Berenson, that I wanted Alex Berenson to write about.

25 Q Now, once you received the order from Special Master

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

100

Gottstein/Direct/Fahey

1 Woodin on December 15th, what action did you take to comply
2 with that order?

3 A Well, what I did was I didn't believe that I was subject
4 to Special Master Woodin's directives, that I wasn't a party
5 or anything like that, so I tried to clarify that immediately
6 with Special Master Woodin and I sent them an initial E-mail
7 kind of indicating that and that I would send something
8 further later, which I did.

9 Q But you took no further action to actually comply with
10 the order after you received it on December 15th, you sought
11 to clarify but did you take any steps to comply with the order
12 in the midst of your attempting to clarify?

13 A By complying, you mean get them back? No.

14 Q For example, did you call Alex Berenson and say I just
15 got an order that says these documents were improperly
16 disseminated, I think that might be something you might want
17 to know?

18 A I think I probably did communicate the order -- I may
19 have communicated the order to him, yes.

20 Q Did you try to get the documents back?

21 A No.

22 Q From anybody?

23 A No. Well -- no.

24 Q That is a no?

25 MR. McKAY: I object, lack of foundation. If he is

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

101

Gottstein/Direct/Fahey

1 talking about in the hours that he was writing the letter to
2 Special Master Woodin, which I understand is the subject of
3 questi oning.

4 THE COURT: Try to fix the date that you are talking
5 about.

6 Q Between December 15 when you received Special Master
7 Woodin's order and December 18th when you got on a phone call
8 with Magistrate Judge Mann to discuss your compliance with
9 that order, aside from your attempts to clarify what the order
10 meant, did you take any steps to comply with it?

11 A Well, I didn't further disseminate them for sure and I
12 had actually ceased doing that even before the order -- before
13 the special master's order. I did not try and get them back
14 at that point.

15 Q From anyone, right?

16 A I think so. I mean it's possible I would have gotten
17 them back from my wife but I don't think so.

18 Q Then after receipt of Judge Cogan's order on
19 December 18th which was the mandatory injunction entered
20 against you requiring you to seek the return of all the
21 documents you had disseminated, what actions did you take
22 aside from the E-mails that we have seen before, what other
23 actions other than that one E-mail to each recipient, what
24 steps did you take to seek the return of the documents?

25 A It's pretty much laid out in my compliance certificate.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter

Gottstein/Direct/Fahey

1 I asked my wife to give it back and she gave it back. I asked
2 the office person Jerry Winchester that had asked for them in
3 the next door office to give it back and he gave it back. I
4 actually -- I called Alex Berenson and asked him to give them
5 back. I'm not sure when I wrote -- I don't think I recall Ms.
6 Prakash at that point, that I had given them to her, so I
7 don't think I had written her.

8 Basically I had sent an E-mail or communicated
9 personally with everybody that I remembered sending them to
10 pretty immediately after and it was an oral order and we
11 didn't actually get a copy of the signed one until the 19th
12 but I didn't wait for that. I did it immediately.

13 Q Aside from the one E-mail that you sent to each of the
14 recipients, what other steps did you take when you realized
15 that the recipients had not returned the documents to you
16 promptly?

17 A I did not ask them to return them to me. I asked them to
18 return them to Special Master Woodin and I didn't know that --
19 to say that they hadn't returned them, most of them hadn't
20 received them yet.

21 Q Who had received them?

22 A I don't really know.

23 Q Why do you say most had not?

24 A Because they later had E-mailed me that they hadn't
25 gotten -- or E-mailed me or told me. They were put in just

Gottstein/Direct/Fahey

1 regular mail and it was the Christmas season and it took a
2 while and some of them I didn't really have good addresses.

3 So I think it may have taken up to two weeks for some of them
4 to get them.

5 Q And so that is a full two weeks after the Court order as
6 well or at least seven days after the Court order requiring
7 the return, correct?

8 A For what? That they didn't get them?

9 Q Right.

10 MR. VON LOHMANN: Objection. It's my understanding
11 that these people themselves -- could you clarify who is being
12 required by the order to do something here?

13 THE COURT: Excuse me, I see that Special Master
14 Woodin is in the courtroom. Does anybody plan to call him as
15 a witness?

16 MR. MILSTEINN: No, your Honor.

17 THE COURT: Are there any other witnesses in the
18 courtroom?

19 MR. FAHEY: Your Honor, we intend to call Rick
20 Meadow from the Lanier Law firm. He is currently I think
21 arguing motions in limine in a Vi oxx trial but we are prepared
22 to have him participate by phone.

23 MR. CHABASINSKI: I also plan to call -- this is Ted
24 Chabasi nski representing Judi th Chamberl ain, Robert Whi tiker
25 and Mi ndFreedom International .

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

104

Gottstei n/Di rect/Fahey

1 THE COURT: Who are you calling who is in the
2 courtroom?

3 MR. CHABASINSKI: None in the courtroom. We have
4 them waiting on call .

5 THE COURT: What are their names?

6 A Judy Chamberl ain, Robert Whi tiker and Davi d Oaks and at
7 some appropriate time we plan on calling them.

8 THE COURT: Okay. I just wanted to clear the
9 courtroom of any possible witnesses.

10 MR. FAHEY: Your Honor, the only other possible
11 witnesses we might call are Vera Sharav who I believe is here.

12 THE COURT: In the courtroom?

13 MR. FAHEY: I believe so.

14 THE COURT: Does anybody want her excluded?

15 MR. HAYES: No, I don't.

16 THE COURT: Then you can remain.

17 Does anybody else?

18 MR. FAHEY: We believe John Doe was here yesterday
19 and we are not sure if he is going to return but if he does
20 return, we'd like to call him.

21 MR. HAYES: John Doe?

22 MR. FAHEY: Yes.

23 THE COURT: He is not in the courtroom today as far
24 as you know?

25 MR. FAHEY: He is not here today.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

105

Gottstein/Direct/Fahey

1 THE COURT: Go ahead.

2 Q Maybe I can just simplify this a little bit. Regardless
3 of when people received the documents or didn't receive the
4 documents, other than a single E-mail to each of the
5 recipient, you took no further steps to seek the return of the
6 documents consistent with Judge Cogan's order?

7 A I thought that was sufficient. As I said, I called, I
8 talked to Alex Berenson and he -- and asked him if I talked to
9 anybody that was on that list. At that time I asked them to
10 return the documents.

11 Q I'm going to show you the next document which I believe

12 is Petitioner's 4?

13 THE COURT: Yes.

14 (So marked in evidence Petitioner's Exhibit 4.)

15 A Okay.

16 Q Have you read the document, sir?

17 A Yes, I've looked at it.

18 Q That is a document you produced to us last night,
19 correct?

20 A Yes.

21 Q Can you just describe the document for the record.

22 A It's a forward -- it's an E-mail. It appears to be an
23 E-mail from Will Hall forwarding an E-mail that he had
24 received.

25 Q What does the E-mail relate to?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

106

Gottstein/Direct/Fahey

1 A It's got -- the only thing it has is a website.

2 Q Can you read the website into the record?

3 A [Http://cyber.law.harvard.edu/briefings/dvb/](http://cyber.law.harvard.edu/briefings/dvb/).

4 Q What is the re line of the E-mail or the title?

5 A Subject?

6 Q Diebold versus?

7 A Versus the Bloggers.

8 Q And the date of that -- let me back up.

9 Will Hall is one of the recipients of documents from
10 you, correct?

11 A Yes.

12 Q And Will Hall sent this E-mail to you on what date
13 December 13, right?

14 A The one down below says December 13 which is when he got
15 it but I'm not sure when it was forwarded to me. It looks
16 like December 13th but it's pretty confusing.

17 Q I agree that the format it was produced in is confusing.
18 We'll stipulate to that but at the top it says received?

19 A Yes, okay.

20 Q Okay, December 13?

21 A That's what it looks like.

22 Q And the issue of the Diebold case is that document had
23 been leaked on the internet and the argument was that they
24 were so broadly disseminated that they should not be subject
25 to any further protection, correct?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

107

Gottstein/Direct/Fahey

1 A I don't know. I'm not sure I clicked on that link. I
2 don't know that I clicked on that link. That's all I can say.

3 Q Regardless whether you clicked on the link, you
4 understand what the Diebold case is all about?

5 A Not necessarily, no.

6 Q What does not necessarily mean?

7 A I'm not that good on case names so I don't really know.

8 Q You didn't understand the E-mail when you got it?

9 A Well, there is a link and I understood that there was a
10 link. I get a lot of E-mails and I just can't read them all.
11 So -- and to click on something, I don't necessarily click on
12 all the links. So I don't remember clicking on this link.

13 Q Did Will Hall provide any message to you or -- what did
14 he say in his E-mail?

15 A He didn't say anything.

16 Q So he just gave you this link?

17 A Yes.

18 Q And the link again is related to Diebold versus what?

19 A The subject line if I can find it here is basically the
20 original message that he forwarded, the subject line yes, the

21 subject line is forward Di ebol d versus the Bloggers. And the
22 only thing in there is a forwarded message that has a link.

23 Q That was on December 13, correct, that you received that
24 link?

25 A It appears to be.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

108

Gottstei n/Di rect/Fahey

1 THE COURT: Do you want that in evidence too?

2 MR. FAHEY: Yes. And if I have not already asked
3 for P3 to be in evidence, I would ask for that as well.

4 THE COURT: Admi tted.

5 How long is this going to take?

6 (So marked in evidence as Petiti oner's Exhi bi t 3.)

7 MR. FAHEY: I think I only have one more document,
8 your Honor.

9 Q The last document is P-5.

10 (Pause.)

11 Are you ready now?

12 A I don't even have it yet.

13 (Pause.)

14 Yes, I'm fami li ar with this one.

15 Q Can you describe for the Court what that document is?

16 A It's a kind of an E-mail news letter that I sent out.
17 When was it? January 1st, maybe. It seems like it went out
18 earlier than that. It looks like January 1st.

19 Q Okay.

20 A Oh, actually it's -- I think it was sent out before that
21 but this is something that was on -- it's a forward of an
22 E-mail that I sent out previously that was sent to
23 Mi ndFreedom's -- one of Mi ndFreedom's list servi ces.

24 Q How many people are on that list service?

25 A On Mi ndFreedom's list service? I don't know.

Gottstein/Direct/Fahey

1 Q Thousands?

2 A This one, I don't believe that is true.

3 Q What is different about this one?

4 A Well, I mean -- I guess Mr. Oaks -- anyway, what is
5 different, MindFreedom has different E-mail lists. This is
6 what they called the MindFreedom USA one. It's not the
7 largest one that they have.

8 Q So the MindFreedom USA list service, based on your
9 understanding, would include anybody who signed up for the
10 MindFreedom list service in the United States?

11 A It's people who signed up for this list service.

12 Q And you don't have any way of putting a number on that?

13 A I don't know how many people are on that.

14 MR. FAHEY: Your Honor, may I approach the witness
15 to point out?

16 THE COURT: Yes.

17 I'd ask that you read into the record the paragraph
18 beginning with "in terms of" on page 3 of the documents.

19 A Just that paragraph?

20 Q Yes.

21 A "In terms of where things go from here, Eli Lilly is
22 fully capable of crushing me with legal actions but I hope
23 they will realize they have bigger problems and that doing so
24 will give them a huge public relations nightmare (I hope).
25 They have threatened me with criminal and civil contempt

Gottstein/Direct/Fahey

1 sanctions. It has already cost Psych Rights \$15,000 in

2 attorney's fees to deal with the aftermath. This, of course,
3 is very cheap considering what was accomplished but has
4 significantly reduced Psych Rights' bank account. Any and all
5 contributions to help will be appreciated."

6 Q That is actually the next paragraph but I understand the
7 quote.

8 A I don't think that it is the next paragraph.

9 Q I'm fine.

10 I have no further questions at this time.

11 THE COURT: Are you offering that?

12 MR. FAHEY: Yes, your Honor.

13 THE COURT: Admitted.

14 (So marked in evidence Petitioner's Exhibit 5.)

15 MR. HAYES: I have no cross.

16 THE COURT: It's now 25 to 1:00.

17 Do you want to break for lunch? You may want to
18 confer with the other attorneys so that we don't have a lot of
19 repetition.

20 MR. HAYES: I'm only going to be about 15 minutes.
21 That way, we can get rid of it.

22 MR. MILSTEIN: I have about five minutes.

23 THE COURT: Do the 15, then break?

24 MR. MILSTEIN: Why don't we finish this witness, get
25 him off the stand.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

111

Gottstein/Direct/Fahey

1 THE COURT: Fine.

2 Before you can get into that, there has been a
3 reference to a large number of documents. When the witness is
4 released, I assume he is going to go back to Alaska.

5 Do you want any of those documents authenticated
6 before we finish with the witness? Think of it over the lunch

7 hour because I don't want a mass of documents floating around
8 with no authentication.

9 MR. FAHEY: Thank you.

10 THE COURT: So mark them if you want them
11 authenticated, then have the witness authenticate them with
12 everyone present and then we can let him go.

13 Proceed.

14 MR. FAHEY: Actually, there is one other
15 housekeeping matter before Mr. Hayes starts.

16 There was a document we referenced yesterday which
17 was a certification that Mr. Gottstein filed with the Court
18 yesterday morning and since we referenced it, I'd like to mark
19 that as next in order and offer it for admission.

20 THE COURT: P6?

21 MR. FAHEY: Yes.

22 THE COURT: That is the certification?

23 MR. FAHEY: Yes, your Honor.

24 THE COURT: Dated yesterday?

25 MR. FAHEY: Correct?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

112

Gottstein/Direct/Fahey

1 THE WITNESS: I don't think there was a
2 certification yesterday.

3 MR. FAHEY: There was a certification filed
4 yesterday with the Court.

5 THE COURT: Filed at 1:16.

6 MR. FAHEY: I believe it was attached to the order
7 to show cause.

8 THE WITNESS: I believe it was a declaration.

9 MR. FAHEY: Declaration. Excuse me.

10 THE COURT: Mark it as 6. It's in evidence.

11 (So marked in evidence Petitioner's Exhibit 6.)

12 THE COURT: You better look at it.

13 CROSS-EXAMINATION

14 BY MR. HAYES:

15 Q Sir, you came down here without a subpoena, is that
16 correct?

17 A Yes.

18 Q Are you bearing your own costs to come down here, paying
19 your own expenses, legal fees?

20 A Well, Psych Rights is.

21 Q Has there been any discussion that you are aware of
22 between your counsel or between you or any representative of
23 Eli Lilly about what your testimony was going to be here
24 today?

25 A I don't think so, no.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

113

Gottstein/Cross/Hayes

1 Q And has there been any discussion to the best of your
2 knowledge between you or a representative of yours about
3 making any kind of settlement with Eli Lilly in return for
4 your testimony?

5 A No.

6 Q Now, I gather that you have made your life's work the
7 protection of the rights of the mentally ill, is that correct?

8 A Yes, people who are diagnosed with mental illness.

9 Q And one of the things you have had before this came up at
10 the end of November, you had had a prior interest in Psych
11 Rights, is that correct?

12 A Absolutely.

13 Q Were you the person that FOIAed the FDA to get their
14 records on Psych Rights?

15 A No.

16 Q Who did that?

17 A There were two separate FOIA requests that I posted on
18 the internet. One was the internal -- correspondence with Eli
19 Lilly with the FDA about the approval of Zyprexa and the other
20 was the adverse events -- it wasn't a database actually, I put
21 it into a database, that Ellen Liversitch whose son was killed
22 by Zyprexa had FOIAed for all of what they call the atypical
23 neuroleptics.

24 MR. FAHEY: I would object to the characterization
25 of somebody dying from Zyprexa. There has been no evidence of

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

114

Gottstein/Cross/Hayes

1 that.

2 THE COURT: Strike it.

3 Q In any case, you put this information on your website?

4 A Yes.

5 Q And the website is really the website of Psych Rights?

6 A Correct.

7 Q So if you were going to run a web search for Zyprexa,
8 FDA, FDA approval process, your website would come up, is that
9 correct?

10 A I think so.

11 Q And it's also true, isn't it, to the best of your
12 knowledge that your website had one of the best -- was one of
13 the best sources of documents in regard to the FDA approval of
14 Zyprexa?

15 A Well, maybe the best, certainly these documents.

16 Q So it was -- so really in terms of a resource on the FDA
17 actions in regard to Zyprexa, your website was either the best
18 or close to the best in terms of having documents from FDA?

19 A I don't know about really the FDA process. I think for

20 generally Zyprexa and generally these medications, I think
21 it's a very good resource. That is its intent.
22 Q Prior to November 28 of 2006, were you aware that there
23 had been litigation, substantial litigation begun against Eli
24 Lilly with regard to Zyprexa?
25 A Yes.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

115

Gottstein/Cross/Hayes

1 Q Were you aware of essentially the allegations of that
2 litigation?
3 A Well, I mean, I guess yes.
4 Q And so therefore when you talked to Dr. Egilman on the
5 phone, he told you that he was serving as an expert witness on
6 behalf of the lawyers who were litigating at least some of
7 these Zyprexa cases?
8 A Yes.
9 Q So it didn't shock you since you knew you had one of the
10 best sources for information on Zyprexa that Dr. Egilman would
11 want to talk to you about that?
12 A A lot of people give me information, whistle blowers and
13 that kind of thing.
14 Q And before you talked to Dr. Egilman, you were aware of
15 the fact that there had been controversy about Zyprexa?
16 A Oh, yes.
17 MR. FAHEY: Objection to the term controversy. I
18 don't know what that means.
19 THE COURT: Overruled. I'll allow it.
20 Q Furthermore, you had represented many people in the past
21 -- first of all, you had gone to court on many occasions in
22 regard to protecting the rights of the mentally ill, is that
23 correct or the alleged mentally ill?
24 A I don't know about many. I try to do it strategically.

25 So a number of them.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

116

Gottstein/Cross/Hayes

1 Q Now, therefore had you ever been to court in which one of
2 the issues -- withdrawn.

3 Forget about going to court. Had you ever raised
4 the issue of medicating someone with Zyprexa prior to
5 November 28th of 2006?

6 A Oh, yes, in fact, that's what the Meyers case involved.

7 Q So you were already somebody that was interested in the
8 use of Zyprexa and whether it had potential dangers, is that
9 right?

10 A Absolutely.

11 Q And is it also fair to say that one of the efforts that
12 you have devoted yourself to is that the consumer public and
13 that the doctors have as much information as possible as to
14 the effects of various drugs, is that fair to say?

15 A Absolutely.

16 Q Is it also one of your concerns that sometimes the FDA
17 does not do a proper job in investigating the effects of
18 certain drugs?

19 A Yes.

20 Q Is it also part of your concerns that some of the drug
21 companies do not properly or honestly present information to
22 the FDA about the drugs they want approved?

23 A Yes.

24 Q And when you first talked to Dr. Egilman -- withdrawn.

25 You had a friend named Whittiker who you respected

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

117

Gottstein/Cross/Hayes

1 and thought was a good journalist, is that right?

2 A Yes.

3 Q You had already by November 28th of 2006 knew that
4 Whittaker had written that the Zyprexa trials that were
5 submitted to the FDA were not correctly done, is that correct?

6 A Yes.

7 Q And was it also your -- was it either your opinion or
8 your suspicion or you had no opinion at all at the end of
9 November 2006 that Eli Lilly had withheld from the FDA certain
10 information that was relevant to Zyprexa?

11 A Yes.

12 MR. FAHEY: Objection, your Honor. He is in no
13 position to determine what was or was not withheld from the
14 FDA.

15 THE COURT: Well, we have that impression. That is
16 enough.

17 Q Was it also -- by the way, had you seen at that point in
18 time at the end of November of 2006 individuals that had been
19 medicated with Zyprexa?

20 A Oh, yes.

21 Q And had you ever had the opinion in your mind that
22 Zyprexa had had negative side effects on these people?

23 A Oh, yes.

24 Q Now, you posted all these documents on your website, is
25 that right, many of them from the FDA?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

118

Gottstein/Cross/Hayes

1 A Well, all these documents, I'm not sure which documents
2 you are referring to.

3 Q Let me show you one document.

4 I gave copies to everybody else.

5 Let me show you this one. This is something signed

6 by -- if you recognize that, is that one of the documents that
7 were on your website?

8 MR. LEHNER: Can we have a point of clarification.
9 When he refers to all these documents, he is referred to
10 documents obtained through the FOIA?

11 MR. HAYES: Actually his friend obtained them, then
12 he put them on his website.

13 A I know Bob Whittaker, actually do think he is a friend.
14 So yes, I believe this is posted on our website. It doesn't
15 appear to have been printed from our website.

16 THE COURT: Mark it, please.

17 A This looks like one that is on the website but --

18 THE COURT: In evidence.

19 (So marked in evidence Petitioner's Exhibit 7.)

20 Q Did there come a time that you led -- how many documents
21 are on this website in regard to Zyprexa? Can you give me
22 some idea of the number of pages?

23 MR. FAHEY: Are we still talking about the FOIA
24 documents?

25 Q Any documents on your website relating to Zyprexa.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

119

Gottstein/Cross/Hayes

1 A At least thousands.

2 Q Did there come a time that you led or told Egilman about
3 documents that you had on your website that related to
4 Zyprexa?

5 A Yes.

6 Q Did he ask you about documents that related to the FDA
7 approval process of Zyprexa?

8 A Yes.

9 Q Did you refer him to certain documents on your website

10 with regard to that?

11 A Yes.

12 Q Did you form the opinion after listening to Dr. Egilman
13 that before he talked to you and got these documents from you
14 or from your website, that he didn't know they existed?

15 MR. FAHEY: Objection. I'm not sure --

16 MR. HAYES: If he doesn't understand, I'll rephrase.

17 A Maybe you could rephrase.

18 Q Egilman calls you, he asks you for certain information
19 about the FDA approval process for Zyprexa and you give it to
20 him?

21 A Yes, he asked for -- yes.

22 Q You told him about certain documents you had on the
23 website that related to the FDA approval process?

24 A Yes.

25 Q And you formed the opinion that he had not seen those

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

120

Gottstein/Cross/Hayes

1 documents before you referred them to him?

2 A Yes.

3 Q So that in fact when he called you up, he told you that
4 he was being an expert witness for the plaintiffs' lawyers in
5 a lawsuit, a large lawsuit against Eli Lilly involving
6 Zyprexa?

7 A Yes.

8 Q And one of the things he was doing was doing research,
9 right, as is his job as an expert witness?

10 A Yes.

11 Q And he told you that he had certain documents that were
12 covered by a sealing order in a discovery process from Eli
13 Lilly?

14 A Yes.

15 Q Which you didn't have?

16 A Correct.

17 Q And that you had had on your website certain documents
18 from the FDA approval process that he didn't have?

19 A Yes.

20 Q Your documents were public records?

21 A Yes.

22 Q His were covered by a sealing order, is that right?

23 A Yes.

24 Q Was there ever a discussion between you about him just
25 making a DVD of these documents, sending them to you in the

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

121

Gottstein/Cross/Hayes

1 dark of night and just not telling anybody about it?

2 A No.

3 Q From the first conversation, he wouldn't tell you the
4 substance of the documents and he said he wouldn't give them
5 to you unless you subpoenaed them, is that right?

6 A He didn't tell me about the substance of them and yes, he
7 wouldn't give them.

8 Q So then at some point before you got the documents you
9 asked him to and he did read you the provisions of the sealing
10 order in regard to notice, is that right?

11 A Yes.

12 Q The sealing order doesn't say that you never ever get to
13 look at these documents, it just says that you have to give
14 somebody notice, is that right?

15 A Yes.

16 Q To the best of your knowledge, this was a sealing order
17 that was not written and created by the judge, it was a
18 sealing order that was written, created and agreed to by the

19 parties and then signed by the judge, is that right?

20 MR. FAHEY: Objection, your Honor. Mr. Gottstein
21 has testified repeatedly that he never even saw the protective
22 order and I don't know whether Dr. Egilman's
23 characterization --

24 THE COURT: Sustained.

25 Q Now you begin to discuss with Dr. Egilman -- withdrawn.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

122

Gottstein/Cross/Hayes

1 You then say -- withdrawn.

2 Egilman says to you I'm not giving you those
3 documents. If you subpoena them, I'm going to give them
4 notice of the subpoena, right?

5 A Yes.

6 Q Now you go out and you get a case involving somebody
7 called BB?

8 A Yes.

9 Q Was BB a person that was allegedly mentally ill?

10 A Yes.

11 Q Was BB a person that could theoretically have been
12 forcibly medicated with Zyprexa?

13 A He was.

14 MR. FAHEY: Objection. He has testified there is no
15 evidence that the person has been or was on Zyprexa.

16 A Can you ask me the question again.

17 Q Was BB a person that either -- that had been forcibly
18 medicated with Zyprexa?

19 A I don't know if he had been.

20 Q Was it your opinion that BB could have been forcibly
21 medicated with Zyprexa?

22 A Yes.

23 Q Did you consider then the possibility that Zyprexa could

24 have adverse side effects on BB?

25 A Yes.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

123

Gottstein/Cross/Hayes

1 MR. FAHEY: Objection, your Honor. We're moving
2 about four or five strains beyond the hypothetical here.

3 THE COURT: I'll allow it.

4 Q BB -- describe BB to us. Who is BB? Not give us the
5 name but give us an age, a health situation, their mental
6 capacity.

7 A He is probably in his 50s. He has been in and out of the
8 psychiatric hospital many times. He is currently under a full
9 guardianship order that allows the guardian basically complete
10 control. They said that he couldn't even authorize me to look
11 at his records because only the guardian could do that. He
12 also has been subjected to numerous Court ordered involuntary
13 psychiatric druggings.

14 Q Now, do you know anything about the other issues with
15 regard to BB's health? Was he an overweight man or an obese
16 man?

17 A No.

18 Q Do you know if he suffered from diabetes or suffered from
19 high blood sugar?

20 A No, I never saw his record.

21 Q You have not seen his health records?

22 A Correct.

23 Q But you do know that he had been the subject of
24 involuntary druggings?

25 A Yes.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

124

1 Q Do you know what his diagnosis was in terms of his mental
2 illness?

3 A It's one of the serious ones.

4 Q Besides Dr. Egilman, you said you issued three other
5 subpoenas. Were they to other people that were experts in the
6 kind of issues that would also involve Zyprexa medication,
7 mental health, so forth?

8 A One of them was.

9 Q Who was that person?

10 A Dr. Grace E. Jackson.

11 Q And in your mind, when you saw -- how did you get the BB
12 case?

13 A That is a whole story and I posted that on --

14 Q How did you get it?

15 A I was looking for a case, an appropriate case, and it's
16 not easy because these are confidential proceedings. So I
17 went to rather extraordinary lengths, I would say, to get it.

18 Q In any case, you go to extraordinary lengths, you get the
19 BB case, you then fill out four subpoenas, one of whom is for
20 Dr. Egilman?

21 A Right, I mean that was after I had -- in connection with
22 filing other appropriate pleadings in that case.

23 Q You then served the subpoena correctly according to the
24 laws of the Court in Alaska on Dr. Egilman, is that correct?

25 A I think there is some dispute over that.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

1 Q You felt you did?

2 A Well, yes, I did at the time.

3 Q This is on or about December 6th that he gets the
4 subpoena?

5 A He got it by E-mail and fax that day and it took a few
6 days for the actual process server to get it to him.

7 Q When he got it by fax, the subpoena has the date
8 returnable, who is the lawyer issuing the subpoena, the court,
9 the judge that it's returnable to?

10 A Yes.

11 Q He faxed it that day during the ordinary business day to
12 the general counsel of Eli Lilly is that right?

13 A Yes.

14 MR. FAHEY: Objection. There has been no foundation
15 that Mr. Gottstein was the lawyer then.

16 Q Are you aware of that?

17 A Yes.

18 Q You are aware of the magnitude of the sales of Zyprexa
19 compared to the total sales of Eli Lilly, is that right?

20 A I believe so.

21 Q And you are also -- and you've got an opinion in your
22 mind that Zyprexa litigation would be an important matter to
23 the Eli Lilly general counsel, is that right?

24 A I would think so, yes.

25 MR. FAHEY: Objection, your Honor. I just wanted --

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

126

Gottstein/Cross/Hayes

1 there is no foundation that he knows anything about what is in
2 the general counsel's mind at Eli Lilly. It's just pure
3 speculation.

4 Q Now on the 6th, it's faxed to the Eli Lilly general
5 counsel, right?

6 A Yes.

7 Q You then have a discussion with him as to -- you want him
8 to give you these documents as quickly as possible?

9 A Yes.

10 Q By the way, at that time did you have an opinion in your
11 mind that if the consumers and the doctors knew more about
12 Zyprexa, that this was a public health issue?

13 A Yes.

14 MR. FAHEY: Objection, your Honor. He has already
15 testified that he didn't look at the documents at that time
16 and according to Mr. Hayes had not been communicated any
17 portion of the documents from Dr. Egilman. So there is no
18 basis for him to conclude what, if anything, was in those
19 documents.

20 THE COURT: I'll allow it.

21 Q Now, you wanted --

22 A I don't think I answered that question. Is this the same
23 question again?

24 Q No. Keep going if I interpreted you.

25 A Can you ask it again?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

127

Gottstein/Cross/Hayes

1 Q At the time that you issued the subpoena to Dr. Egilman,
2 was it your opinion that the public interest would be served
3 and public health interest by these documents being disclosed
4 to the public and to doctors?

5 A Yes.

6 Q Why?

7 A Just from the fact that Dr. Egilman thought they were
8 that important, I thought they probably were too.

9 Q Also at the time you were aware of the fact that there
10 was a lot -- your friend Whittiker had written extensively on
11 Zyprexa, is that correct?

12 A Yes.

13 Q And he had written critically about Zyprexa?

14 A Yes.
15 Q And you were aware that there was large scale litigation
16 involving Zyprexa?
17 A Yes.
18 Q So now Wednesday they get a fax, Dr. Egilman won't give
19 them to you on Thursday, right?
20 A Right.
21 Q Won't give them to you on Friday?
22 A Right.
23 Q Won't give them to you on Saturday?
24 A Right.
25 Q Won't give them to you on Sunday?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

128

Gottstein/Cross/Hayes

1 A Right.
2 Q Monday you set up this FTP so you can get these documents
3 more quickly?
4 A Yes.
5 Q But he doesn't give them to you quickly?
6 A Right.
7 Q The first time he starts transmitting documents to you is
8 after the close of business on Tuesday?
9 A Right.
10 MR. FAHEY: Objection. To the extent that they are
11 suggesting that these documents were produced pursuant to the
12 December 6 subpoena, Mr. Gottstein has testified that they
13 were not.
14 THE COURT: He is just moving on a temporal scale.
15 I'll allow it.
16 Q Now, by the way, you had no interest whatsoever in any
17 trade secrets of Eli Lilly, did you?

18 A No.

19 Q Have you ever had a trade secret case in your life?

20 A No.

21 Q Do you really even know what a trade secret is?

22 A I have some passing knowledge of it, maybe more than
23 vaguely.

24 Q In any case, now what happens is that after the close of
25 business Tuesday, you start getting these documents, is that

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

129

Gottstein/Cross/Hayes

1 right?

2 A Yes.

3 Q You had never -- the fax to the general counsel for Eli
4 Lilly had given all the information necessary to contact you
5 for the previous week, is that right?

6 A Yes.

7 Q Not contacted in the slightest, is that right?

8 A Correct.

9 Q And when you had heard and discussed with Dr. Egilman
10 complying with the protective order, the primary, in your
11 mind, the primary requirement of the protective order was
12 notice, is that right?

13 A Yes.

14 Q Now, furthermore, you were aware that he -- have you ever
15 had occasion to try to learn about some of these large class
16 action litigations involving pharmaceuticals?

17 A Some.

18 Q Would it be fair for me to state that at that time you
19 also had the opinion that one of the things that a defendant
20 might want to pay a premium for in these kinds of cases was
21 secrecy?

22 A Yes.

23 MR. FAHEY: Your Honor, I'm not sure what the
24 relevance of all of this is.

25 THE COURT: I'll permit it as bearing on the

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

130

Gottstein/Cross/Hayes

1 witness' state of mind.

2 Q In this particular case involving Zyprexa, at the time
3 you subpoenaed Dr. Egilman, had you the impression that Eli
4 Lilly had deliberately withheld from the public and from
5 physicians adverse side effects of Zyprexa?

6 A Absolutely.

7 MR. FAHEY: Objection, foundation.

8 THE COURT: I'll allow it.

9 Q Now, one of the -- did you have occasion after you got
10 the Eli Lilly documents to look at the -- any of the Eli Lilly
11 documents?

12 A Some of them, not very many.

13 Q Did you also have occasion -- you said you talked to
14 Mr. Berenson on the phone a phone number of times?

15 A Yes.

16 Q He is a young investigative reporter for the New York
17 Times, is that correct?

18 A I don't know how old he is. I never met him personally.

19 Q Or from his voice?

20 A I don't know.

21 Q In any way did he strike you as a bright, hard working
22 guy?

23 A Yes.

24 Q And you didn't think you were Alex Berenson's only
25 source, is that correct?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

Gottstein/Cross/Hayes

1 A He.

2 Q You didn't think you were his only source about Zyprexa?

3 A No.

4 Q You had many conversations throughout your career with
5 reporters?

6 A More than a few.

7 Q Okay.

8 Did you think -- did you have the opinion that at
9 the time you talked to Mr. Berenson that he had done a great
10 deal of research on Zyprexa and Eli Lilly?

11 A Yes.

12 Q And that he had many sources of information both as to
13 the FDA's handling of this matter, right, and of what facts
14 Eli Lilly had and kept to themselves?

15 A Yes.

16 Q Did he know things when you first started talking to him
17 that you didn't know?

18 A I don't know that he really told me much about that.

19 Q He didn't tell you much when you first talked to him.
20 Okay.

21 Now did you also discuss with Mr. Berenson or did
22 you discuss with anyone -- withdrawn.

23 Did you discuss with anyone whether or not political
24 forces would affect the approval of a drug?

25 A In connection with this or generally?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

Gottstein/Cross/Hayes

1 Q First generally.

2 A Yes.

3 Q So secondly, one of the things that you were concerned

4 about was whether or not the FDA provided enough scrutiny to
5 drugs before they released them to the general public, is that
6 right?

7 A Yes.

8 Q In particular the report that I introduced into evidence
9 is from a man who is apparently the director of the division
10 of neuro pharmacological drug products, right, a man named
11 Paul Lieber?

12 A Yes.

13 Q And he talks in general terms about the political forces
14 on the FDA, is that correct?

15 A I think, yes, political and economic, I think actually.

16 Q One of the things he says is that the Eli Lilly tests on
17 this matter were only given for six weeks, is that right?

18 A Yes.

19 Q And another thing he says is that one of the best
20 protections that the public has is market forces, in other
21 words, their competitors are out there examining or whoever is
22 looking at this drug, to see whether it works or has adverse
23 side effects, is that right?

24 A Yes.

25 Q Did you have the opinion at that time, was it one of the

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

133

Gottstein/Cross/Hayes

1 reasons that you wanted to put this on the internet for
2 everyone to have access to is you can't really have control by
3 market forces if people don't know?

4 A The truth.

5 Q The truth, is that right?

6 A Yes.

7 MR. FAHEY: I object to it. At this point he is

8 just going over the same ground.

9 THE COURT: I'll allow it.

10 Q In regard to dealing with Dr. Egilman, you never
11 contemplated once asking him to give you these documents or
12 tell you what was in these documents except in response to a
13 subpoena?

14 A Correct.

15 Q It was absolutely clear from your talking to Dr. Egilman
16 that he would not give you the documents without a legitimate
17 subpoena?

18 A Yes.

19 Q And you in fact you and he discussed what would
20 constitute sufficient notice under the protective order, is
21 that correct, how many days?

22 A It was discussed.

23 Q Now, one of the factors that was raised is the protective
24 order says for instance if there is a subpoena from a
25 competitor, that three days notice is sufficient, is that

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

134

Gottstein/Cross/Hayes

1 correct?

2 A Yes.

3 Q And in this case essentially there were seven days, five
4 working days, is that right?

5 A I think that is accurate.

6 MR. HAYES: I have nothing further, judge.

7 THE COURT: Anybody else?

8 MR. MILSTEIN: Yes, I will.

9 CROSS-EXAMINATION

10 BY MR. MILSTEIN:

11 Q I represent Vera Sharav. Again it was your impression
12 there were thousands of cases involving harm to people from

13 Zyprexa, is that right?

14 A Yes.

15 Q And that Lilly was in the process of settling those
16 cases?

17 A Yes.

18 Q So why is it that you wanted these documents out there?

19 A To protect people from this drug.

20 MR. MILSTEIN: That's all I have.

21 MR. CHABASINSKI: Your Honor, this is Ted
22 Chabasi nski . I want to questi on the wi tness.

23 THE COURT: Is there anybody here in the courtroom
24 that wants to questi on first?

25 MR. McKAY: I do but I would be happy to go after

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

135

Gottstei n/Cross/Mi l stei n

1 Mr. Chabasi nski .

2 THE COURT: I' ll let you go first.

3 MR. FAHEY: Your Honor, can we take a three minute
4 break?

5 THE COURT: It's five after 1:00 and I think we
6 ought to break for lunch. Then you can get the documents
7 squared away when everybody is here.

8 MR. CHABASINSKI: When will the court reconvene?

9 THE COURT: It's five after 1:00. We' ll reconvene
10 at 2:15 .

11 MR. CHABASINSKI: Thank you, your Honor.

12 (Whereupon, there was a luncheon recess.)

13 (Continued on next page.)

14

15

16

17
18
19
20
21
22
23
24
25

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

136

Gottstein/Cross/Milstein

1 (Whereupon, the afternoon session began at
2 2:15 p.m.)

3 THE COURT: While we're waiting for the witness to
4 appear, have you arranged for the authentication of documents?

5 MR. FAHEY: We have, your Honor.

6 THE COURT: Do you want to make a record, please?

7 MR. FAHEY: Yes, Mr. Gottstein produced materials to
8 us last night and Mr. McKay, Mr. Gottstein's counsel, E-mailed
9 us some additional material today and I believe we are in
10 agreement that there is a stipulation as to the authenticity
11 of all of the documents.

12 THE COURT: Do the other attorneys here or the
13 attorneys on the phone want the opportunity to look at the
14 documents before they are accepted in evidence?

15 MR. CHABASINSKI: I'll pass on that, your Honor. I
16 think it would be almost impossible to arrange anyway.

17 MR. MCKAY: Just so we're clear, we produced as
18 described by Mr. Fahey documents and I understand that -- you
19 gave me the opportunity to read these. I can tell you there
20 is no physical way to have done that. We're not talking about
21 anything other than authentication. So we have no problem

22 with objecting that these were the documents that were
23 produced from Mr. Gottstein authenticating that they came from
24 his computer.

25 So if that is the only issue here.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

137

Gottstein/Cross/Milstein

1 THE COURT: Are those in the Redwell folders, those
2 constitute the documents?

3 MR. FAHEY: Yes, your Honor.

4 THE COURT: May I have them.

5 MR. McKAY: I think they have a copy for you,
6 your Honor. These may include them. There are other things
7 as well.

8 THE COURT: I just want the documents themselves.
9 That is one red file? Put those in the red file. Mark the
10 red file which is about 6 inches thick as Petitioner's 7.

11 (So marked in evidence Petitioner's Exhibit 7.)

12 MR. McKAY: I understand that the only documents
13 admitted at this hearing are the ones that were introduced.

14 THE COURT: I'm going to admit them all subject to a
15 motion to strike.

16 Is that acceptable?

17 MR. HAYES: Yes.

18 THE COURT: Subject to a motion to strike.

19 You may examine.

20 MR. CHABASINSKI: Who, your Honor?

21 THE COURT: Somebody in the courtroom first.

22 MR. McKAY: Thank you, your Honor.

23 CROSS-EXAMINATION

24 BY MR. McKAY:

25 Q This is John McKay.

Gottstein/Cross/McKay

1 Mr. Gottstein, you were asked about the BB case in
2 which you represent the client in the Superior Court in the
3 State of Alaska. The Superior Court in Alaska is the trial
4 court, is that correct?

5 A Yes.

6 Q It's been suggested in the filings and the
7 representations to the Court that this is -- you've undertaken
8 this case as some sort of subterfuge or a ruse. Is this an
9 actual case in which you are representing a client who has
10 significant legal interests at stake?

11 A Yes.

12 Q This is an ongoing case that you would be representing,
13 taking a considerable part of your professional time in the
14 coming months and years?

15 A I don't know about years but yes.

16 Q And your intention as to -- these documents and Dr.
17 Egilman are as of this time a witness in that case, is that
18 correct?

19 A He is still subject to a subpoena for a deposition, yes.

20 Q Dr. Egilman was told by you according to your testimony,
21 to be certain that he -- when he received the subpoena from
22 you, to immediately transmit it to Eli Lilly, is that correct?

23 A Yes.

24 Q You were not a party to this multi-district litigation,
25 are you?

Gottstein/Cross/McKay

1 A No, I'm not.

2 Q Do you represent the -- you indicated you have

3 considerable knowledge about Zyprexa and other similar drugs.
4 Do you represent clients who are injured by Zyprexa or other
5 similar drugs in litigation for monetary damages?

6 A No.

7 Q So your interest is in protecting their interests as
8 patients of the mental system rather than pursuing monetary
9 gain, is that correct?

10 A The focus of Psych Rights and my focus is fighting
11 unwarranted court ordered forced psychiatric drugging but of
12 course when you represent a client, you get all of their
13 interests. So there may be other interests that go along with
14 that. So I represent my clients to the best of my ability.

15 Q But you are not pursuing tort claims for monetary damages
16 concerning Zyprexa?

17 A No.

18 Q When you served Dr. Egilman with the subpoena in this
19 case, are you aware of whether he complied with the obligation
20 that he had told you that he had under the protective order to
21 give written notice to Eli Lilly?

22 A Yes.

23 Q And Lilly's counsel questioned whether you were aware
24 that Lilly had received this and you indicated that you were.

25 Did Lilly in fact provide you with a copy of Dr.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

140

Gottstein/Cross/McKay

1 Egilman's transmittal letter to Lilly showing that it was
2 receipt stamped by the general counsel for Eli Lilly?

3 A Yes, it was referred to in Brewster Jamison's letter but
4 wasn't attached and I got it finally after I think asking for
5 it three times.

6 Q But you have it?

7 A Yes.

8 Q In fact have you submitted it to the Court as an exhibit
9 to your declaration that was filed yesterday?

10 A I believe it is, yes.

11 MR. McKAY: I believe it's 62 in the exhibits to the
12 declaration.

13 Q Specifically that copy shows the receipt stamped by the
14 general counsel, is that correct?

15 A The last page of that particular document.

16 Q That was on December 6th?

17 A It shows that it was received December 6.

18 Q That is Wednesday December 6, that is the day, the very
19 same day that you served Dr. Egilman with the subpoena?

20 A Correct.

21 Q It shows, there is also a fax line on that document
22 showing that Dr. Egilman transmitted it the same day to
23 general counsel for Lilly?

24 A Yes.

25 Q If you don't know from memory, I will give you a copy but

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

141

Gottstein/Cross/McKay

1 I think everyone is somewhat familiar with this document.

2 Does it lay out in detail all of the things that
3 were required by the protective order in terms of notice to
4 Lilly?

5 A I believe that it does.

6 Q Beyond that, did it also specifically include Dr.
7 Egilman's address?

8 A Yes.

9 Q Did it include a phone number for Dr. Egilman?

10 A I believe it did.

11 Q Did it include his cell phone number?

12 A I think it did.
13 Q In addition to his office number?
14 A Yes.
15 Q Did it include his E-mail address?
16 A Yes.
17 Q If Dr. Egilman -- did Dr. Egilman tell you that he had
18 received any word from Eli Lilly in response saying don't send
19 this out, don't send these documents out?
20 A In what timeframe?
21 Q Good question.
22 Obviously, not after all of this came up. Let's
23 start at December 6, the day that they received it.
24 A No.
25 Q Did they call him back and say don't send this out?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

142

Gottstein/Cross/McKay

1 A He didn't tell me that, no.
2 Q The next day?
3 A No.
4 Q The following day on Friday, did he do that?
5 A No.
6 Q We know from this case they work Saturday, Sunday, around
7 the clock but anything on the weekend?
8 A No.
9 Q Monday?
10 A No.
11 Q So at least after more than three full business days had
12 passed, he had not received any word, they didn't pick up the
13 phone, say don't send these out or wait until you hear from us
14 or anything?
15 A He didn't tell me of anything like that.

16 Q Was it your understanding that the protective order
17 requires reasonable time to object?

18 A Yes.

19 Q It doesn't require them to get a Court order keeping
20 somebody from sending it out, it requires that they be given
21 time to object?

22 A Yes.

23 Q If Lilly, anybody from Lilly had called Dr. Egilman
24 during this period and said don't do anything until you hear
25 from us or we object or anything of that nature, would you

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

143

Gottstein/Cross/McKay

1 have taken the documents from Dr. Egilman had he given them to
2 you?

3 A Not if I was aware of that.

4 Q And I've already asked you if you were a party to the
5 multi-district litigation. Before this, were you familiar
6 with who the counsel were in this case or specifically did you
7 have -- had you had dealings with any of the plaintiffs' or
8 defendant's law firms regarding this matter?

9 A No.

10 Q But your information also was supplied on the subpoena
11 and the notice of deposition that was attached to Dr.
12 Egilman's December 6 letter and transmitted to Lilly, is that
13 correct?

14 A Yes.

15 Q And they didn't call you on Wednesday or Thursday or
16 Friday or Saturday or Sunday or Monday?

17 A Correct.

18 Q The following week you after the documents were
19 transmitted to you by Dr. Egilman and you sent them out,
20 you've described the circumstances of that you were contacted,

21 I believe you received a letter that you received on the 15th
22 from Brewster Jamison representing Lilly, is that correct?

23 A Yes.

24 Q Did he indicate to you an objection to distributing or
25 using these documents?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

144

Gottstein/Cross/McKay

1 A Yes, I mean I didn't think it was really a proper way to
2 do it but yes, he did.

3 THE COURT: What day are you talking about?

4 THE WITNESS: It was faxed to me I think after
5 business hours the 14th but I didn't get it until the 15th.

6 MR. FAHEY: I think we have a copy of that if you
7 want to enter it into evidence.

8 THE WITNESS: I think it's an attachment to my
9 declaration, too.

10 Q It was faxed to you after the close of business and you
11 received it the following morning on December 14 -- you received
12 it December 15th?

13 A Yes.

14 MR. FAHEY: Can I put an objection. I think the
15 document when it was faxed speaks for itself. I think that
16 it's P1 or P2 already in evidence.

17 THE COURT: Let me look at the document.

18 MR. MCKAY: I don't have the exhibit.

19 Do you have it, Mr. Gottstein?

20 THE WITNESS: I think it's here.

21 MR. HAYES: If it's Petitioner --

22 MR. FAHEY: Petitioner.

23 MR. MCKAY: I think that you questioned about it
24 yesterday.

25

MR. FAHEY: Not specifically about this document but

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

145

Gottstein/Cross/McKay

1 in general.

2 THE COURT: This is Elaine Powell's letterhead?

3 THE WITNESS: Yes.

4 THE COURT: Dated December 14, 2006?

5 THE WITNESS: Yes.

6 MR. FAHEY: Yes, your Honor.

7 THE COURT: And that was faxed to you?

8 THE WITNESS: Yes, I believe it was Chanukah and I
9 went home earlier than I normally do.

10 MR. FAHEY: The time on it just for the record, the
11 time on the fax strip is 18:05.

12 THE COURT: 18:05 of what?

13 MR. FAHEY: On the 14th.

14 THE COURT: Of what time zone?

15 MR. FAHEY: Alaska time.

16 MR. McKAY: So if I -- I realize that New York hours
17 and Anchorage hours, to say the close of business was not
18 meant to be a legal conclusion. When I said after the close
19 of business, I thought that was a fair characterization of
20 after 6:00.

21 THE COURT: It arrived at your office at 6:05 and
22 you saw it the next morning?

23 THE WITNESS: Yes.

24 THE COURT: What time?

25 THE WITNESS: A little after midnight. I should

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

146

Gottstein/Cross/McKay

1 explain, right?

2 When I -- we now have a fax machine that
3 automatically scans E-mail stuff to me. So I happened to wake
4 up and check my E-mail and I saw it.

5 Q When this letter came from Eli Lilly's counsel, first of
6 all, that was the first time that they had either told you by
7 phone or by letter we do not want you to send these documents
8 out, is that correct?

9 A Yes.

10 Q At that time, whether they knew it or, not the documents
11 had already been not only provided to you but sent out by you?

12 A Yes.

13 Q And you've described yesterday that you felt that you
14 were proper in doing. That I'm not going to go over that now
15 again. At that time was the history the documents were
16 already out?

17 A Yes.

18 Q But you still had other people asking you for the
19 documents?

20 A Yes.

21 Q You said when I first asked you the question, you
22 qualified your answer saying you weren't sure that the way
23 they requested it was proper, yes or no?

24 A Yes.

25 Q Shortly after this you got a request, just as an example,

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

147

Gottstein/Cross/McKay

1 from Senator Grassley's office for copies of these documents,
2 is that correct?

3 A Yes.

4 Q Did you decline to give those to Senator Grassley's
5 office because Lilly had at that time asked you not to even

6 though you say you question whether that was an appropriate
7 request at that time?

8 A Yes.

9 Q And in fact, once Lilly communicated to you that it
10 didn't want these documents out, without waiting for a Court
11 order and without challenging this further until this was
12 resolved, you made no further distribution of these documents,
13 is that correct?

14 A That's correct.

15 Q In fact, since that time you have not assisted or tried
16 to get these documents out to other people, is that correct?

17 A Correct.

18 Q There was a question raised about an E-mail. When you
19 sent the E-mail out to people telling them to send these back
20 after the court, Judge Cogan, had ordered this, there is a
21 question raised about some language that you sent that said
22 that you had serious objection to. So we're clear on this,
23 was that objection to specific language or to the entire
24 order?

25 A Just to specific language.

 ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
 United States District Court Eastern District of New York

148

Gottstein/Cross/McKay

1 Q And did what you send have a link that they would press
2 on and see very specifically what you were talking about?

3 A Yes.

4 Q Was that the language that said that you had willfully?

5 A Knowingly aided and abetted, I think.

6 Q So you made it very clear your objection was to that
7 specific language and underlining that language?

8 A I believe so. I'd have to look.

9 Q And it said I object to this language?

10 A On the page on the internet, absolutely, yes.

11 Q And other than pointing out that particular language, you
12 clearly told people that you expected them to comply with the
13 Court order, is that correct?

14 A Yes.

15 Q So that the reason I asked you, BB is initials for a case
16 that it's inappropriate to disclose the identity of the
17 petitioner.

18 If Lilly had timely objected to the release of these
19 documents pursuant to your subpoena, was it your expectation
20 that you would be instead of sitting here, sitting in the
21 Superior Court in Anchorage addressing these same things or at
22 least addressing the questions of these documents being
23 released to the public?

24 A Release to the public?

25 Q Release, in other words, when you filed your subpoena

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

149

Gottstein/Cross/McKay

1 with Dr. Egilman, it was likely one scenario is they did what
2 the protective order said and objected within a reasonable
3 time the other is that they didn't?

4 A Yes.

5 Q As it turns out, you feel that they didn't and you got
6 the documents. If they hadn't objected in a reasonable time,
7 that doesn't mean the documents wouldn't have become public
8 anyway, is that correct?

9 A Correct.

10 Q Your intention was, if they objected in a timely fashion,
11 to then present that matter to the trial Court where the
12 subpoena was issued, is that correct?

13 A Yes.

14 Q Then as you told the judge yesterday, I think, you had,

15 because you undertook this litigation in part because this was
16 an opportunity to -- I apologize. If I can back up for just a
17 minute.

18 We have submitted a declaration so I'm not going
19 into all of this.

20 You had written about your psychiatric rights law
21 project for psychiatric rights public interest law firm and
22 submitted articles that, presentations that you have made
23 concerning that to the Court as part of your declaration, is
24 that right?

25 A Yes.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

150

Gottstein/Cross/McKay

1 Q Is this case an example kind of strategic litigation you
2 would undertake for purposes of advancing the missions of the
3 law project for psychiatric rights?

4 A Yes.

5 Q One important goal that you hope to accomplish in
6 addition particular litigation in addition to representing
7 some interest specific to BB was that important documents
8 concerning Zyprexa and other things that might come out in
9 this case would be made available to the public and to
10 researchers and doctors, is that correct?

11 A Yes.

12 Q So that had we not bypassed that stuff because Lilly
13 hadn't timely objected to the release, you would still be here
14 asking for these documents in Superior Court anyway?

15 A Here being in the case in Alaska.

16 Q And it -- as I understand it, it was your intention as
17 soon as the Court there if it were necessary to go that far
18 ordered those documents to be provided, you would have then
19 made them then publicly available as soon as you could?

20 A Yes.

21 MR. MCKAY: Your Honor, I'm tempted to ask the
22 witness about his desire to protect the public safety and
23 health and I honestly in the interest of time, it has been
24 covered. I think that it's fairly on the record and I think
25 in the interest of time, his reasons for doing that have been

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

151

Gottstein/Cross/McKay

1 stated and I don't think I have any further questions at this
2 time.

3 THE COURT: Thank you.

4 Anybody else in the courtroom?

5 MR. HAYES: No.

6 MR. MILSTEIN: No.

7 THE COURT: Anybody on the telephone?

8 Give your name and you may ask questions.

9 MR. CHABASINSKI: My name is Ted Chabasiński and I
10 represent MindFreedom, Robert Whittaker and Judy Chamberlain.

11 CROSS-EXAMINATION

12 BY MR. CHABASINSKI:

13 Q Before you began your effort to obtain these documents,
14 did you discuss your plan with David Oaks or anyone else
15 connected with MindFreedom?

16 A No.

17 Q Did you discuss your plans with Judy Chamberlain?

18 A No.

19 Q Did you discuss your plans with Bob Whittaker?

20 A No.

21 Q I'm having trouble hearing you.

22 While you were in the process of obtaining these
23 documents, did you discuss your activity along these lines

24 with David Oaks or anyone else from MindFreedom?

25 A No.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

152

Gottstein/Cross/Chabasi nski

1 Q Did you discuss it with Judy Chamberlain?

2 A No.

3 Q Did you discuss it with Robert Whittiker?

4 A No.

5 Q After you obtained the documents, I think you've already
6 said that you sent them to Judy Chamberlain and Robert
7 Whittiker. Did you send copies of these document to
8 MindFreedom?

9 A No.

10 Q At the time that you sent these documents or didn't send
11 these -- let's try it one at a time.

12 When you sent these documents to Robert Whittiker,
13 did you tell him or discuss with him exactly what you wanted
14 him to do with them?

15 A No.

16 Q Did you have that kind of discussion with Judy
17 Chamberlain?

18 A No.

19 Q Did you have any discussion with David Oaks or any other
20 official or board member of MindFreedom as to what you thought
21 should be done with the documents which you had incidentally
22 not sent them anyway, did you have that sort of discussion?

23 A No.

24 MR. CHABASINSKI: That's all I have, your Honor.

25 THE COURT: Thank you.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

153

Gottstein/Cross/Chabasi nski

1 Any cross-examination or redirect I should say?

2 MR. FAHEY: Very brief redirect, your Honor.

3 REDIRECT EXAMINATION

4 BY MR. FAHEY:

5 Q Mr. Gottstein, I'm a little confused about two points.

6 One, yesterday you testified that Dr. Egilman told
7 you enough about the documents to know that they were in your
8 words hot, right?

9 A I'm not sure that I said that he told me enough about
10 them.

11 Q You knew before you had the documents that they were
12 "hot", you said that yesterday, right?

13 A I'll take it that I did.

14 Q And then --

15 A But he didn't really tell me very much really about the
16 documents if anything really.

17 Q Enough to know that they were quote hot"?

18 A I knew that he had documents that I was interested in.

19 Q Because they were "hot"?

20 A Yeah.

21 Q And then Mr. Chabasiński just asked you about your
22 communications with members of MindFreedom prior to your
23 sending them documents.

24 You testified for a portion --

25 MR. CHABASIŃSKI: Objection. He testified that he

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

154

Gottstein/Redirect/Fahey

1 didn't send them documents.

2 MR. FAHEY: That's what I'm trying to clear up.

3 Q You testified yesterday that you did speak with Mr.
4 Whittaker before you sent him the documents?

5 A No, I don't think I spoke with Mr. Whittaker before I sent
6 him the document.

7 MR. FAHEY: We'll look at the transcript.

8 A Whatever it said, I believe that I talked to him after
9 they were already in the mail to him.

10 Q But before he had received them?

11 A Yes.

12 Q Okay.

13 So that is the distinction you were drawing with
14 respect to all the things that Mr. Chabasiński was asking, you
15 were drawing a distinction between whether you had sent them
16 and whether they had received them, correct?

17 A I don't know. I was responding to his specific
18 questions.

19 Q Now you said you issued four subpoenas in your Alaska
20 case, correct?

21 A Yes.

22 Q Dr. Egilman was one?

23 A Yes.

24 Q Dr. Grace Jackson was another?

25 A Yes.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

155

Gottstein/Redirect/Fahey

1 Q Who were the other two people?

2 A Ron Adler and Steve Young.

3 Q And Dr. Grace Jackson's deposition has been canceled by
4 you?

5 A Yes.

6 Q That was on December 13, the day after you received the
7 Zyprexa documents, correct?

8 A If that's what the documents show.

9 Q And the other two were canceled as well?

10 A No.

11 Q But they haven't been taken, correct?

12 A Correct, they have been postponed.

13 Q Indefinitely, you don't have a date for those two
14 depositions as you sit here today, do you?

15 A There is a big kind of brouhaha about all this now so
16 it's going to be resolved by the Superior Court. There has
17 been an objection to the taking of these depositions so we're
18 going to go back not very long from now. I have a deadline of
19 the 2nd of February I believe to respond to all of the pending
20 issues in that case.

21 Q And they haven't been taken yet?

22 A Correct.

23 Q And the subpoena you were talking about with Mr. McKay --

24 A May I add one other thing which is part of that is that
25 at your counsel's insistence.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

156

Gottstein/Redirect/Fahey

1 Q The question wasn't whether it was at my counsel's
2 insistence and we are not going to debate that. We want to
3 know whether or not you have taken those two depositions and
4 your answer was no, correct?

5 A Correct.

6 Q And the subpoena that you were talking to Mr. McKay
7 about, the one that was sent by Dr. Egilman to Lilly's general
8 counsel, that, as you now have seen, that letter said that the
9 documents will be produced on December 20, right?

10 A The letter said that?

11 Is it here?

12 I'm not sure what it did say about that.

13 Q Yes.

14 A Do I have that one?

15 Q P2, I believe.?

16 MR. MILSTEIN: He doesn't have it in front of him.

17 Q It's your December 17 letter. Do you have that in front
18 of you?

19 A No.

20 MR. MCKAY: Can we know what the question is?

21 THE COURT: Would you repeat the question.

22 Q Sure.

23 Dr. Egilman when he communicated with Mr. --
24 withdrawn.

25 When Dr. Egilman communicated with Lilly's general

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

157

Gottstein/Redirect/Fahey

1 counsel, he told him that documents would be produced on
2 December 20, correct?

3 MR. MILSTEIN: Are you asking him to look at a
4 letter that he wrote or a letter that Dr. Egilman wrote?

5 A I took it to mean the one that Dr. Egilman wrote.

6 MR. HAYES: That is in evidence.

7 THE COURT: Let him look at it.

8 A I'm trying to find it.

9 (Pause.)

10 I don't see that letter in here.

11 Q If you look at the amended subpoena, we agree that Dr.
12 Egilman sent Lilly's general counsel the December 6 subpoena,
13 correct?

14 A Yes.

15 Q And that called for the production of documents on
16 December 20th, correct?

17 A Yes.

18 Q And then on December 11th you issued an amended subpoena,

19 correct?

20 A The Court issued. I requested it, yes.

21 Q And then Dr. Egilman began producing documents the next
22 business day?

23 MR. HAYES: Objection, not the next business day.

24 Q It is the next business day, isn't it, sir?

25 A I think it was two business days. It was after the close

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

158

Gottstein/Redirect/Fahey

1 of the next business day, I believe.

2 Q Your certification says that Dr. Egilman began producing
3 documents on December 12, correct?

4 A Yes, but after the business day.

5 Q You start -- you were shipping documents out to your
6 recipients on December 12, correct?

7 A Yes, after the business day.

8 Q Well, regardless of when you sent them out, you had
9 documents from Dr. Egilman on December 12, one business day
10 after your amended subpoena, correct?

11 A It was after the business day.

12 Q On December 12th, correct?

13 A After the end of the business day on December 12th, yes.

14 MR. FAHEY: I have nothing further, your Honor.

15 THE COURT: Is there any reason why we shouldn't
16 release this witness?

17 MR. HAYES: None that I know of.

18 MR. MILSTEIN: One thing. Counsel for Lilly
19 represented that for one, that letter is in Petitioner's 1.
20 It's not.

21 He also -- I think he represented that the letter
22 that he is talking about from David Egilman to general counsel

23 of Lilly represented that the documents would be produced on
24 the 20th. That was your representation.

25 MR. FAHEY: That was his testimony.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

159

1 MR. MILSTEIN: That was your representation.

2 The letter doesn't say that. If you want to read
3 the letter into the record.

4 MR. FAHEY: I'll stipulate that the letter speaks
5 for itself and the subpoena and the amended subpoena speaks
6 for itself.

7 MR. MILSTEIN: The letter does not say that the
8 documents are going to be produced on the 20th.

9 MR. FAHEY: It called for a production date on
10 December 20th.

11 MR. MILSTEIN: The letter doesn't say that.

12 MR. MCKAY: It's in the declaration.

13 MR. FAHEY: It's attached to Mr. Gottstein's
14 declaration which I think is P7.

15 MR. MILSTEIN: Let me read the letter in the record.

16 "I am a consulting witness in the Zyprexa litigation
17 and have access to over 500,000 documents and depositions
18 which Lilly claims are confidential discovery materials.
19 Lilly defines these as "any information that the producing
20 party in good-faith believes properly protected under federal
21 Rule of Civil Procedure 26(c)(7). Lilly has claimed that
22 newspaper articles and press releases fit this definition. I
23 have received a subpoena attached that calls for the
24 production of all of these documents and depositions in
25 compliance with the protective order. I am supplying a

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

1 complete copy of the subpoena which notifies you of all of the
2 following: 1, the discovery materials that are requested for
3 production in the subpoena; two, the date on which compliance
4 with the subpoena is requested; three, the location at which
5 compliance with the subpoena is requested; four, the identity
6 of the party serving the subpoena; and five, the case name,
7 jurisdiction and index, docket, complaint, charge, civil
8 action or other identification number or other designation
9 identifying the litigation, administrative proceeding or other
10 proceeding in which the subpoena or other process has been
11 issued. Signed David Egilman, MD, 8 North Main Street, suite
12 404, Attelboro, Massachusetts 02703, and then lists his E-mail
13 address, his phone number and his cell number.

14 MR. FAHEY: And we will stipulate that's what the
15 letter says and if you want me to ask Mr. Gottstein, I think
16 it's already clear but I can ask him if there is any other
17 date other than December 20th on the subpoena that is attached
18 to that letter.

19 MR. MCKAY: I think the record is clear.

20 MR. FAHEY: I think that it's clear as well. I'm
21 not sure why we are going through this exercise.

22 MR. MCKAY: Because you misstated what is in the
23 letter.

24 THE COURT: As I understand it, the attached
25 document is December 20th.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

1 MR. HAYES: Right.

2 THE COURT: I think it's reasonable to read the
3 letter plus the attachment as indicating December 20th as the

4 date for supplying the exhibits.

5 MR. MCKAY: Your Honor --

6 THE COURT: Do you want to ask anything?

7 MR. MCKAY: No, your Honor. I think that it's
8 really argumentative. It's the date of the deposition and we
9 agree with that.

10 THE COURT: Then I'm prepared to release the
11 witness.

12 MR. HAYES: Yes.

13 THE COURT: Have a good trip back to Alaska, sir?

14 THE WITNESS: Thank you, your Honor.

15 (Witness excused.)

16 THE COURT: Next witness.

17 MR. LEHNER: At this time we would call Vera Sharav
18 who is still in the courtroom, I believe.

19 VERA SHARAV, having been called as a

20 witness, first being duly sworn, was examined and

21 testified as follows:

22 THE CLERK: Could you please spell your name for the
23 court reporter.

24 THE WITNESS: Vera Sharav, V-E-R-A S-H-A-R-A-V.

25 DIRECT EXAMINATION

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

162

Sharav/Direct/Lehner

1 BY MR. LEHNER:

2 Q Good afternoon, Mr. Sharav.

3 My name is George Lehner and I represent Lilly in
4 this proceeding.

5 Can you tell us when you first met Mr. Gottstein,
6 under what circumstances?

7 A That's hard to tell because I don't really remember.

8 Face-to-face when did I meet him?

9 Q When did you first become acquainted with him?
10 A I became acquainted with his work with Psych Rights Law
11 Project.
12 Q When was that?
13 A That might have been two years ago. I don't have an
14 exact.
15 Q 20?
16 A 2 years ago perhaps.
17 Q And over the last two years, what kind of contact have
18 you had with Mr. Gottstein?
19 A All kinds of contact. We have similar goals in certain
20 ways and we sometimes collaborate and I spoke, gave a
21 presentation at a conference that he held on November 17th for
22 the National Association For Rights Advocacy. I forgot the
23 last name but it's NAPA. It's an organization for psychiatric
24 patients' rights.
25 Q So it's fair to say over the last two years you've had
ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

163

Sharav/Direct/Lehner

1 regular contact with Mr. Gottstein, is that correct?
2 A As I do with very many advocates.
3 Q And the conference that you mentioned on November 17,
4 that was, you were with Mr. Gottstein at that particular
5 conference?
6 A He organized it. I was invited as a speaker and went to
7 Baltimore and presented to them, yes.
8 Q At that conference did you and Mr. Gottstein have an
9 occasion to talk about Zyprexa and the litigation that was
10 ongoing at the time?
11 A No.
12 Q And if you let me finish my question, it will make it a

13 lot easier for the court reporter and I'll try not to
14 interrupt your answer as well.

15 My question was, and I think if I understood, your
16 answer was that you did not have any occasion to discuss
17 Zyprexa with Mr. Gottstein when you were with him on
18 November 17?

19 A I was actually together with my husband so I didn't have
20 these private conversations. It was a conference as I said.

21 Q Let me ask you, and you've been in the courtroom and
22 you've heard testimony about the documents that Mr. Gottstein
23 received from Dr. Egilman.

24 When did you first receive a copy of the documents
25 that we've been talking about here today, those documents that

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

164

Sharav/Direct/Lehner

1 Dr. Egilman produced to Mr. Gottstein?

2 A I believe it was on the 18th. I have the document with
3 me. The stamp was the 14th. In other words, it left Alaska
4 on the 14th. I didn't get it before the 18th. It was a
5 weekend.

6 Q They were mailed to you?

7 A Yes.

8 Q You said you had the documents with you?

9 A Yes.

10 Q Is that a DVD version?

11 A Yes.

12 Q It's the only copy you were provided?

13 A What I have is what I was provided.

14 Q Had you been alerted that these documents were going to
15 be sent to you before the time they actually arrived when they
16 arrived at your home?

17 A I had received word that the documents had been posted

18 and I was given the website and I tried to open it and I
19 couldn't. So I sent Jim an E-mail and said I can't open it.

20 Q Let take that apart a little bit.

21 You had received word. Who had you received word
22 from?

23 A I believe it was -- I think it was Bob Whittaker. I'm not
24 sure but this was -- you have to understand that when those
25 documents evidently went up, I was in Washington at an FDA

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

165

Sharav/Direct/Lehner

1 hearing where I had to conduct a press briefing about
2 antidepressants and suicidality so I was quite out of it and
3 came back on 14th at which time I had a barrage of E-mails
4 from different people about the Zyprexa documents being up on
5 the web.

6 Q So you came back from a conference in Washington or a
7 meeting in Washington?

8 A A hearing, an FDA advisory hearing.

9 Q On the 14th?

10 A Yes. I was there the 12th and 13th.

11 Q Which was a Thursday?

12 A I guess.

13 Q At that point you had a barrage of E-mails alerting you
14 that the documents that had been provided by Dr. Egilman to
15 Mr. Gottstein were on a website?

16 A That's not exactly how it was put, but what was said was
17 that the Zyprexa documents were up on the website, yes.

18 Q And do you recall from whom you received --

19 A As I said, there were many. There is a network, people,
20 and you get actually lots of duplicates.

21 Q I'm going to ask you again, please don't interrupt me and

22 I won't interrupt you.

23 My question was: Do you recall some of the people
24 who sent you that E-mail? I understand it was a barrage but
25 from whom did you receive the E-mail?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

166

Sharav/Direct/Lehner

1 A Actually from far and wide. There are advocate in the
2 U.K., Australia, Canada. Word travels on the internet and
3 that is in fact the big connecting factor for people who don't
4 have great many resources and who don't have many lawyers.
5 The internet is the way that there is a constant interchange
6 and that is how it happens.

7 Q Do you still have your computer on which you received the
8 barrage of E-mails?

9 A Probably some have probably been deleted but some I still
10 have.

11 Q Do you still maintain the same computer on which they
12 were received?

13 A Yes.

14 Q Did you have any conversations with anybody after you
15 received these E-mails and before you actually received the
16 physical package containing the disc containing the documents?

17 A No, I just --

18 Q Did you have any conversation with anybody about what
19 these documents may be that were in the mail on their way to
20 you between the 14th and the time they arrived at your home?

21 A I think you have to understand that many of us were quite
22 aware that the documents had first been obtained in what is
23 now referred to as the Zyprexa 1 trial, the one in which there
24 were 8,000 plaintiffs and Lilly paid some \$690 million which
25 we regard as money to keep the documents out of the public

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter

Sharav/Direct/Lehner

1 domain.

2 And so there was guessing as to what was in them.
3 We also know from documents from the FDA and from pre-clinical
4 -- before the drug was approved as to some of the problems and
5 the fact that diabetes is now an epidemic --

6 Q What I want to really focus on are the conversations that
7 you had about how you learned what was in these documents.
8 You said you became aware even before the time the documents
9 were on their way to you what was in those documents.

10 How did you become aware of that?

11 A As I just explained, the adverse events that have been
12 observed in clinical practice --

13 Q So --

14 A I would also like not to be interrupted.

15 Q The first time I did it and I apologize.

16 A The fact that patients are getting diabetes,
17 cardiovascular dysfunction, hyperglycemia, that people are
18 dying, this is what is really the issue here. People are
19 dying from this drug. So getting documents that validate the
20 clinical evidence is very important to us.

21 Q Let me focus a little bit more on what you did when you
22 actually received the documents than on the weekend after you
23 got back.

24 The 18th was on a Monday?

25 A It could not have been before Monday and I get mail in

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

Sharav/Direct/Lehner

1 the afternoon.

2 Q The documents arrived in the mail, what did you do at

3 that point with this disc? It's a computer disc?
4 A I had it. I didn't do anything with it but I got some
5 calls.
6 Q Did you load it up on your own computer?
7 A Yes.
8 Q And you tried to open it?
9 A Yes.
10 Q And were you able to open it?
11 A Yes, I was.
12 Q Did you print up any of those documents?
13 A Yes.
14 Q And did you then distribute the documents that you
15 printed to anybody or give them to anybody?
16 A I read the documents or some of them.
17 Q Did you give them to anybody else?
18 A I had calls from a couple of press people and two came,
19 borrowed the disks, made copies and returned them. I didn't
20 do it.
21 Q Who were these people?
22 A Wall Street Journal, Bloomberg News.
23 Q That was done on the afternoon of the 19th or the 18th?
24 A The 18th I think -- 18th and 19th, morning.
25 Q Were you aware when you received these documents that

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

169

Sharav/Direct/Lehner

1 they had been the subject of what has been described here and
2 you've heard the testimony of a protective order that had been
3 entered into this case?
4 A I don't know about a protective order about the case.
5 What I was given to understand is that the documents were
6 obtained legally, that certain legal procedures were
7 undertaken and that's it and I accepted that. And of course

8 by the time I got them, they had been in the New York Times so
9 I figured that is the public domain.

10 Q Who had given you the understanding that they had been
11 obtained legally? Who told you that they had been obtained
12 legally? You said you had been given an understanding?

13 A That would be Jim Gottstein.

14 Q So you spoke to Jim Gottstein over the weekend?

15 A I spoke to him when I couldn't open the link. Remember.
16 I couldn't, in other words, download it myself so I said can
17 you send me it.

18 Q So you called Mr. Gottstein, said I'm trying to download
19 these documents from a link I have, I'm not able for open them
20 and you had a conversation with Mr. Gottstein at that time?

21 A Yes.

22 Q During that conversation you were led to believe that
23 these documents had been obtained legally?

24 A Yes.

25 Q And that understanding was provided to you by Mr.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

170

Sharav/Direct/Lehner

1 Gottstein, is that correct?

2 A It was validated in my mind when they appeared on Sunday
3 in the New York Times front page, then again on Monday on the
4 front page. Then of course the editorial calling for
5 congressional hearings about the content of the documents and
6 that is really my interest. My interest is the content
7 because the documents document the fact that Eli Lilly knew
8 that the -- that Zyprexa causes diabetes. They knew it from a
9 group of doctors that they hired who told them you have to
10 come clean. That was in 2000. And instead of warning doctors
11 who are widely prescribing the drug, Eli Lilly set about in an

12 aggressive marketing campaign to primary doctors. Little
13 children are being given this drug. Little children are being
14 exposed to horrific diseases that end their lives shorter.

15 Now, I consider that a major crime and to continue
16 to conceal these facts from the public is I think really not
17 in the public interest. This is a safety issue.

18 MR. LEHNER: I move to strike as being nonresponsive
19 to my last question and I would like to ask the court reporter
20 if he is able to -- I think I remember my last question. I'll
21 repeat my last question. Nonetheless, I'll make a motion to
22 strike the last answer.

23 THE COURT: Denied.

24 Q My question was was it Mr. Gottstein who conveyed to you
25 the impression that you formed in your mind that these

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

171

Sharav/Direct/Lehner

1 documents had been obtained legally?

2 A Yes.

3 Q So the answer to that is yes?

4 A Yes.

5 Q Thank you very much.

6 Now, when he conveyed to you that the documents had
7 been obtained legally, did he tell you that they had been in
8 his view subject to a protective order at one point in time?

9 A By this time I don't know any more about protective. The
10 next thing that came were an E-mail like I think from one of
11 your lawyers.

12 Q So at some point you learned that these documents were
13 subject to a protective order and were in fact considered by
14 Eli Lilly to be confidential documents, is that correct?

15 A I realized that there was contention around it. I did
16 not accept necessarily what Eli Lilly's interpretation is.

17 Q I'm not asking you that.

18 You understood that there was at least a belief by
19 Eli Lilly and perhaps others that these documents were still
20 subject to the protection of the Court under the protective
21 order?

22 A No, I don't really -- I have to admit, protective order
23 pro se does not mean the same thing to me as it does to you.

24 Q You understand that they were designed to be kept
25 confidential?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

172

Sharav/Direct/Lehner

1 A Except that they were open in the New York Times. That
2 signalled that they were open to the public.

3 Q Were there any documents that were actually reprinted in
4 the New York Times or was it actually a story?

5 A There were quotes from documents.

6 Q No whole pages or whole documents in the New York Times?

7 A No, but there were quotes from extensive documents.

8 Q Did you ever consult or consider consulting a lawyer to
9 determine the fact of whether you received this does put you
10 in any type of legal jeopardy?

11 MR. MILSTEIN: That would be attorney/client
12 privilege.

13 MR. LEHNER: I'm not asking whether she consulted a
14 lawyer.

15 THE COURT: Address your remarks to me. She is just
16 being asked about whether she consulted. That is not
17 privilege.

18 A I did not think I had any reason to.

19 Q Did you ever consider whether or not there was any
20 opportunity to contact Eli Lilly or to contact Mr. Gottstein

21 or any of the attorneys that you had become aware were
22 involved in this controversy and determine whether or not
23 there was a procedure that had been set up to determine
24 whether or not these documents should be kept confidential?

25 A I'm afraid that after they appeared in the New York

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

173

Sharav/Direct/Lehner

1 Times, I did not think that it was my obligation to go hunting
2 for what Eli Lilly considered or didn't consider. That really
3 is not my purview.

4 Q Now, I'll ask that this be marked as Petitioner's
5 number 7, please -- 8.

6 THE COURT: You are offering it in evidence?

7 MR. LEHNER: I am, your Honor.

8 THE COURT: Admitted.

9 (So marked in evidence Petitioner's Exhibit 8.)

10 Q Have you had an opportunity to review what has been
11 marked as Petitioner's 8?

12 A Yes.

13 Q And if I'm correct, this is an E-mail that was sent from
14 Mr. Jim Gottstein to Veracare. Is that your E-mail address?

15 A Yes.

16 Q And it was sent on Tuesday December 19th?

17 A Yes.

18 Q And it's copied to Mr. Gottstein and Mr. McKay and Mr.
19 Woodin, somebody at the Lanier Law firm, an address
20 emj@lanierlawfirm, an address rdm at the Lanier Law firm,
21 gentleman at the law firm of Elaine Powell?

22 A These weren't familiar to me, of course.

23 Q The only name that is familiar on there I take it is Mr.
24 Gottstein?

25 A Yes.

Sharav/Direct/Lehner

1 Q He sent you this E-mail on December 19 and if you would
2 read the first two lines of the E-mail.

3 A "I mailed you two DVDs with some documents on them
4 pertaining to Zyprexa and have been orally ordered to have
5 them returned too."

6 Q Now you indicated earlier on that you received one DVD.
7 Did you receive one or in fact receive two?

8 A 2.

9 Q So you received two DVDs?

10 A Yes.

11 Q Have you brought both of these DVDs with you here today?

12 A Yes.

13 Q You brought both of them here with you today?

14 A Yes.

15 Q My questions earlier on about opening the documents
16 loading them on your computer, my understanding was we were
17 talking about one DVD but did you in fact open up both DVDs
18 and copy both DVDs onto your computer?

19 A I did one. I assumed they were duplicates.

20 Q Did you look at the second DVD to determine if it was a
21 duplicate?

22 A No, I didn't have time. This is very laborious.

23 Q Was there something in the package to indicate to you
24 that these were duplicates of one DVD?

25 Was there anything in the packet itself that

Sharav/Direct/Lehner

1 suggested that these were duplicates of the same DVD?

2 A No, I had asked for two copies.

3 Q Who did you ask for two copies?

4 A From Jim.

5 Q So you had a communication with Jim?

6 A That was the same communication that I referred to
7 earlier. When I couldn't open it and download it myself, I
8 indicated that to him.

9 Q And what was your interest in having two copies?

10 A I wanted to take one to the New York State Attorney
11 General.

12 Q Now, this E-mail goes on and gives the address to whom
13 Mr. Gottstein has been asked to send these DVDs back. And it
14 gives a link to the proposed order in the case.

15 Did you open up that link and read the order?

16 A No, I didn't, actually because I noticed that he said he
17 was orally ordered and I didn't think that orally ordered was
18 a Court order and I wanted to hear that there would be a
19 hearing or some sort of thing in court and then I would of
20 course follow that. But when it says I've been orally
21 ordered, that sounded peculiar to me. It didn't sound like an
22 order from the Court.

23 MR. CHABASINSKI: Your Honor, I cannot hear the
24 witness at all.

25 THE WITNESS: Can you hear now?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

176

Sharav/Direct/Lehner

1 MR. CHABASINSKI: Yes, thank you.

2 Q Would you go on and read the rest of the E-mail after the
3 address. The address -- we'll stipulate the document says to
4 Mr. Peter Woodin. Then it gives a website, but if you would
5 read that paragraph that begins starting with a copy.

6 A "A copy of the proposed written order is posted at Psych

7 Rights -- that is the organization and so forth -- with a
8 comment about certain language which I strenuously disagree
9 with and we are trying to get eliminated from the signed
10 order.

11 Q Would you read the next paragraph?

12 A "Regardless, please return the DVD, hard copies and other
13 copies to Special Master Woodin immediately. If you have not
14 yet received it, please return it to Special Master Woodin
15 when you do receive it. In addition, please insure that no
16 copies exist on your computer or any other computer equipment
17 or in any other format, websites or FTP sites or otherwise on
18 the internet. There is a question in my mind that the Court
19 actually has jurisdiction over me to issue the order. I
20 believe I came into the documents completely legally but the
21 consequences to me if I am wrong about the jurisdiction issue
22 are severe so I would very much appreciate your compliance
23 with this request."

24 Q I take it that you did not return the DVD to Mr.
25 Gottstein or to Special Master Woodin, is that correct?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

177

Sharav/Direct/Lehner

1 A That's correct.

2 Q And you did not return the hard copies or any copies of
3 the hard copies that you made to Special Master Woodin, is
4 that correct?

5 A That's correct.

6 Q And I take it that you did not check your computer to
7 make sure that no copies of the documents once you had opened
8 them on your computer existed, is that correct?

9 A That's correct.

10 Q Why not?

11 A In the meantime, I also had word that there would be a
12 hearing.

13 Q When did you first get word that there would be a
14 hearing?

15 A I don't know the exact date but this was very much in
16 tandem because the first thing I heard, I think the first
17 communication was from your cocounsel --

18 What's his name?

19 It's not listed here. Fahey.

20 So that there were cross-signals going on and I did
21 see that there would be a Court hearing and I decided to wait
22 for that.

23 Q Was there anything in the notice that you received about
24 the court hearing that suggested that the order that had been
25 given here to return these documents was somehow being

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

178

Sharav/Direct/Lehner

1 withdrawn?

2 A As I say, this is coming to me not from the Court, it's
3 coming from James saying that he was ordered orally and
4 telling it to me. That is not direct instruction from the
5 Court.

6 Q But the same time as you testified, you didn't feel it
7 was necessary to even push on the link here where you could
8 read the order yourself, that was your testimony?

9 A It's --

10 Q That was your testimony, isn't that correct?

11 A Jim posted many documents during this time. I did not go
12 to each one because I was busy also with other things. The
13 Zyprexa thing, as important as it is, was not the only thing
14 that I had to deal with during this period.

15 So no, I did not go and download each of the

16 documents. They were coming fast and furious.

17 Q Let's go back and look at the website address to see
18 whether that might have heightened your concern about what
19 this particular document was.

20 That website address reads
21 <http://PsychRights.org/states/Alaska/caseXX/EliLilly/proposed>
22 order.

23 Is that correct?

24 A Proposed order.

25 Q And you read that?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

179

Sharav/Direct/Lehner

1 A Proposed order. It's not a definite thing. I did not
2 take that as a definite. It says proposed order.

3 Q So you reread that in this E-mail and decided I don't
4 need to open this?

5 A That's right.

6 Q Do you recall receiving the order dated December 29 from
7 this Court which was I think transmitted to you by Mr. Fahey
8 among others?

9 A I do and I took that one seriously.

10 Q Did you return the documents as a result of receiving
11 that particular order?

12 A We weren't told to return them, the Court did not order
13 us to return them.

14 Q But did the Court order you to do that at that time, do
15 you recall?

16 A I don't know.

17 Q You took that order seriously enough so that you posted
18 it on your website, is that correct?

19 A Yes.

20 MR. MILSTEIN: Can you show the witness the order.

21 MR. LEHNER: Just so it's in the record, I would
22 like to mark it.

23 THE COURT: Petitioner's 9, order of Judge Cogan
24 filed December 29th.

25 Do you have a copy, ma'am?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

180

Sharav/Direct/Lehner

1 THE WITNESS: Not yet.

2 MR. LEHNER: Just for housekeeping, I think we did
3 move the admission of Petitioner's 8.

4 MR. MILSTEIN: I have no objection to the admission
5 of the order. I object to his characterization. He
6 characterized the order as saying it required the return of
7 the documents. The order requires no such thing.

8 THE COURT: That is true but for the sake of the
9 clarity of the record, I'll introduce it as Petitioner's 9
10 even though obviously it's a part of the record.

11 (So marked in evidence Petitioner's Exhibit 9.)

12 Q You have that order in front of you?

13 A Yes, I do.

14 Q Is that the order that you posted on your website?

15 A That may be. I have a blogger.

16 MR. LEHNER: Can we mark as the next exhibit
17 Petitioner's 10.

18 THE COURT: Mark it in evidence Petitioner's 10.

19 (So marked in evidence Petitioner's Exhibit 10.)

20 THE COURT: Should you want a recess at any time,
21 just ask for it.

22 THE WITNESS: Thank you.

23 MR. LEHNER: May I approach the witness for a
24 minute?

25

THE COURT: Yes.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

181

Sharav/Direct/Lehner

1 MR. LEHNER: Can I make sure they are in the right
2 order. They might have gotten -- yes, that is fine.

3 (Pause.)

4 MR. MILSTEIN: Do you have a question?

5 Q Yes.

6 Have you had a chance to read that?

7 A I'm familiar with this, this is on our blogger.

8 MR. MILSTEIN: Just wait for the question.

9 MR. LEHNER: Your Honor, if I can hand her
10 Exhibit 8.

11 Q You said this is a blog that you maintained?

12 A Actually, it's maintained by a scientist in the U.K.

13 Q This is a blog to which you post information, is that
14 correct?

15 A Yes.

16 Q And the particular information that is included on this
17 particular document that appeared on the website was posted by
18 you, is that correct?

19 A Not physically. It's posted by the scientist.

20 Q It's your content that you provided to somebody who
21 puts --

22 A Except for the first line, your esteemed author. I don't
23 do that.

24 Q Other than that, these are your words that you wrote?

25 A Yes.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

182

Sharav/Direct/Lehner

1 Q And had somebody put on the website, is that correct?

2 A Yes.

3 Q And the -- I'll turn your attention to the paragraph that
4 begins: "See the court injunction several of us received
5 below."

6 Do you see that particular paragraph?

7 A Yes.

8 Q The -- why don't you just read that paragraph through to
9 the end, please.

10 A "See the court injunction several of us received below
11 but the internet is an uncontrolled information highway. You
12 never know where and when the court's suppressed documents
13 might surface. The documents appear to be downloadable at --
14 and it provides two websites that I'm unfamiliar with. Do you
15 want me to read them?

16 Q No, that is all right. We'll note there are two websites
17 here in the documents but these are website addresses that you
18 wrote put in this document that directs people to go to the
19 documents, is that correct?

20 A If they chose, yes.

21 Q And you were aware, however, that the order that you put
22 on the -- and posted in this blog and had copied in there
23 suggested that those -- suggested or not or ordered that the
24 temporary mandatory injunction requires the removal of any
25 such documents posted at the website?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

183

Sharav/Direct/Lehner

1 A We did not have them at our website.

2 Q You read the order, is that correct?

3 A Yes.

4 Q And you understood that the order itself required that
5 the mandatory injunction required the removal of any such

6 documents posted at any website?

7 A Yes, but I have no control over what people put on their
8 websites.

9 Q But you did feel that you had not only the opportunity
10 but I guess you felt you had the obligation to direct people
11 the toward websites where you believed at least they could
12 find these documents which the Court had ordered to be removed
13 pursuant to the order of December 29th, is that correct?

14 A That's correct.

15 Q Let me just ask one final question.

16 You mentioned that the group that you are associated
17 with the Alliance For Human Resource?

18 A Protection.

19 MR. MILSTEIN: Research.

20 A Research, Alliance For Human Research Protection.

21 Q That is a group?

22 A I am the president and founder.

23 Q Is that group affiliated with MindFreedom in any way?

24 A No.

25 Q Is it affiliated with NAPA in any way?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

184

Sharav/Direct/Lehner

1 A No, we are strictly independent in every way, no funding
2 from industry.

3 MR. LEHNER: One more document to make sure that the
4 record is complete here.

5 THE COURT: Petitioner's 11.

6 (Pause.)

7 Q Have you had an opportunity to review what has been
8 marked as Petitioner's 11?

9 A Yes, I have.

10 MR. LEHNER: We move that into evidence, your Honor.

11 THE COURT: Yes.

12 (So marked in evidence Petitioner's Exhibit 11.)

13 Q Why don't you just tell us the dates on which this E-mail
14 was sent and received?

15 A It was sent on Sunday December 17th, the day that the
16 first article on the front page of the New York Times appeared
17 and I wrote a note to Jim: "Hope I get the copies." I still
18 hadn't had the copies. "I intend to call New York State
19 Attorney General Andrew Cuomo tomorrow to deliver, then will
20 send to other attorneys general. I think that is
21 ground-breaking. Lilly is finally haven't a PT disaster. I'd
22 like to coordinate with you when you write up the summary of
23 threats, et cetera. Forward so that I can incorporate into
24 infomail and then P.S. your portrait is a third of the page."

25 Q After you talked to Mr. Gottstein, you had asked him to

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

185

Sharav/Direct/Lehner

1 send you the DVDs because you had not been able to download
2 them from the link, is that correct?

3 A Yes.

4 Q And you signalled to him your intention then that it was
5 your desire to disseminate and spread this information as
6 broadly as you could at this point?

7 A In particular to the New York State Attorney General
8 after I read in the Times what was in the content of the
9 documents.

10 Q Before you read The Times, other than what you testified
11 to earlier about your suppositions of what might be in these
12 documents, did you have any other information that led you
13 specifically to believe -- that led you to a specific belief
14 about what was in those documents?

15 A As I explained, there have been --

16 Q Let me strike that question and ask more particularly.

17 Did you and Mr. Gottstein when you talked to him
18 that day discuss the content of the documents?

19 A No.

20 MR. LEHNER: I have no further questions at this
21 time.

22 MR. HAYES: Nothing, judge.

23 MR. MCKAY: Nothing.

24 CROSS-EXAMINATION

25 BY MR. MILSTEIN:

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

186

Sharav/Cross/Milstein

1 Q Ms. Sharav, can you tell the Court what the Alliance For
2 Human Research Protection is?

3 A We're a group of professionals and lay people and our
4 mission is to protect the rights of human subjects in medical
5 research and to inform about concealed adverse drug events.

6 Q And if you can tell the Court something about your
7 background. Have you been asked to testify or serve on
8 various government committees?

9 A Yes, I have. I've served, I have testified at various
10 government agencies including the FDA, the Institute of
11 Medicine, I presented at the National Academy of Science. I
12 was on the Children's Committee of the -- what was it called
13 then? The National Bioethics Advisory Committee and I've
14 presented before various bodies before the military, Columbia
15 University, Cornell University of Texas, primarily about both
16 unethical experiments and about the epidemic adverse effects
17 of drugs, particularly the psychotropic drugs but not
18 exclusively. Our organization focuses more generally but

19 there is a great deal in this area because vulnerable people
20 such as children and the elderly and disabled people are being
21 targeted to take drugs that are doing them more harm than
22 there is any evidence of benefit.

23 So that is why there is such a focus on this.

24 Q And in that experience that you've had, I take it you've
25 done a lot of research into the way drug companies market

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

187

Sharav/Cross/Milstein

1 their drugs?

2 A Yes, I have.

3 Q And the way they conduct research on their drugs?

4 A Yes, I have.

5 Q And I take it you consider it your life's calling to
6 inform the public about unethical practices of pharmaceutical
7 companies like Eli Lilly?

8 A Absolutely.

9 Q Now, with respect to the conversations you had with Mr.
10 Gottstein, you did not receive the documents before the New
11 York Times published its front page article, is that right?

12 A That's correct.

13 Q Mr. Gottstein didn't tell you what the documents
14 contained?

15 A No, he did not.

16 Q Then you read the New York Times article?

17 A Yes, I did.

18 Q And after that, you received the documents by DVD from
19 Mr. Gottstein?

20 A Yes.

21 Q And did you have occasion to look at and read the
22 document?

23 A Yes, I have.

24 Q And what did the documents show with respect to the
25 practices of Eli Lilly?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

188

Sharav/Cross/Milstein

1 MR. LEHNER: Objection, your Honor.

2 THE COURT: I'll allow it.

3 A In my opinion, this is about the worst that I have seen.
4 It borders on indifference to human life. Eli Lilly knew that
5 Zyprexa causes hypoglycemia, diabetes, cardiovascular damage
6 and they set about both to market it unlawfully for off label
7 uses to primary care physicians and they even set about to
8 teach these physicians who were not used to prescribing these
9 kind of drugs to, they taught them to interpret adverse
10 effects from their drug Prozac and the other antidepressants
11 which induce mania and that is on the drug's labels. They
12 taught them that if a patient presented with mania after
13 having been on antidepressants, that that was an indication
14 for prescribing Zyprexa for bipolar which is manic depression.
15 That is absolutely outrageous and that is one of the reasons
16 that I felt that this should involve the Attorney General.

17 Q What else did the documents say about the way Lilly
18 marketed its products?

19 A They marketed it, as I said, for off label uses which is
20 against the law. They told doctors -- they essentially
21 concealed the vital information that they knew from the
22 prescribing doctors and covered it over, sugar coated it which
23 you can see the sales. The sales of a drug that was approved
24 for very limited indications, for schizophrenia and for
25 bipolar. Each one of these is about one to 2 percent of the

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

189

1 population. But the reason the drug became a four and a half
2 billion dollar seller in the United States is because they
3 encouraged the prescription for children, for the elderly, for
4 all sorts of reasons. The drug is being prescribed
5 irresponsibly because doctors have not been told the truth and
6 major study by the National Institute of Mental Health
7 validates this. It's called the Catie study. It has been
8 published and they corroborate to such a degree the harm that
9 this drug is doing and the other so-called atypical
10 antipsychotics that leading psychiatrists who had been fans of
11 these drugs are now saying we were fooled, we didn't realize.
12 It isn't just weight gain. They are blowing up and it is
13 calling what is called metabolic syndrome, which is a cluster
14 of life-threatening conditions this drug is lethal and many
15 doctors now say it should be banned.

16 MR. LEHNER: Let me move to strike the testimony
17 again as being nonresponsive to the question that was being
18 asked.

19 THE COURT: It shows her state of mind.

20 Q In addition, are you familiar with a video recently
21 posted of a Lilly salesperson who talked about the way Lilly
22 markets the drugs?

23 A Yes.

24 Q Did that also mirror what these documents show?

25 A Absolutely. It appeared on U-Tube and we disseminated

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

1 that and in there the former Zyprexa salesman tells exactly
2 what they were taught and how they were taught to defuse
3 doctors's concerns who saw their patients as he put it blow
4 up.

5 Q When you reviewed the documents, was there anything in
6 those documents that you viewed as trade secrets or
7 confidential information the way that phrase is usually
8 construed?

9 A Absolutely not.

10 MR. FAHEY: Objection.

11 A What it showed me was why they were willing to pay so
12 much money to keep them concealed.

13 MR. LEHNER: Same objection, no foundation for which
14 she could answer that question.

15 THE COURT: I'll allow it. It shows state of mind.

16 Q After you received the notice from Mr. Gottstein, did you
17 disseminate the documents?

18 A No.

19 MR. MILSTEIN: That's all I have, your Honor.

20 THE COURT: Anybody on the phone wish to examine?

21 MR. CHABASINSKI: No, your Honor.

22 THE COURT: Any redirect?

23 MR. LEHNER: No, your Honor, not at this time. The
24 only thing I ask is that the documents she brought with her be
25 returned to Mr. Woodin as they have been by the others in the

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

191

Sharav/Cross/Milstein

1 court.

2 THE COURT: Any objection?

3 MR. HAYES: No.

4 MR. MILSTEIN: We have an objection. That is what
5 this hearing is about, whether or not this Court will issue a
6 preliminary injunction ordering a person who did not act in
7 concert with nor did she aid or abet the distribution of these
8 documents by Dr. Egilman, whether this Court can order this

9 witness to return these documents.

10 MR. VON LOHMANN: Let me also just note for the
11 record, your Honor, none of the non-parties have been ordered
12 by this Court or any other Court to return these documents.

13 The January 4th order that your Honor signed also
14 asks simply that they not further disseminate the documents.
15 There is nothing in the January 4th order just as there was
16 nothing in the December 29 order suggesting that the Court is
17 ordering the return of those documents.

18 So what counsel here is asking for is not the
19 enforcement of a prior ruling, what counsel is asking here is
20 something entirely new.

21 MR. LEHNER: This Court asked Mr. Gottstein to
22 retrieve the documents and return them to Mr. Woodin, have
23 people return them directly to Mr. Woodin. That request was
24 based particularly with respect to the first order. She says
25 she has them. Other people felt compelled to comply with that

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

192

Sharav/Cross/Milstein

1 request.

2 MR. MILSTEIN: It's a temporary restraining order
3 that was issued. If the court issues a preliminary injunction
4 order then Ms. Sharav is prepared to give the documents or the
5 DVDs to the special master.

6 If the Court dissolves the confidentiality order
7 with respect to the documents, as we have requested, or
8 decides not to issue a preliminary injunction, then she can
9 continue to hold on to these document and she can post them on
10 her website and distribute them to the public which needs to
11 see them to prevent further harm.

12 THE COURT: The order of December 18 from Judge
13 Cogan orders them returned, I believe.

14 MR. VON LOHMANN: I believe that order orders Mr.
15 Gottstein to request their return but especially considering
16 none of the parties are named in the order, I think it's
17 certainly -- I can't speak for -- none of these non-parties
18 even had seen this particular order at the time.

19 MR. MILSTEIN: And they did not request the New York
20 Times return the documents.

21 THE COURT: We don't have the New York Times here.
22 We have your client.

23 MR. MILSTEIN: I understand that.

24 THE COURT: Unless you want to represent the New
25 York Times --

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

193

Sharav/Cross/Milstein

1 MR. MILSTEIN: The New York Times.

2 THE COURT: -- and expand the orders to include it.
3 We can talk about the witness before us.

4 MR. MILSTEIN: The New York Times is noticeably
5 absent from the request of Eli Lilly to be ordered to return
6 these documents.

7 THE COURT: I understand.

8 Well, the order of December 18th requires Mr.
9 Gottstein to attempt to recover the documents.

10 MR. MILSTEIN: To request and she has refused Mr.
11 Gottstein. It doesn't order her. It orders Mr. Gottstein to
12 ask her and she says no, I'm going to wait until the Court
13 orders me if the court can order me.

14 MR. MCKAY: And Mr. Gottstein complied with respect
15 to that order.

16 THE COURT: He is here in court.

17 Paragraph 4 says: "Mr. Gottstein shall immediately

18 take steps to retrieve any documents subject to this order
19 regardless of their current location and return all such
20 documents to Special Master Woodin. "

21 Come forward, sir.

22 Did you ask the witness to return the documents?

23 MR. GOTTSTEIN: Are you asking me if I did?

24 THE COURT: Yes.

25 MR. GOTTSTEIN: Would you return the documents?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

194

Sharav/Cross/Milstein

1 THE WITNESS: I will return them if the Court orders
2 it.

3 THE COURT: You refuse to turn them over at his
4 request?

5 THE WITNESS: Yes.

6 THE COURT: I'm ordering you to turn them over to
7 your attorney to hold them in escrow.

8 MR. MILSTEIN: I'll do that, your Honor.

9 THE COURT: Give the envelope to the attorney.
10 Are those all of the documents you have?

11 THE WITNESS: Yes.

12 THE COURT: You can seal it. Sign it. We'll hold
13 them in escrow subject to -- you'll hold them in escrow
14 subject to the order of the Court.

15 MR. MILSTEIN: I'll do that, your Honor.

16 THE COURT: Any reason why the witness should not
17 now be excused?

18 MR. HAYES: No, your Honor.

19 THE COURT: You are excused?

20 THE WITNESS: Thank you.

21 (Witness excused.)

22 MR. FAHEY: Your Honor, if we take a short break, we

23 can -- if we can take a short break, we can have Mr. Meadow on
24 the phone who we believe will be a short witness.

25 THE COURT: It's 10 to 4:00 we'll break until 4:00.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

195

1 (Recess.)

2 THE COURT: Proceed with your next witness, please.

3 MR. CHABASINSKI: Your Honor, before we proceed,
4 please excuse my naivete but I'm somewhat confused about where
5 we are procedurally.

6 Are we getting evidence here about whether there
7 should be a preliminary injunction? Because I'll point out to
8 you the TRO expired yesterday.

9 THE COURT: No, it did not expire yesterday. I
10 issued an order last night extending it until I decided this
11 motion.

12 MR. CHABASINSKI: All right, your Honor, I wasn't
13 aware of that.

14 THE COURT: It should have been sent to you.

15 MR. CHABASINSKI: It wasn't.

16 MR. HAYES: They are about to call Rick Meadow as a
17 witness. My understanding is that he gave an affidavit to
18 them. He was an attorney that works for Mark Lanier who is
19 the attorney of record on the underlying litigation.

20 So there are two questions I have. One is when
21 Egilman was talking to Meadow, he thought he was talking to
22 his attorney in regard to the issues in regard to the
23 confidentiality agreement but even if he wasn't, that is
24 wrong. He certainly was talking to a man under valid work
25 product issues.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

1 You are always right on these matters, but --

2 THE COURT: I don't understand your point.

3 MR. HAYES: They are calling Rick Meadow to testify
4 as to conversations with Egilman. Well, Egilman thinks that
5 Meadow is his lawyer and Meadow is working for Lanier who is
6 clearly the lawyer for the class and the work that Egilman is
7 doing for Lanier and Meadow is clearly covered by the work
8 product.

9 THE COURT: Your client is not represented by anyone
10 so far as I know except you. The fact that he was retained by
11 an attorney's firm to give expert opinion does not make the
12 firm his personal lawyer when he commits some kind of delict,
13 if I understand your position.

14 MR. HAYES: My position is if he then goes back to
15 him -- I have two questions. The first -- let's take the
16 first one first, which is that now he goes to the lawyer and
17 they discuss something in regard to the underlying case not
18 what he did but the issuance of the confidentiality order.
19 Isn't that covered by the -- wouldn't that be covered by the
20 work product exception?

21 THE COURT: It's not up to him to raise the issue,
22 it's up to the law firm. The law firm, as I understand it, is
23 in opposition to your client.

24 MR. HAYES: So unless Lanier exercises that.

25 THE COURT: They haven't. If they did, I'd have to

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

1 answer the question. I don't have to because I don't see that
2 the work product belongs to your client, just to the retained
3 expert.

4 Anything further?
5 MR. HAYES: No, your Honor.
6 THE COURT: But I'm not sure I understand the issue
7 fully and I invite you to submit a brief.
8 MR. HAYES: Thanks, judge.
9 THE COURT: Call your witness, please.
10 MS. GUSSACK: We call Richard D. Meadow.
11 MR. MEADOW: I'm on the telephone. Thank you for
12 hearing me by phone. I'm in Atlantic City on trial.
13 THE COURT: Swear the witness.
14 RICHARD D. MEADOW, having been called as a
15 witness, first being duly sworn, was examined and
16 testified as follows:
17 THE CLERK: Please restate your name.
18 THE WITNESS: Richard D. Meadow, M-E-A-D-O-W.
19 THE CLERK: Thank you.

20 DIRECT EXAMINATION

21 BY MR. FAHEY:

22 Q Mr. Meadow, this is Sean Fahey on behalf of Eli Lilly and
23 Company.

24 Good afternoon.

25 A Good afternoon, Mr. Fahey.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

198

Meadow/Direct/Fahey

1 Q You're an attorney in the State of New York?
2 A Correct.
3 Q And you are the managing attorney of the Lanier Law firm?
4 A In New York City, yes.
5 Q And the Lanier Law firm is one of the members of the
6 Zyprexa 2 plaintiffs steering committee?
7 A At the moment, yes.

8 Q And did you prepare an affirmation with respect to your
9 knowledge of the facts relating to the issues that bring us
10 here today?

11 A Yes, I did.

12 Q I'd like to have that marked as Petitioner's 12.

13 THE COURT: Without objection, so marked.

14 MR. FAHEY: And move it into evidence also.

15 THE COURT: In evidence.

16 (So marked in evidence Petitioner's Exhibit 12.)

17 THE WITNESS: Unfortunately, judge, I do not have a
18 copy in front of me now.

19 THE COURT: We'll try to assist you as far as
20 possible. If you find that you need a copy and reading parts
21 you are interested in does not help you, we can adjourn, but
22 let's see how we proceed.

23 THE WITNESS: Thank you, judge.

24 Q You prepared that affirmation based on your personal
25 knowledge, correct?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

199

Meadow/Direct/Fahey

1 A Correct.

2 Q And everything in the affirmation is true to the best of
3 your knowledge?

4 A Correct.

5 Q And you swore that -- you affirmed under penalty of
6 perjury that the information was true and correct?

7 A Correct.

8 Q You spoke to Dr. Egilman on December 13, correct?

9 A Without looking at it, I believe so, yes.

10 Q That was the Wednesday, December 13?

11 A Yes.

12 Q And you told him not to produce documents requested in

13 this subpoena that had been issued from the State of Alaska?

14 A I said don't do anything with the subpoena until you hear
15 from me.

16 Q And you did that because you knew there was a process
17 that was being followed under the protective order and that
18 Lilly had already started that process, correct?

19 A I had received a phone call from Andy Rogoff and I told
20 him that I would reach out to Dr. Egilman and tell him not to
21 do anything.

22 Q And Andy Rogoff was an attorney for Lilly?

23 A Correct.

24 Q And he said -- what did Dr. Egilman say to you?

25 A He just said yes, Rick.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

200

Meadow/Direct/Fahey

1 Q And you -- what did you understand that to mean?

2 A That he understood that I told him don't do anything. I
3 don't want to read into other than what he said to me.

4 Q And you later learned that he had lied to you and that he
5 had already begun to?

6 MR. HAYES: Objection.

7 THE COURT: Yes.

8 Q I'll rephrase it.

9 You later learned despite what he said to you on the
10 phone, he had already begun producing documents to Mr.
11 Gottstein?

12 MR. HAYES: I still object to what he said. It's a
13 characterizati on.

14 THE COURT: Yes.

15 Q Did you later learn that Mr. Gottstein -- I'm sorry.
16 Strike that.

17 Did you later learn that Dr. Egilman had already
18 begun transferring documents to Mr. Gottstein?

19 A Yes.

20 Q And after you learned what had happened in this case, you
21 terminated Dr. Egilman as a consultant in this matter?

22 A For Zyprexa, correct.

23 MR. FAHEY: Thank you. I have no further questions.

24 MR. HAYES: I do.

25 CROSS-EXAMINATION

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

201

Meadow/Cross/Hayes

1 BY MR. HAYES:

2 Q My name is Ed Hayes.

3 Mr. Meadow, I'm the lawyer for Dr. Egilman.

4 A Hi, Mr. Hayes.

5 Q You understand, by the way, before I begin, you
6 understand that I am personally friendly with Mark Lanier, is
7 that correct?

8 A Yes.

9 Q And I think you and I once had dinner, is that possible?

10 A I believe so, yes.

11 Q And now in this particular case there was an order, what
12 has been referred to as a confidentiality order, that was
13 drawn up and signed by the parties, is that correct?

14 A You mean Dr. Egilman?

15 Q No, something that was submitted to the judge, he signed
16 it and it's the case management order I think number 3 or
17 something, right?

18 A Yes.

19 Q Now, that was the order that covered the confidentiality
20 of certain documents that were turned over to the defense, is
21 that correct?

22 A Recovered by the defense, correct.

23 Q Turned over to the defense?

24 A You are talking about subsequent?

25 Q No, I'm talking about an order that was entered into

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

202

Meadow/Cross/Hayes

1 between the plaintiffs and Lilly which was signed by the judge
2 that governed the production of documents to the defense --
3 from the defense to the plaintiffs.

4 I'm getting confused.

5 A Yes, from Lilly to plaintiffs.

6 Q Now, was that order a subject of negotiation?

7 A I was not part of the original order.

8 Q Do you know why the order in paragraph -- in the
9 paragraph that refers to reasonable notice upon receipt of a
10 subpoena, do you know why there is no definition in that
11 paragraph for what constitutes reasonable notice?

12 A I did not negotiate that. That was negotiated actually
13 probably years before we got into the litigation.

14 Q Did you know -- do you know that in there, that order,
15 there are portions where it does give a definition of
16 reasonable notice, for instance, if they receive some subpoena
17 from a competitor?

18 A I don't recall but that sounds familiar.

19 Q Now, in this particular case you gave a document to Dr.
20 Egilman which is called endorsement of protective order, is
21 that right?

22 A Correct.

23 Q And you have seen the copy of the endorsement of
24 protective order that was signed by Dr. Egilman?

25 A Yes.

Meadow/Cross/Hayes

1 Q And is it fair to say that he crossed out some portion of
2 it and said and I agree to be bound by its terms as amended
3 below and then in the next paragraph which states originally:
4 "I further agree that I shall not disclose to others except in
5 accord with the order any confidential discovery materials in
6 any form whatsoever, and that such confidential discovery
7 materials and the information contained therein may be used
8 only for the purposes sustained by the order unless release is
9 needed to protect public health."

10 Is that correct?

11 A There were two endorsements, so you might be talking
12 about the first one.

13 Q That was certainly on -- that is certainly signed by him
14 and it certainly appeared on one of the endorsements he
15 signed, is that correct?

16 A I don't have it in front of me but I believe what you are
17 telling me.

18 MR. HAYES: I offer it in evidence.

19 THE COURT: As a separate document?

20 MR. HAYES: Yes.

21 THE COURT: That would be Respondent's 1 in
22 evidence.

23 (So marked in evidence as Respondent's Exhibit 1.)

24 THE COURT: This refers to the order of 11/10/2006.

25 Is that the order that you are relying on? It was

Meadow/Cross/Hayes

1 an order of 2004.

2 MR. FAHEY: CM03 was entered in 2004, your Honor.

3 THE COURT: Did he agree in a separate document to
4 follow 2004?

5 MR. FAHEY: Yes, Mr. Meadow's affidavit refers to
6 the subsequent endorsement of another exhibit.

7 THE COURT: And this is within exhibit what?

8 MR. FAHEY: That is Exhibit C to Petitioner's 12.

9 THE COURT: Have you seen this endorsement?

10 MR. HAYES: Yes.

11 THE COURT: It says the only change here is
12 authorized by the order unless this conflicts with any other
13 sworn statements.

14 With respect to what is now Respondent's 2, it
15 refers to a protective order of 11/10/2006. Where is that
16 order?

17 MR. FAHEY: There is no such order, your Honor. I'm
18 not sure what that means.

19 THE COURT: I don't know of any such order.

20 MR. FAHEY: We're not aware of any.

21 THE COURT: Counsel, do you know what 11/10/2006 is?

22 MR. HAYES: I think that is a typo but I'm not sure.

23 THE COURT: 2004 is crossed out and 2006 is entered.

24 MR. HAYES: Right.

25 THE WITNESS: Maybe the day he signed it, judge.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

205

Meadow/Cross/Hayes

1 THE COURT: When had the original order of 2004 been
2 entered?

3 MR. FAHEY: I believe August 3rd of 2004.

4 THE COURT: Not 11/10?

5 MR. FAHEY: No.

6 THE COURT: So I don't know what 11/10 --

7 MR. FAHEY: It appears that the order was signed by
8 Dr. Egilman on that date.

9 THE COURT: 11/14/06 is when he signs the order
10 relating to 2004 which is after the date he signed
11 Respondent's 2, correct?

12 MR. HAYES: Yes.

13 THE COURT: All right, let me read it.

14 (Pause.)

15 THE COURT: Here is 2.

16 Q Mr. Meadow, you receive the first endorsement of
17 protective order that says on it unless release is needed to
18 protect public health. You then call Dr. Egilman and you say
19 to him, you explain to him the reason why this protective
20 order is required and that he would need to reexecute another
21 protective order, is that right?

22 A Yes.

23 Q Now, you were working at that time for Mark Lanier on a
24 case known as Zyprexa 2, is that correct?

25 A I can't hear you.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

206

Meadow/Cross/Hayes

1 Q You were working at that time for an attorney who was an
2 attorney of record in Zyprexa 2?

3 A Correct.

4 Q And you knew that Dr. Egilman had worked for Mark Lanier
5 on many other cases?

6 A Correct.

7 Q Did you know whether or not Dr. Egilman had ever signed a
8 confidentiality order in any other case?

9 A Yes.

10 Q You knew that he had?

11 A Yes. In other litigations you mean?

12 Q Yes.

13 A Yes.

14 Q But in those cases did he make an exception if it was
15 necessary to protect public health?

16 A I don't recall.

17 Q When you say you went back to him and he wanted to make
18 -- he is the -- he has been, is it fair for me to
19 characterize, a key witness for Mark Lanier in a number of
20 litigations, is that correct?

21 A Correct.

22 Q And he was in fact, he has been an expert witness for
23 Mark Lanier in the asbestos litigations?

24 A Correct.

25 Q He has been an expert witness for Mr. Lanier in the Vi oxx

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

207

Meadow/Cross/Hayes

1 litigations?

2 A Correct.

3 Q And it's fair to characterize Mr. Lanier as having a very
4 high opinion of Dr. Egilman's ability?

5 A Correct.

6 Q Have you ever seen Dr. Egilman testify?

7 A Yes.

8 Q In your opinion, is he an excellent witness?

9 A Yes.

10 Q So it was your desire here to make, enter into an
11 agreement with Dr. Egilman that would enable you to keep using
12 him as a witness in this case, is that right?

13 A Correct.

14 Q And the change that he made here, the changes that he
15 made on these two endorsements, one that said unless required

16 by public health and the other said unless in conflict with
17 other sworn statements, did you communicate those changes to
18 Eli Lilly's counsel in any way?

19 A No.

20 Q When he told you you have an -- you have had some prior
21 dealings with Dr. Egilman?

22 A Excuse me?

23 Q You have had dealings outside this case with Dr. Egilman?

24 A Yes.

25 Q And you have had -- and Mark Lanier has had a great deal

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

208

Meadow/Cross/Hayes

1 of dealings with him?

2 A Correct, as have I.

3 Q Would it be fair to say that you knew that Dr. Egilman
4 feels very strongly about these kind of public health issues?

5 A Yes.

6 Q Would it be fair to say that Dr. Egilman felt in this
7 case that the information presented by Eli Lilly from its
8 internal documents was vital to public health?

9 A I don't know what he thought. I imagine so.

10 Q Now, when he got this and you asked him to put a
11 different amendment or change on the second endorsed order and
12 he said unless this conflicts with any other sworn statements,
13 do you know whether or not he was referring to the oath he
14 took as a doctor?

15 A No, I don't know.

16 Q Did you ask him what were the circumstances that would
17 constitute a sworn statement so that he would feel entitled to
18 disclose these documents?

19 A I thought it was Congressional testimony.

20 Q In cases of Congressional testimony, would there be a

21 subpoena there?

22 A I would assume so. I don't know.

23 Q If there is a subpoena there, there is already a
24 provision in the agreement as to reasonable notice, isn't that
25 correct?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

209

Meadow/Cross/Hayes

1 A Correct.

2 Q And you were aware of that order, isn't that correct?

3 A Correct.

4 Q And reasonable notice has no definition whatsoever, isn't
5 that correct?

6 A Like I said, I don't remember the order but I'll accept
7 your interpretation.

8 Q Now, did you discuss with Mr. Lanier whether or not you
9 should turn over either of these endorsements to Lilly?

10 A Did I discuss with Mr. Lanier?

11 No.

12 Q So you had a discussion with Egilman -- would you
13 describe Egilman as a -- withdrawn.

14 Egilman is -- would you characterize him as an
15 independent thinker?

16 A Absolutely.

17 Q Is he a man that you consider a captive of the Mark
18 Lanier law firm, that is, he takes cases and does whatever the
19 Lanier law firm tells them him to do?

20 A Do you mean is a juke box type of witness or he tells us
21 what he thinks?

22 Q He tells you what he thinks?

23 A He tells us what he thinks.

24 Q Does he ever disagree with you?

25 A All the time.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

210

Meadow/Cross/Hayes

1 Q In this case he disagreed with you about what he was
2 willing to do in regard to the enforcement of the protective
3 order, is that correct?

4 A I'm not following your question.

5 Q You gave him a protective order, an endorsement of a
6 protective order. I assume you gave that endorsement to
7 everybody else?

8 A Correct.

9 Q Did anybody else make any changes in it besides Dr.
10 Egilman?

11 A No.

12 Q So you now know that he is a very important witness to
13 Mr. Lanier, that he is extremely strong-minded, that he will
14 tell you what he thinks and disagree with you whether you like
15 it or not. You get two documents from him. In both cases
16 there are changes and you don't tell Mr. Lanier and you don't
17 tell Lilly?

18 A Correct.

19 Q And at the time you got this --

20 A Hello.

21 Q I'm here. I'm reading. It takes me a little time
22 sometimes.

23 In paragraph 9 of your document you say on
24 December 13 you tell Dr. Egilman not to do anything, is that
25 correct?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

211

Meadow/Cross/Hayes

1 A Correct.

2 Q And he says yes, Ricky, is that correct?

3 A Correct.

4 Q He does not say I have already done something, he just
5 says yes, Ricky?

6 A Correct.

7 Q Now, the -- do you remember what day of the week the 13th
8 was?

9 A I think it was a Wednesday.

10 Q You say on the 15th that you learned from Dr. Egilman's
11 own narrative that he had given the documents as of
12 December 12th, is that right?

13 A No, not exactly.

14 Q Withdrawn.

15 In Dr. Egilman's narrative that you read on
16 the 15th, he says I gave the documents to Mr. Gottstein on
17 the 12th, is that right?

18 A Correct.

19 Q When did he prepare that narrative?

20 A On the 15th, I think.

21 Q And he was asked to do so?

22 A From what I understand, yes.

23 Q He didn't try to keep it a secret from you, he put it
24 down in the narrative, is that correct?

25 A Correct.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

212

Meadow/Cross/Hayes

1 Q Have you had occasion to -- did there come a time that
2 you became aware of certain documents that had been produced
3 by the FDA in regard to the testing of Zyprexa?

4 A You have to be more specific. Which documents are you
5 talking about? There are millions of documents.

6 Q Did there come a time that you learned that Dr. Egilman
7 had somehow gotten possession or learned about certain
8 internal FDA documents?

9 A Yes.

10 Q And he was -- one of the things that you would expect him
11 to do as an expert witness was to make that kind of
12 investigation, is that correct?

13 A Correct.

14 Q Now, the fact of the matter is that when you filed the
15 Zyprexa lawsuit, that complaint was a public record, is that
16 correct?

17 A Correct.

18 Q And part of the theory of the case was at the time that
19 Zyprexa was marketed, it was marketed quote unquote off label,
20 for uses that were not prescribed, is that right?

21 A Correct.

22 Q And is it also fair to say that the complaint made the
23 allegation that when Lilly brought the drug to the FDA and to
24 the market, that they had internal information that showed
25 that there were certain dangers in regard to the drug?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

213

Meadow/Cross/Hayes

1 A Correct.

2 Q So way before, way before November of 2006 it was a
3 matter of public record, these two central allegations, is
4 that correct?

5 A The allegations, yes.

6 Q And the lawsuit was a matter of some public interest.
7 There were articles about it. There were newspaper stories.
8 There were other media that paid attention to it, is that
9 correct?

10 A Correct.

11 Q So when --

12 MR. HAYES: Nothing further, judge.

13 THE COURT: Any other person?

14 MR. MILSTEIN: I just have a few questions.

15 CROSS-EXAMINATION

16 BY MR. MILSTEIN:

17 Q This is Alan Milstein.

18 How many documents approximately did Lilly produce
19 in your litigation?

20 A Millions, I think.

21 Q And what percentage of the millions of documents that
22 they produced to the plaintiffs' attorneys in the litigation
23 did they mark confidential?

24 A I think all of them.

25 Q So you had entered?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

214

Meadow/Cross/Milstein

1 A I didn't look at all of them so I'm not sure.

2 Q Let see if I have this right. The plaintiffs' attorneys
3 and Lilly's attorneys enter into a confidentiality order
4 during the course of the litigation, is that right?

5 MR. FAHEY: Objection, foundation. He already said
6 that it was already entered into before his involvement.

7 Q At some point in time, Lilly's attorneys and the
8 plaintiffs' attorneys enter into a confidentiality order,
9 correct?

10 A Yes.

11 Q And that confidentiality order allows Lilly on its own to
12 designate any document that it sees fit as confidential,
13 correct?

14 MR. FAHEY: Objection. The Court order speaks for

15 i tsel f.

16 A I don' t remember.

17 Q Nevertheless, you have seen hundreds of thousands of
18 documents produced by Lilly in the litigation, correct?

19 A Have I seen personally? Not that many but I've seen a
20 lot.

21 Q And virtually every document that you've seen produced by
22 Lilly in the litigation Lilly chose to mark as confidential,
23 correct?

24 MR. FAHEY: Obj ecti on, foundati on.

25 THE COURT: If he knows. You may answer.

 ALLAN R. SHERMAN, CSR, RPR Offi ci al Court Reporter
 United States Di strict Court Eastern Di strict of New York

215

 Meadow/Cross/Mi l stei n

1 A Most of what I saw were.

2 Q You di d have occasi on, di d you not, to read the New York
3 Times arti cles about the Zyprexa -- about Zyprexa whi ch
4 di scussed the documents whi ch Dr. Egilman had turned over to
5 Mr. Gottstein, correct?

6 A Yes.

7 Q And the i nformati on i n the New York Times arti cles was
8 consi stent wi th the facts that you devel oped, you and your
9 fi rm devel oped dur i ng the course of the l i t i g a t i o n, correct?

10 MR. FAHEY: Obj ecti on, foundati on.

11 THE COURT: I' ll allow i t.

12 A I' m sorry, I di dn' t hear you, judge.

13 MR. MILSTEIN: He sai d you can answer the questi on.

14 A Yes.

15 Q It' s your belief, i s i t not, si r, that at least some of
16 your cli ents suffered harm because they or thei r physi ci ans
17 di d not have access to the i nformati on i n the documents that
18 Dr. Egilman produced to Mr. Gottstein?

19 Do you want me to repeat that?

20 A Yes, would you please.

21 Q It's your belief, isn't it, sir, that at least some of
22 your clients suffered harm because they did not have access to
23 the information in the documents produced by Dr. Egilman to
24 Mr. Gottstein?

25 MR. FAHEY: Objection, no testimony Mr. Meadow knows

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

216

Meadow/Cross/Milstein

1 which documents have been produced by Mr. Gottstein.

2 Q I'll rephrase.

3 It's your belief, sir, that some of your clients
4 suffered harm because either they or their physicians did not
5 have access to the information revealed in the New York Times
6 article?

7 A Possibly.

8 MR. MILSTEIN: That's all I have.

9 THE COURT: Any other person wish to examine?

10 MR. MCKAY: Yes, your Honor.

11 CROSS-EXAMINATION

12 BY MR. MCKAY:

13 Q Mr. Meadow, my name is John McKay and I represent James
14 Gottstein.

15 First of all, have you ever spoken with Mr.
16 Gottstein?

17 A No.

18 Q And when you make representations concerning what
19 communications were had with --

20 A I can't hear you.

21 Q Mr. Meadow, you've made certain representations in your
22 affidavit and in correspondence that has been cited before and
23 attached as an exhibit concerning communications with Dr.

24 Egilman about this matter. You have not spoken with Mr.
25 Gottstein so you are not claiming that Mr. Gottstein made any

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

217

Meadow/Cross/McKay

1 representations about these documents to you?

2 A I never have spoken to written or communicated with Mr.
3 Gottstein. I don't know him.

4 Q And so you have not -- to your knowledge, did you or
5 anyone else communicate to Mr. Gottstein that he should not
6 release these documents before the time that he had actually
7 released these documents?

8 A I have never spoken to Mr. Gottstein.

9 Q To your knowledge -- you're familiar with -- one more
10 question along those lines.

11 You have said that and in the correspondence it's
12 been portrayed that your witness, Dr. Egilman, misrepresented
13 that he had not produced documents.

14 As I read your affidavit, you simply say that he --
15 you told him not to do anything after you talked to him and he
16 didn't do -- he had already produced those documents, isn't
17 that correct?

18 THE COURT: You are arguing with the witness.

19 A I don't understand your question.

20 THE COURT: We have that in evidence. You are
21 arguing.

22 MR. McKAY: Thank you. It wasn't my intention. I
23 apologize.

24 Q Mr. Meadow, are you familiar with the confidentiality
25 order CMO-3? Are you?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

218

Meadow/Cross/McKay

1 A Yes.

2 Q And you made some reference to this being before you got
3 in the case when you talked about some earlier documents.

4 How long have you been involved in this case?

5 A Since probably March or April of this year.

6 Q But you are familiar with the confidentiality order in
7 the case?

8 A Yes.

9 Q And this confidentiality order states that documents may
10 only be considered confidential if they are designated as such
11 in good-faith pursuant to the protective order, is that
12 correct?

13 A I don't have anything in front of me and I haven't read
14 it in a while.

15 Q You say you haven't read it?

16 A I haven't read it in a while.

17 Q If you don't know, we can either provide you with a copy
18 or read you the language.

19 A It sounds familiar. That is standard in a lot of these
20 orders.

21 Q It's your understanding that to not be in violation of
22 the protective order, documents would not be marked
23 confidential except in good-faith, a good-faith representation
24 that these are legitimately confidential documents?

25 A I'm not following you. I think I'm following you but I

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

219

Meadow/Cross/McKay

1 don't know.

2 Q The protective order has certain requirements before a
3 document can be marked confidential, is that correct?

4 A Yes.

5 Q So you can't just willie-nilly mark things confidential?
6 There is an obligation to make a representation under the
7 protective order that these documents in fact qualify in good
8 faith for designation as a confidential document, isn't that
9 correct?

10 A I assume so, yes.

11 Q Are you familiar with a settlement of a portion of the
12 Zyprexa litigation?

13 MR. FAHEY: Objection to form.

14 I'm not sure which --

15 THE COURT: You can answer it.

16 Did you hear the question?

17 THE WITNESS: I think so, judge.

18 I know Zyprexa 1 settled. Zyprexa 2 settled but
19 that was subject to a confidentiality order.

20 Q I think you said, and I'm sorry we're having trouble
21 hearing, it's a bit garbled in the courtroom, but did you just
22 say that Zyprexa 2 has settled but it's subject to a
23 confidential order?

24 A With my client, yes.

25 Q That's what I was asking.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

220

Meadow/Cross/McKay

1 How recently did that occur?

2 A Do I have to answer these if I am subject to a
3 confidential order?

4 THE COURT: You do not.

5 Q And I apologize because I am not as familiar with the
6 litigation.

7 So the question I have and you can tell me if I'm
8 permitted to ask this given the confidentiality order, my
9 question is simply does whatever settlement that you have

10 entered into on behalf of your client contain a provision that
11 says that the documents that are at issue here may not be
12 released?

13 A Judge --

14 Q Do you have -- are you able to speak into --

15 THE COURT: I don't see the relevancy of this, so
16 I'll cut it off.

17 Do you have anything else?

18 MR. MCKAY: No.

19 My question is whether the settlement agreement that
20 has been entered into has a provision that requires documents
21 at issue here to be maintained as confidential because it goes
22 to the question of settlements that -- whether they have
23 agreed to keep documents secret as a result of the settlement.

24 THE COURT: I don't see that it makes any
25 difference. They are not relying upon those original

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

221

Meadow/Cross/McKay

1 agreements, they are relying upon CMO-3.

2 MR. MCKAY: Then I have no further questions.

3 THE COURT: Anybody else in the courtroom?

4 MR. HAYES: No.

5 MR. VON LOHMANN: No.

6 MR. MILSTEIN: No.

7 THE COURT: Anybody on the telephone?

8 (No verbal response.)

9 MR. FAHEY: I want to clarify one issue.

10 REDIRECT EXAMINATION

11 BY MR. FAHEY:

12 Q This is Sean Fahey again.

13 Mr. Meadow, there were two protective orders

14 attached to your affidavit, one dated November 10, 2006 and
15 signed by Dr. Egilman on that date, the other signed by Dr.
16 Egilman four days later.

17 I'm going to read you paragraph 7 of your affidavit
18 which talks about that second affidavit and ask that you
19 respond to it when I am finished reading.

20 On November 14, 2004 -- I think that is actually
21 2006 -- November 14, 2006, Dr. Egilman executed another
22 protective order attached as Exhibit C. On this order Dr.
23 Egilman made one edit to the second paragraph of the form
24 protective order in which he represented that he would abide
25 by the protective order "unless this conflicts with any other

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

222

Meadow/Redirect/Fahey

1 sworn statements". I inquired of Dr. Egilman as to why he
2 made this edit. Dr. Egilman explained that if he were to be
3 subpoenaed by the FDA or Congress, he wanted to insure that
4 the protective order would not preclude providing testimony
5 concerning Zyprexa. Since that explanation did not conflict
6 with my understanding of the purposes behind the protective
7 order, nor did it conflict with my understanding of the
8 protective order would not in any event have precluded such
9 testimony by Dr. Egilman, and because Dr. Egilman assured me
10 that he understood the protective order, I accepted this
11 protective order."

12 Is that true, Mr. Meadow?

13 A Yes.

14 MR. FAHEY: Thank you. No further questions.

15 MR. HAYES: I have two questions. Can I ask?

16 THE COURT: Yes.

17 RE-CROSS-EXAMINATION

18 BY MR. HAYES:

19 Q Mr. Meadow, you are familiar with CM0-3?

20 A I couldn't hear anything.

21 Q Mr. Meadow, you are familiar with the order that the
22 Court signed referred to as CM0-3, is that correct?

23 A Yes.

24 Q Did that order have in it anywhere something that said
25 service in regard to being -- receiving a subpoena, that you

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

223

Meadow/Recross/Hayes

1 had to notify you or your law firm or any of the plaintiffs's
2 law firms on receipt of a subpoena?

3 A No.

4 Q It only said that you had to give reasonable notice to
5 Eli Lilly, is that correct?

6 A Correct.

7 Q Did it give an address or a law firm that this reasonable
8 notice had to be given to?

9 A I don't think so.

10 MR. HAYES: Thank you.

11 Nothing further.

12 THE COURT: May I release the witness?

13 MR. HAYES: Yes.

14 MR. FAHEY: Yes.

15 MR. MCKAY: Yes.

16 MR. VON LOHMANN: Yes.

17 THE COURT: Thank you, Mr. Meadow. You are
18 released.

19 (Witness excused.)

20 THE COURT: Any other witness for the petitioner?

21 MR. LEHNER: My understanding was Mr. David Oaks was
22 on the phone earlier and if he is on the phone, we'd like to

23 call him as a witness.

24 THE COURT: Mr. Oaks, are you on the phone?

25 MR. OAKS: Yes, I am, your Honor.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

224

1 THE COURT: What are you going to ask him?

2 MR. LEHNER: He was one of the people who --

3 MR. OAKS: Who is speaking?

4 MR. LEHNER: My name is George Lehner, on behalf a
5 Eli Lilly.

6 We would like to question him about posting
7 information on various websites that made documents available
8 that are subject to the protective order and were received.

9 THE COURT: Before you examine him, are the
10 respondents going to put on any evidence at all?

11 MR. OAKS: Do you mean the 3 people that I
12 represent?

13 THE COURT: You or any other respondent?

14 MR. CHABASINSKI: I have decided not to put on any
15 witness at this time after all.

16 THE COURT: Are you going to submit any documents?

17 MR. CHABASINSKI: Not at this time, I'm not planning
18 to, no, except I may submit some briefs indicating why I think
19 my client should not be subject to --

20 THE COURT: I'll permit a briefing schedule.

21 Is anybody else in court going to submit any witness
22 or evidence?

23 MR. VON LOHMANN: No, your Honor.

24 MR. HAYES: No, your Honor.

25 MR. MILSTEIN: No, your Honor.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

1 THE COURT: So this is the last witness, correct?

2 MR. HAYES: Yes.

3 THE COURT: I'll allow you to finish tonight.

4 MR. CHABASINSKI: May I interject something here?

5 It seems there are two issues we're dealing with
6 here and I suspect that Mr. Oaks' testimony isn't going to
7 address either one of them.

8 THE COURT: We'll find out.

9 MR. CHABASINSKI: One is the alleged violation.

10 THE COURT: Excuse me. We'll find out.

11 MR. CHABASINSKI: I don't want to be making constant
12 objections which I am sure you will not appreciate.

13 THE COURT: No.

14 MR. CHABASINSKI: If I may be allowed to lay out my
15 position for a minute here, your Honor.

16 THE COURT: You may.

17 MR. CHABASINSKI: I think we're either looking at
18 anything going to whether there was a violation of the
19 protective order and who violated it or we're looking at
20 whether my clients aided and abetted that violation of the
21 protective order so that they would be subject to an
22 injunction.

23 Of course, we haven't heard Mr. Oaks' testimony yet
24 but I anticipate that it's not going to go to either of those
25 issues and I'm sure you don't want me to make constant

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

1 objections but I really have to in this case if that's the way
2 the testimony is going to go.

3 THE COURT: I have no desire to inhibit you in any

4 way in your lawyer-like activity. So if you find anything
5 objectionable, object and I'll rule.

6 Swear the witness, please.

7 DAVID OAKS, having been called as a

8 witness, first being duly sworn, was examined and

9 testified as follows:

10 THE CLERK: Give your name.

11 THE WITNESS: David William Oaks, O-A-K-S.

12 THE COURT: Try to be crisp.

13 DIRECT EXAMINATION

14 BY MR. LEHNER:

15 Q Mr. Oaks, my name is George Lehner and I represent Eli
16 Lilly.

17 Mr. Oaks, are you a director of an organization
18 known as MindFreedom?

19 A Yes, I am, MindFreedom International.

20 Q Would you briefly describe for the Court what MindFreedom
21 is and does?

22 A MindFreedom is a nonprofit 501(c)(3) that unites
23 thousands of folks and a hundred groups to work for human
24 rights of people in the mental health system.

25 Q Do you know and do you have a position in MindFreedom in

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

227

Oaks/Direct/Lehner

1 connection to being the director?

2 A I am only the director and that is it.

3 Q By director, that means you run the operations of
4 MindFreedom, is that correct?

5 A I'm the head of the staff here.

6 Q And as head of the staff of MindFreedom you served a copy
7 of the order that was issued on January 4th by the Honorable
8 Judge Weinstein, the order for a temporary mandatory

9 injunction which names MindFreedom, is that correct?

10 A Yes, sir, and we immediately complied and put a
11 disclaimer on our website to that effect.

12 Q Prior to receiving that, had you engaged in any activity
13 in which you had attempted to disseminate or make available to
14 or inform people how to obtain access to the documents that
15 had been discussed here today?

16 MR. CHABASINSKI: This is where I'm going to object,
17 your Honor. I don't see how that is relevant. MindFreedom
18 was not under any Court order and any activity of this sort
19 would be protected by the First Amendment and really doesn't
20 speak to any violation of the protective order or any
21 violation of an injunction.

22 THE COURT: Overruled.

23 You may answer.

24 A Well, your Honor, there are about three different
25 questions. I'll try to address them all.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

228

Oaks/Direct/Lehner

1 I need to make it absolutely clear that we have
2 never received a copy of these documents from Jim Gottstein.
3 We have not received a DVD. We have not disseminated that in
4 any way and we have not posted those materials on our website.
5 Never have we done that in any way, shape or form.

6 What we have done is do what we always do, which is
7 put out a human rights alert similar to a journalist though
8 obviously with an interest in advocacy for a cause.

9 So we research and put out human rights alerts about
10 material that is extremely important to our members and the
11 public. And so to that extent when we did discover that this
12 information was posted by others on the internet, we did

13 report on that and some human rights alerts and got word out
14 to people but in no way, shape or form have we posted those
15 documents ourselves to the internet or disseminated them in
16 that way. We talked about them. We reported them, we used
17 our First Amendment rights and that's what we have done.

18 Q You said you never received a copy from Mr. Gottstein.
19 Did you ever receive a copy of these documents in any format
20 electronic, DVD from any other party?

21 A Our office has never received the DVD. When the -- when
22 it was stated on the internet that anonymous parties had
23 posted these links as they have throughout, and my
24 understanding is they are still there, we did click and
25 download but I haven't done absolutely anything with those

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

229

Oaks/Direct/Lehner

1 documents in any way. But like apparently thousands of
2 people, we did click and download.

3 Q And you said you did discover but you didn't say how
4 these documents were available for you to view, click and
5 download.

6 How did you discover that these documents were
7 available?

8 A We received anonymous alerts. We have never determined
9 the identity of individuals who created these alerts, that
10 stated that there were links available for download. And
11 that's how we found out about this and then we investigated
12 that, looked into it, tried to find out about the accuracy. I
13 did go on to the wicky, always publicly, never hiding my
14 identity in any way, never seeking to hide my identity.

15 I did go on to wicky about this subject and also an
16 E-mail list to ask questions to find out about accuracy. And
17 always all the information I received on the documents were

18 anonymous alerts that we got out on this. I guess an
19 exception would be apparently an individual acting on his own
20 Eric Whalen apparently posted a link but that was not done by
21 us and I never clicked on that link and never downloaded it.

22 So all the information we got was from anonymous
23 posts and then we reported on them and we never transmitted
24 the documents in any way, shape or form.

25 Q Let me ask you a little bit about what you just described

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

230

Oaks/Direct/Lehner

1 as the wicky and I believe you are talking about what has been
2 referred to as Zyprexa.pbwicky.com, is that what you are
3 referring to?

4 A Yes, that is a well publicized wicky which I understand
5 is represented here by Electronic Frontier Foundation.

6 Q Did you create the site Zyprexapbwicky.com?

7 A Absolutely not. We never created that cite or any
8 website ever, including the Zyprexakillsus, which Lilly
9 claimed in their filing that that was our website. That is
10 absolutely untrue. We never set up that website. We never
11 set up the wicky. We don't own it. We never have.

12 MR. FAHEY: Just for the record, just to clear up
13 any confusion, I don't think we ever claimed that MindFreedom
14 set up wicky.

15 A People collaborating with Mr. Gottstein, Mr. Oaks and MFI
16 have another website on reserve, Zyprexakills.us, zero
17 evidence about that, utterly untrue, very unprofessional.

18 Q So do you know who set up the zyprexapbwicky.com?

19 A Absolutely not. These are anonymous -- anonymously
20 created links up on the web and we have reported on that and
21 we have gotten that information out but these are anonymous

22 posts and we did not create them. We reported on it and I
23 guess that's why we're named here, because we are the visible
24 group, but we have done everything aboveboard as a human
25 rights activist group. We did not create or post -- we did

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

231

Oaks/Direct/Lehner

1 not create any website. We did not create any wicky.

2 Earlier in a filing by Eli Lilly, they said we
3 "transferred" documents on that wicky. That is utterly untrue
4 again with zero evidence, unprofessional. We never
5 transferred these documents anywhere, any way, shape or form.

6 Q Let me ask you one question, another question about the
7 wicky.

8 Do you know the identity of a person who has
9 identified himself as Raphael raffi@phantomsynthetics.com?

10 A I do not have any evidence about who that identity is. I
11 could speculate but I don't want to be open to a deformation.
12 I don't know basically.

13 Q Let me ask you this. If you were to speculate, what
14 would be the basis of the speculation?

15 THE COURT: No, I don't want it.

16 Move to something else.

17 Q Have you communicated with this individual that I have
18 just identified?

19 THE COURT: Move to something else.

20 Q And as you said, you have not posted or made available
21 any information on Zyprexakills, is that correct, is that your
22 testimony?

23 A I couldn't hear your question, sir.

24 Q Was your testimony that you have not posted anything or
25 made any information available on a website that is identified

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter

Oaks/Direct/Lehner

1 as Zyprexakills?

2 MR. CHABASINSKI: It's a little bit vague. At what
3 time? Because that goes to the fact that MindFreedom was
4 under an injunction. Before the injunction or after the
5 injunction?

6 MR. LEHNER: At any time.

7 A I have not posted -- I believe there is some confusion.
8 I have not posted in any way the Zyprexakills.us. I have not
9 posted. I have openly posted to Zyprexa.pbwicky.com but I
10 have not posted the Zyprexakillsus.

11 Q And have you had occasion and through some of your
12 postings on any website to direct anybody who might be
13 interested to go to the website Zyprexakills?

14 MR. CHABASINSKI: Once again, I think that it's very
15 important to indicate before or after the injunction.

16 MR. LEHNER: At any time.

17 A When we put out the alert, I put out any accurate
18 information I could about where the public could access these
19 files that we really considered extremely important.

20 My best recollection is that when I asked these
21 anonymous sources via their E-mail list and wicky, when I
22 asked them should I post this link Zyprexakills.us, I believe
23 they said that that was not an accurate link for this
24 information.

25 So to the best of my knowledge, I haven't but I

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

Oaks/Direct/Lehner

1 might have. But when I wrote these alerts, we tried to list
2 those links that were available for people if they wanted to

3 access these and apparently, yes, that is to the best of my
4 knowl edge.

5 Q Mr. Oaks, let me refresh your recollection, and I am
6 looking at a document and I guess I better mark it for the
7 record so that it can be on the record here. And I'll ask
8 that the Court mark this as Petitioner's 13.

9 MR. CHABASINSKI: Your Honor, I'm under a great
10 disadvantage because I don't know what document he is marking
11 up.

12 Can it be read?

13 MR. LEHNER: I'm going to identify it as soon as the
14 judge marks it.

15 If you have our findings of fact in front out of
16 you, it's tab 32.

17 MR. CHABASINSKI: I don't.

18 MR. LEHNER: I'll identify it in a minute.

19 THE COURT: Mark it in evidence but I don't see any
20 point in questioning.

21 MR. LEHNER: I'll be very brief.

22 THE WITNESS: I think looking at my open notes here,
23 I think early on in the process on Christmas day I may have
24 posted that link as one of the several links and then took it
25 off because it didn't seem accurate based on trying to put the

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

234

Oaks/Direct/Lehner

1 links up there. But I'm not trying to hide anything. I tried
2 to post the links where people could obtain these documents
3 which I considered to be crucial for public health and in
4 public discussion about Eli Lilly --

5 MR. MCKAY: Could we identify for other counsel what
6 this is.

7 MR. LEHNER: I'll identify it but I don't think I

8 need to ask any questions because I think Mr. Oaks answered
9 what I was going to ask, but I will identify this as an E-mail
10 that is from the individual I just previously identified
11 Rafael, and then I think the E-mail address is
12 Rafi@phantomsynthetics.com and it appears to be an E-mail
13 dated December 25th at 12:53. And within it there is a text
14 of an E-mail which David Oaks is quoted as having written and
15 I think that is the E-mail, Mr. Oaks, which you just
16 acknowledged that in fact you had posted some information on
17 this related to Zyprexakills, is that correct?

18 THE WITNESS: The source I interviewed on --

19 THE COURT: Excuse me. You have not been asked any
20 question. Don't volunteer.

21 That is end of this situation.

22 Move to something else and bring it to a close,
23 please.

24 MR. LEHNER: I think with Mr. Oaks' last statement,
25 I have no further questions at this time.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

235

Oaks/Direct/Lehner

1 THE COURT: Anybody else have any questions?

2 MR. MILSTEIN: No.

3 MR. HAYES: No.

4 MR. VON LOHMANN: No.

5 MR. MILSTEIN: No.

6 THE COURT: You may cross-examine.

7 CROSS-EXAMINATION

8 BY MR. CHABASINSKI:

9 Q Mr. Oaks, all these links that you say you posted
10 information on the internet, were these all before MindFreedom
11 was enjoined from doing that?

12 A The moment we were enjoined, I took off all possible
13 links for download and also even when I visited the
14 Zyprexakills -- the zyprexakillspbwiki, I was the one who
15 removed them. There even though obviously we don't own that
16 website, as a public service I complied with the Court order.

17 Q I think that it's probably best that you take the judge's
18 advice and not offer --

19 A I removed all possible links I could remove the moment I
20 was aware of the Court order.

21 Q Did Jim Gottstein ever send MindFreedom a copy of the
22 documents in question?

23 A Absolutely not.

24 Q When did you first become aware that Mr. Gottstein had
25 obtained these documents?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

236

Oaks/Cross/Chabasi nski

1 A The New York Times five days or seven days in a row,
2 whatever it was, that's when I found out about this myself.

3 Q Did you ever have any discussion with Mr. Gottstein
4 before, during or after he obtained these documents as to what
5 should be done with them?

6 A Absolutely not.

7 Q Did you ever have a discussion with Mr. Gottstein about
8 MindFreedom's activities as to these documents?

9 A Absolutely not.

10 Q Did Mr. Gottstein indicate to you in any way that he was
11 -- before you heard about it in the New York Times, did you
12 have any clue from Mr. Gottstein that this was going to
13 happen?

14 A No, I received a couple of E-mails from him that just
15 referred to his website, didn't say anything about this matter
16 but I didn't even bother looking at his website so I didn't

17 even have a clue.

18 MR. CHABASINSKI: That's all I have, your Honor.

19 MR. LEHNER: I have one followup question.

20 THE COURT: Let me hear it.

21 BY MR. LEHNER:

22 Q Mr. Oaks, could you tell me who Judy Chamberlain is?

23 A Judy Chamberlain is a long time psychiatric survivor
24 human rights activist who is on our board of directors as well
25 as I counted nine boards of directors that she is on.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

237

Oaks/Cross/Chabasi nski

1 THE COURT: Thank you very much.

2 There is no reason why he shouldn't be released?

3 MR. LEHNER: No.

4 THE COURT: You are released, sir.

5 Is there any other evidence?

6 MR. LEHNER: No.

7 THE COURT: Then the evidentiary hearing is closed.

8 Do you want time to brief this matter.

9 MR. MILSTEIN: I assume they are resting. I'd like
10 to make a Rule 50 motion as to my client.

11 THE COURT: All right.

12 MR. MILSTEIN: This is Alan Milstein.

13 First, with respect to David Cohen, there is
14 absolutely no evidence that he aided and abetted Dr. Egilman
15 in allegedly violating the protective order. As to Vera
16 Sharav, there is no evidence that she aided and abetted Dr.
17 Egilman in violating the protective order. And as to the
18 Alliance For Human Research Protection, there is no evidence
19 that that organization aided and abetted Dr. Egilman in
20 violating the protective order.

21 Therefore, this Court cannot enjoin them since they
22 did not assist, aid or in any way are they complicit in the
23 violation of the protective order.

24 In addition, we'll rely on our brief with respect to
25 the other issues. I think the Court, the foundation of Eli

 ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
 United States District Court Eastern District of New York

238

1 Lilly's motion for TRO and preliminary injunction is that
2 these documents are trade secrets and yet in all of the papers
3 they filed, all they do is say, without any kind of support,
4 that they are trade secrets. And the Court has had occasion
5 to look at the documents or at least has had occasion to read
6 the New York Times article. What is abundantly clear is that
7 they are not trade secrets. Lilly in no way fears
8 dissemination of these documents to their competitors, to
9 Merck or to Glaxo.

10 What Lilly wants to prevent is the public at large,
11 the consumers of its products, from seeing these documents and
12 learning the truth about the product that Lilly produces and
13 the way it markets it.

14 Documents like that are not confidential and should
15 not be marked confidential. You heard the testimony of the
16 plaintiffs' attorney who said to his knowledge, that virtually
17 every document produced by Lilly in this case is marked
18 confidential.

19 That is not the purpose of a confidentiality order
20 and it's not what is set forth in CMO-3 and so these documents
21 which are now in the public record and are critically
22 important to save human lives, to prevent human suffering,
23 these documents need to be released from this protective order
24 and this Court should in no way assist Lilly in keeping them
25 from the public.

1 And so for that reason we say that Lilly has
2 presented no evidence that would allow this Court to issue a
3 preliminary injunction.

4 THE COURT: As I understand your position, you are
5 not moving yourself or for any of your clients to be released
6 from CMO-3 for the reasons stated in CMO-3 that permit relief.

7 MR. MILSTEIN: We had filed a separate motion, your
8 Honor. What I have made here is a Rule 50 motion. In
9 addition, we have filed a separate motion as a third-party not
10 otherwise subject to CMO-3 to modify the protective order to
11 allow dissemination of these documents by the 3 clients that I
12 represent because it is in the public interest to do so and
13 they should not be sanctioned by this Court to be kept secret
14 from the consumers of these products because that can only
15 cause more and more harm.

16 THE COURT: There are two problems.

17 One, what should be done with respect to the
18 injunction as it relates to your clients?

19 That's what your Rule 50 motion is directed to,
20 correct?

21 MR. MILSTEIN: Correct. And with respect to that
22 question, it's my position that my clients are not and should
23 not be subject to any preliminary injunction because there is
24 no evidence that they aided or abetted or in any way were
25 complicit in the violation of that protective order.

1 THE COURT: I will rule on that. You may brief it

2 if you wish. We'll get a briefing schedule and I'll rule on
3 it in connection with the evidentiary hearing we have just
4 held.

5 Now, if in addition you want to proceed pursuant to
6 CMO-3 for the independent release of documents, you can do so,
7 but I don't consider sufficiently formal your papers in the
8 present procedures to raise those issues in the clear cut way
9 that they should be raised.

10 So I'm not ruling on that but if you intend to
11 proceed along those lines as for example was done in the Agent
12 Orange case where the Court issued an order unsealing, then I
13 suggest you do it in a formal way. I'm not satisfied to
14 approach such an important motion by the informal papers I
15 have now.

16 MR. MILSTEIN: I'll do that.

17 I think if the Court denies the preliminary
18 injunction as to my clients, then we can do what we want.

19 THE COURT: I don't care what you do. I'm just
20 telling you what your position is.

21 Does anybody wish time to brief this is what I'm
22 asking?

23 MR. LEHNER: Yes, your Honor.

24 THE COURT: How much time do you want?

25 I'd like to bring this to a head because as of

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

241

1 yesterday I extended the preliminary injunction until I decide
2 it and I prefer not to extend either a temporary restraining
3 order or a preliminary injunction more than is absolutely
4 necessary, although both of those orders are appealable. I
5 think it's best if an appeal is taken by anybody, it should be
6 taken on a full record. So I would like to get the case

7 decided on this record that we have now closed and I take it
8 Lilly is not putting in any further papers as evidence.

9 MR. LEHNER: Correct.

10 THE COURT: Nor is anybody else. So we have all the
11 evidence before us.

12 I want to know what the briefing schedule is so that
13 I can get out a memorandum, order, final judgment and either a
14 final injunction or no final injunction.

15 What do you want?

16 MR. LEHNER: We can brief this in two weeks,
17 your Honor. We have our motion ready but we can certainly
18 brief the issues and prepare the proposed findings of fact in
19 two weeks.

20 MR. CHABASINSKI: This is Ted Chabasi nski . I think
21 two weeks would be adequate for the rather minimal showing I
22 have to make for my client.

23 THE COURT: January 31, all parties briefs.

24 MR. VON LOHMANN: I would just like to note on
25 behalf of John Doe for the reasons stated in our prior briefs,

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

242

1 I believe any further extension of the temporary mandatory
2 injunction constitutes a prior restraint, and more to the
3 point, I can't possibly see what could take two weeks based on
4 this evidence with respect to the non-parties.

5 Perhaps there can be a debate here about whether or
6 not Mr. Egilman -- Mr. Egilman obviously is subject to the CMO
7 if anything and with respect to Mr. Gottstein, there is
8 obviously evidence, but with respect to the non-parties, I can
9 dispose of the evidence on that matter in two days at most.

10 THE COURT: You don't have a transcript for one

11 thing.

12 MR. FAHEY: The substantial part of the record is
13 the Redwell which Mr. Gottstein provided today which even a
14 cursory review suggests that there is a lot of communications
15 among those parties.

16 THE COURT: I don't want you to throw in a lot of
17 documents. I want you to give the parties explicit notice on
18 which documents you relied upon and I am not going to read a
19 big Redwell full of documents.

20 I want you to be precise on which documents and I
21 also want you to tell me which of the documents that were
22 exposed are documents, one, that constitute trade secrets or
23 embarrassment or the other language under the rules and how
24 their release has harmed you.

25 So I want for you to be very specific. I don't want

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

243

1 to have a load of documents thrown at me.

2 MR. LEHNER: I was not suggesting that we would file
3 those as part of our pleadings but I think the evidence is in
4 those.

5 THE COURT: I know, but you have to give
6 everybody -- you better pick them out. And first of all, you
7 are going to give everybody a complete copy of what is in the
8 Redwell.

9 Secondly, you are going to as quickly as possible
10 tell them which of the specific documents in the Redwell you
11 are going to rely on and which of the documents released you
12 are going to specifically rely on, because I cannot, I
13 believe, deal with the case on the ground that I know that in
14 the millions of pages that we now have in our depository,
15 there are some documents that should not have been released.

16 So you'll have to be very specific.

17 MR. LEHNER: Your instructions are clear.

18 THE COURT: And as quickly as possible.

19 MR. HAYES: I am not going to contest on behalf of
20 Dr. Egilman whether he will be governed by the latest
21 injunction or he is not seeking to be relieved from the CMO-3.

22 Do I have to submit a brief at all?

23 THE COURT: How long have you been in practice now?
24 Have I ever directed you to do anything that you didn't want
25 to do?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

244

1 You are free to do anything you want to do.

2 MR. HAYES: Thank you, judge.

3 MR. MILSTEIN: I would ask that we rather than file
4 a brief simultaneously, that we see whatever they are going to
5 file and then respond to that.

6 MR. MCKAY: I agree, your Honor.

7 THE COURT: If they get their brief in January 31, a
8 week from that is February 7th.

9 Do you want until February 7th to submit your
10 briefs?

11 MR. MILSTEIN: Yes.

12 THE COURT: All respondents' briefs by February 7.
13 I don't want argument unless I ask for it.

14 MR. VON LOHMANN: I want to place on record that my
15 client John Doe here does not consent to a further now I think
16 three week extension of the temporary mandatory injunction and
17 just to make a record in the event we want to seek --

18 THE COURT: I don't know whether John Doe is under
19 any order. I don't remember mentioning a John Doe.

20 MR. VON LOHMANN: The John Doe that is subject here,
21 at least arguably subject --

22 THE COURT: Where is John Doe mentioned in the order
23 of mine?

24 MR. VON LOHMANN: In the January 4 order the Court's
25 order specifically enjoins anyone from posting information to

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

245

1 this wiki, anyone, and my client John Doe is a person who has
2 posted information to the wiki in the past and would like to
3 continue to do so.

4 The Court's order barring anyone from posting
5 information there runs against my client directly.

6 THE COURT: I understand.

7 Well, I believe the orders of Judge Cogan and my
8 orders are appealable under the Federal Rules.

9 MR. VON LOHMANN: Thank you, your Honor.

10 THE COURT: So if Mr. John Doe or Ms. John Doe want
11 to appeal, you are free to do so. I am not at this stage
12 going to disturb the status quo.

13 MR. VON LOHMANN: Thank you, your Honor.

14 THE COURT: But I would like quickly to dispose of
15 the whole issue.

16 MS. GUSSACK: Your Honor is aware, I believe, that
17 the deposition of Dr. Egilman has been postponed as a result
18 of the need to obtain E-mails that have been deleted from his
19 control. We are hoping to conduct that deposition next week
20 so that we would have that in advance.

21 THE COURT: When is that deposition going to be
22 conducted?

23 MS. GUSSACK: I think next Monday or at a time
24 agreed on next week.

25

MR. HAYES: I have told counsel for Lilly that

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

246

1 unless they are willing to commit themselves that they are not
2 going to proceed to seek criminal contempt, that my client may
3 take the Fifth Amendment at such a deposition.

4 MS. GUSSACK: Counsel for Lilly has shared with Dr.
5 Egilman's counsel the view that we are seeking to obtain a
6 factual record on which all sanctions that are appropriate can
7 be sought.

8 THE COURT: Are you going to proceed to seek
9 criminal contempt or civil contempt?

10 MS. GUSSACK: Your Honor, if the factual record
11 supports both civil and criminal sanctions, we will be
12 pursuing both.

13 THE COURT: Well, you are free to brief the point
14 and it is a very complex point, because all counsel know that
15 contempt is a quagmire in the federal courts as well as the
16 state courts; criminal, civil and all other kinds of
17 categories.

18 You don't have to do very much reading to determine
19 how difficult the procedures are.

20 Now, with respect to the question of whether your
21 client wishes to be deposed, he is going to be deposed or not
22 be deposed. I don't want a conditional order. You are aware,
23 of course, that in a civil litigation, the fact that he pleads
24 this privilege may be used against him.

25 MR. HAYES: I am, your Honor.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

247

1 THE COURT: In connection with at least credibility,
2 correct?

3 MR. HAYES: That's correct, judge.

4 THE COURT: So you have to decide what you want to
5 do but I can't help you at this stage.

6 MR. HAYES: I understand, judge.

7 Fine.

8 THE COURT: Now, I suggest that the magistrate
9 judge, if it's possible, rather than Mr. Woodin, preside at
10 the deposition unless you want to proceed without anybody
11 presiding.

12 MR. HAYES: It doesn't matter to me, judge.

13 THE COURT: See if you can work it out without a
14 presiding officer, but if you need one, I think the magistrate
15 judge rather than Mr. Woodin should be in the position because
16 Mr. Woodin is a rather neutral assistant to all sides in
17 discovery matters and I don't want him involved in reducing in
18 any way his independent respected stature as a
19 non-participant.

20 But it is a difficult and perplexing series of
21 problems which had occurred to me with respect to your client.

22 MR. HAYES: Yes, I understand, your Honor.

23 THE COURT: And the deposition.

24 MR. HAYES: I don't think I'm really asking a
25 question but as it stands, they want to depose him to

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

248

1 determine whether or not they are going to bring a contempt
2 motion. If he takes the Fifth Amendment now --

3 THE COURT: I think the deposition should be
4 restricted to only the issues we have dealt with now, but of
5 course they are interrelated with a possible contempt motion.

6 MR. HAYES: Since we are not going to contest the
7 continuance not to disseminate, in other words, we are going
8 to say we are not going to disseminate it, we have given back
9 documents, we won't give them to anybody else, we won't talk
10 about them.

11 MS. GUSSACK: If I might remind the Court that our
12 order to show cause initially was sought to take the
13 deposition of Dr. Egilman and his documents to create the
14 factual record that would support the seeking of sanctions for
15 his willful violation of the protective order.

16 THE COURT: I really must say that we had a fairly
17 full revelation of what he did and said. I don't know what is
18 going to be added.

19 MS. GUSSACK: We hope to review the transcript from
20 today and yesterday's hearing and determining what additional
21 information needs to be sought. It may be a shorter
22 deposition but the documents he has produced and continues to
23 produce will provide additional questioning as well.

24 THE COURT: I'm not going to tell you how to conduct
25 the litigation. You are a very skilled attorney, but I have

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

249

1 again some reading and research, obviously, looking forward to
2 this hearing and possible subsequent hearings and I do find
3 them very perplexing for the reasons that Mr. Hayes has partly
4 alluded to.

5 So I suggest if that's what you want to do, set it
6 down for deposition and the proposed deponent will have to
7 decide what he wants to do.

8 MR. HAYES: Thank you, your Honor.

9 MR. VON LOHMANN: Your Honor, will that be the close

10 of evidence with respect to this issue?

11 THE COURT: I'll allow the deposition as well as any
12 documents taken from the Redwell to be submitted to supplement
13 the record we made today and yesterday.

14 MR. VON LOHMANN: And that will be it?

15 THE COURT: That will be the end.

16 MR. HAYES: This is a deposition with regard to this
17 proceeding solely?

18 THE COURT: Yes, but the difficulty, you understand,
19 is that what is at issue today might well bear on contempt.

20 MR. HAYES: I understand.

21 THE COURT: Not so much contempt of this Court's
22 order because there doesn't seem to be strong evidence of
23 contempt of this Court's orders but of the original CMO-3.
24 That is the contempt that is involved.

25 Yes.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

250

1 MR. MCKAY: I know we want to leave.

2 THE COURT: I'm perfectly willing. I have nothing
3 to do.

4 MR. MCKAY: I would like to clarify one or two
5 things in the same vein and you directed Lilly a week or 10
6 days ago to specify their intentions with respect to pursuing
7 contempt sanctions and I would like at this point to know what
8 that is.

9 There were some preliminary indication last Friday
10 night but I think that it's fair to ask at this point.

11 THE COURT: I think you should let counsel know as
12 soon as possible and preferably Mr. Hayes because his client
13 hasn't testified.

14 I think Mr. McKay's client has testified fairly

15 fully and openly.

16 MR. HAYES: To make it simple, my client is going to
17 take the Fifth Amendment -- if they are going to say possibly
18 they are going to proceed with criminal contempt, my client is
19 going to take the Fifth Amendment.

20 THE COURT: I don't see any point in bringing him
21 forward and wasting a lot of time. I would think a letter to
22 that effect will have the equivalence of his taking the Fifth
23 for purposes of evidence.

24 MR. HAYES: Yes.

25 THE COURT: Do you concede that?

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

251

1 MR. HAYES: I do.

2 THE COURT: That will save us a lot of time if that
3 is the position.

4 When are you going to inform Mr. Hayes?

5 MS. GUSSACK: Your Honor, I believe the evidence
6 that we heard yesterday and today provide a basis for seeking
7 sanctions against Mr. Gottstein as well as against Dr.
8 Egi lman.

9 THE COURT: He wants to know if you are going to
10 proceed with criminal contempt.

11 Actually, of course, the concept of criminal and
12 civil contempt is so vague and overlapping that it doesn't
13 make any sense from a conceptual point of view with respect to
14 the issue you are raising. I think anybody who has been in
15 this field knows that but nevertheless, he said that if you
16 don't commit yourself not to proceed with a criminal contempt
17 sanction, his client will plead the Fifth Amendment.

18 So if you don't want to give him that assurance,

19 tell him that immediately, as soon as you can. He will give
20 you a letter and then that simplifies matters.

21 MR. MCKAY: I'm still asking can they say at this
22 time whether they are not going to pursue criminal contempt
23 against Mr. Gottstein.

24 THE COURT: They are not in a position to tell you
25 that because he is theoretically in the same position as Mr.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

252

1 Hayes' client.

2 MR. MCKAY: The remaining question is I would ask
3 that your Honor rule that there is no further relief
4 appropriate with respect to the order to show cause both for
5 the reasons that I stated in the brief, and in any event
6 because he is fully, as you know, provided the substantial
7 relief that was sought in that order and there is no reason to
8 pursue that matter further.

9 THE COURT: I'll consider that. It's an argument
10 and I'll certainly consider that.

11 MR. MCKAY: The reason I ask your Honor if there
12 were to be anything further, we don't understand how there
13 could be we're here and obviously if it's something -- I
14 understand.

15 THE COURT: He is under an inhibition as I
16 understand the matter not to further disseminate what is in
17 his possession with respect to these documents and he has
18 agreed to and the status quo is going to be held until I make
19 a decision.

20 MR. MCKAY: Yes, your Honor. The only relief, and I
21 apologize if I was confusing, the only relief I'm talking
22 about is in the order to show cause, not the initial temporary
23 mandatory injunction, but the order to show cause as far as

24 producing himself and documents, he has done that.

25 THE COURT: He has done that.

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

253

1 MR. GOTTSTEIN: May I consult with my attorney,
2 your Honor?

3 THE COURT: Before we break, yes.

4 MR. CHABASINSKI: Your Honor, I don't know what is
5 going on.

6 THE COURT: We're waiting for a final submission by
7 Mr. McKay.

8 MR. CHABASINSKI: Thank you.

9 MR. MCKAY: Thank you, your Honor.

10 The concern that we have, and I think your Honor
11 would recognize it, is that you had left open for Lilly the
12 option outside of this hearing that was to take care of this
13 to go through the documents and see if there is something else
14 they want to submit. We can respond with a brief after they
15 have. Mr. Gottstein is concerned that things may be
16 characterized in a way that would ordinarily he would have a
17 chance to testify about that.

18 Can we assume that perhaps without the need for
19 anything more than an affidavit, he can at least respond?

20 THE COURT: Yes, he can respond by affidavit to the
21 characterization of any document.

22 And you or any other party can submit other
23 documents from that Redwell that Lilly doesn't.

24 MR. VON LOHMANN: On that point, do we have a date
25 when Lilly has to identify those documents? Because if

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

254

1 Mr. Egi lman' s de posi ti on doesn' t occur, i t would be nice to
2 have a date.

3 THE COURT: Try to do it in the next few business
4 days. And do it on a rolling basis so that as you find them,
5 you give them.

6 MR. MILSTEIN: So they are going to send us the
7 documents?

8 THE COURT: They are going to send you the whole
9 Redwell because you may find something you want to use. And
10 then they are going to specify which documents they are going
11 to rely on specifically, and if you want to do that, you'll
12 send them those documents and indicate that you want to rely
13 on them.

14 Does everybody understand where we are?

15 MR. CHABASINSKI: Yes.

16 MR. HAYES: Yes.

17 MR. VON LOHMANN: Yes.

18 MR. MCKAY: Yes.

19 THE COURT: It's a pleasure to have such
20 distinguished counsel before me.

21 Have a nice evening.

22 (Matter concluded.)

23

24

25

ALLAN R. SHERMAN, CSR, RPR Official Court Reporter
United States District Court Eastern District of New York

255

1

I N D E X

2

WITNESSES

3

Gottstein/Direct/Fahey 72

Gottstein/Cross/Hayes 113

4

Gottstein/Cross/Milstein 135

5	Gottstein/Cross/McKay	138
	Gottstein/Cross/Chabasi nski	152
6	Gottstein/Redi rect/Fahey	154
7	Sharav/Di rect/Lehner	162
8	Sharav/Cross/Mi l stei n	186
9	Meadow/Di rect/Fahey	198
	Meadow/Cross/Hayes	202
10	Meadow/Cross/Mi l stei n	214
	Meadow/Cross/McKay	217
11	Meadow/Redi rect/Fahey	222
12	Meadow/Recross/Hayes	223
13	Oaks/Di rect/Lehner	227
14	Oaks/Cross/Chabasi nski	236
15	E X H I B I T S	
16	Peti ti oner' s Ex 2	78
	Peti ti oner' s Exhi bi t 3	87
17	Peti ti oner' s Exhi bi t 4	106
	Peti ti oner' s Exhi bi t 3	109
18	Peti ti oner' s Exhi bi t 5	111
	Peti ti oner' s Exhi bi t 6	113
19	Peti ti oner' s Exhi bi t 7	119
	Peti ti oner' s Exhi bi t 8	174
20	Peti ti oner' s Exhi bi t 10	181
	Peti ti oner' s Exhi bi t 11	185
21	Peti ti oner' s Exhi bi t 12	199
	Peti ti oner' s Exhi bi t 9	181
22		
23	Respondent' s Exhi bi t 1	204
24		
25		

EXHIBIT 5

EDWARD W. HAYES, P.C.
ATTORNEYS-AT-LAW

RAE DOWNES KOSHETZ
Of Counsel
e-mail: rkoshetz@515law.com

515 Madison Avenue, 30th Floor
New York, New York 10022
TEL: (212) 644-0303
FAX: (212) 644-4818
e-mail: ehayes@515Law.com

January 23, 2007

VIA FACSIMILE 215-981-4307

Nina M. Gussack, Esq.
Pepper Hamilton LLP
3000 Two Logan Square
Eighteenth and Arch Streets
Philadelphia, PA 19103-2799

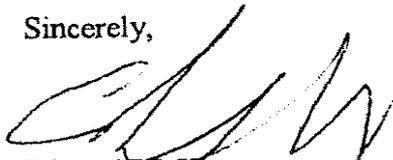
Re: Dr. David Egilman

Dear Ms. Gussack:

I represent Dr. David Egilman. If deposed in regard to the Zyprexa case, he will refuse to testify under the protection of the Fifth Amendment.

Thank you,

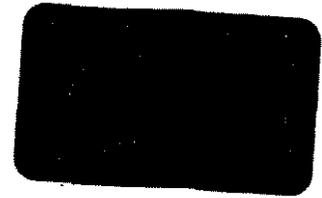
Sincerely,



Edward W. Hayes

EXHIBIT 6

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/NL/ps/neuroleptics.htm> and <http://psychrights.org/Research/Digest/NL/ps/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/MosholderReporttwo24.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 7

0001

1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
2 -----x
IN RE:

3
4 ZYPREXA LITIGATION,

MDL 04 1596
United States Courthouse
Brooklyn, New York

7 -----x
8 January 16, 2007
2: 00 p. m.

9

10 TRANSCRIPT OF HEARING
11 Before: HON. JACK B. WEINSTEIN, District Judge

12 APPEARANCES

13 Attorneys for Plaintiff:
14 DOUGLAS & LONDON, ESQ.
111 John Street
15 Suite 1400
New York, N. Y. 10038
16 BY: MICHAEL A. LONDON, ESQ.

17 THE MILLER FIRM
18 The Sherman Building
108 Railroad Avenue
19 Orange, Virginia 22960
BY: MICHAEL J. MILLER, ESQ.

20

21
22 FRED VON LOHMANN, ESQ.
Attorney for Electronic Frontier Foundation
23 454 Shotwell Street
San Francisco, Ca 94110

24

25

0002

1 Attorneys for Defendant:
2 PEPPER HAMILTON
Attorney for Eli Lilly
3 3000 Two Logan Square
Eighteenth and Arch Streets
4 Philadelphia, Pa 19103-2799
BY: SEAN P. FAHEY, ESQ.
5 GEORGE A. LEHNER, ESQ.
NINA M. GUSSACK, ESQ.
6 ANDREW R. ROGOFF, ESQ.

7

8

9 McCARTER ENGLISH
Attorneys for Eli Lilly & Company
10 245 Park Avenue
New York, N. Y. 10167
11 BY: SAMUEL J. ABATE, JR., ESQ.

12

13 SHERMAN, SILVERSTEIN, KOHL, ROSE & PODOLSKY
Attorneys for Vera Sharav, David Cohen, AHRP
14 4300 Haddonfield Road
Suite 311
15 Pennsauken, New Jersey 08109
BY: ALAN C. MILSTEIN, ESQ.

16

17

KOOB & MAGOOLAGHAN

18 Attorneys for Dr. Eagleman
19 South Street Seaport
20 19 Fulton Street
21 New York, N.Y. 10038
22 BY: ALEXANDER A. REINERT, ESQ.
23 EDWARD HAYES, ESQ.
24 Attorney for Mr. Gottstein
25 JOHN McKAY, ESQ.
Attorney for Mr. Gottstein

0003

1
2 Allan R. Sherman, CSR, RPR
3 225 Cadman Plaza East
4 Brooklyn, New York 11201
5 Tel: (718) 260-2529 Fax: (718) 254-7237

6 Proceedings recorded by mechanical stenography, transcript
7 produced by computer.

8 THE COURT: Mr. McKay, are you admitted in this
9 district?

10 MR. McKAY: Your Honor, I have a pro hac vice
11 application. I have the certificate with me and the check
12 but.

13 THE COURT: Mr. John McKay is admitted for the
14 purposes of this case. We're very pleased to have such a
15 distinguished attorney join us here.

16 MR. McKAY: Thank you, your Honor.

17 THE COURT: Any other applications for admission.

18 MR. MILSTEIN: Alan Milstein.

19 THE COURT: You are admitted where?

20 MR. MILSTEIN: New Jersey, Pennsylvania, Southern
21 District of New York.

22 THE COURT: And you are applying for admission for
23 purposes of this case?

24 MR. MILSTEIN: Correct, your Honor.

25 THE COURT: You are admitted. We're very pleased to
0004 have you.

MR. VON LOHMANN: Fred Von Lohmann of the Electronic

1 Frontier Foundation.

2 Your Honor was very kind enough to sign my
3 application last week.

4 THE COURT: Very pleased to have you. You are
5 admitted where?

6 MR. VON LOHMANN: Northern District of California,
7 Southern District of California, Ninth Circuit.

8 THE COURT: Has everybody who wishes a notice of
9 appearance done so?

10 THE CLERK: Civil cause for order to show cause In
11 Re Zyprexa Products Liability Litigation.

12 Do we have any counsel on telephone for
13 the 2:00 Zyprexa order to show cause?

14 MR. OAKS: I'm not counsel. This is David Oaks.
15 Our counsel is Ted Chabasiński.

16 THE COURT: Restate your name, sir.

17 MR. OAKS: My name is David Oaks, O A K S. I'm
18 director of MindFreedom International.

19 THE CLERK: Anyone else?

20 THE COURT: What is your attorney's name, sir?

21 MR. OAKS: Ted Chabasiński.

22 THE COURT: Spell it, please.

23 MR. OAKS: C-H-A-B-A-S-A-N -- I-N-S-K-I, I hope I

24 got it right.

25 Do you want to read that one back.

0005

1 MR. CHABASINSKI: I'm on the line now. Who is
2 asking for this information?

3 THE COURT: The Court.

4 MR. CHABASINSKI: My name is spelled

5 C-H-A-B-A-S-I-N-S-K-I.

6 THE COURT: Are you admitted in this district?

7 MR. CHABASINSKI: I've been appearing in this matter
8 for several hearings now.

9 THE COURT: Where are you admitted?

10 MR. CHABASINSKI: I'm admitted to practice in all
11 courts in California including the federal courts but my
12 participation has not been questioned up to now.

13 THE COURT: You are admitted for the purposes of
14 this case. We're pleased to have you.

15 MR. CHABASINSKI: Is this Judge Weinstein speaking?

16 THE COURT: It is.

17 When any of you speak, would you please give your
18 name and the people who are present here will do the same so
19 that you'll know who is speaking and I'll try to do the same
20 because we have a reporter.

21 Whose application is this?

22 MR. FAHEY: Your Honor, it's our application for an
23 order to show cause with respect to Mr. Gottstein's deposition
24 and connected document production.

25 THE COURT: Is Mr. Gottstein present?

0006

1 MR. GOTTSTEIN: Yes, your Honor.

2 MR. McKAY: Your Honor, I am Mr. Gottstein's
3 attorney.

4 THE COURT: Yes, I know, but he is present
5 physically?

6 MR. McKAY: Yes.

7 THE COURT: We're going to take evidence as needed
8 on this matter.

9 Now, since he has come down to New York, I suggest
10 that it might be useful to either have him give his deposition
11 today and tomorrow morning or skip the deposition and have him
12 testify and we'll take his testimony as part of the deposition
13 and direct testimony so that he is saved the inconvenience of
14 either having to come down twice or having to also give a
15 deposition in Alaska.

16 MR. McKAY: May I speak to that, your Honor?

17 THE COURT: Yes.

18 MR. McKAY: I realize that everybody has been
19 leaving you with I don't know if it's a lot of paper.

20 THE COURT: Give you name.

21 MR. McKAY: This is John McKay speaking, attorney
22 for Jim Gottstein.

23 Your Honor, may I ask if you have had a chance to
24 review the response to the order to show cause by Mr.
25 Gottstein?

0007

1 THE COURT: I have read everything that has come
2 into the courthouse.

3 MR. McKAY: Thank you. Then I appreciate
4 your Honor's suggestion concerning the deposition and perhaps
5 no need to do that and I guess what I was going to suggest is
6 that I believe our position is that by the end of the hearing
7 today on the injunction, which was the principal purpose for
8 this, that it may appear that there is no reason to go further
9 and that we can take up at that point whether there is any
10 need to go any further with the proceedings.

11 THE COURT: As I understood your papers, you are
12 proposing to put Mr. Gottstein on the witness stand.
13 MR. McKAY: If need be, your Honor. I think their
14 burden is to establish that there was a violation that there
15 was an injunction that is appropriate. If we need to, we
16 will.

17 THE COURT: He is here, they can call him.
18 Since the burden is on Lilly, is there anything
19 you'd like to say before you proceed with your case?

20 MR. FAHEY: Your Honor, our request for the order to
21 show cause was for his deposition but it was also for
22 documents and the reason why we wanted the documents was
23 because up to this point the Court and the parties involved
24 are only in possession of documents that Mr. Gottstein has
25 chosen to provide the Court and the parties.

0008

1 We believe that there are a number of communications
2 which he has disclosed in his writings which he has not
3 produced which would shed additional light on the issues
4 relating to his aiding and abetting Dr. Eagleman's breach of
5 case management order number 3.

6 While we believe the documentary evidence we
7 submitted prior to this hearing and which we could elicit
8 today would clearly demonstrate that Mr. Gottstein aided and
9 abetted Dr. Eagleman, we do not want to or we'd like to
10 reserve the right to have additional documents to further show
11 the full nature of Mr. Gottstein's contempt.

12 THE COURT: You do have a considerable number of
13 documents already. I suggest that you may want to just call
14 him as a witness and ask him about the other documents and if
15 there is a critical document, I suppose we can have it faxed
16 down or provide for it, but I'd rather proceed quickly with
17 this matter.

18 MR. McKAY: John McKay.

19 I understand there is speculation that there
20 possibly is something that might help their case but I can
21 tell you I know of nothing and so I think we can proceed as
22 you suggested and if there appears there is something that is
23 necessary, we can deal with that.

24 THE COURT: Then we'll proceed with the hearing.
25 This is an evidentiary hearing. Lilly will proceed. It has

0009

1 the burden of proof.

2 MR. LEHNER: Thank you, your Honor.

3 This is George Lehner for Pepper Hamilton on behalf
4 of the defendant Eli Lilly and we are proceed to proceed.

5 The issue that is before the Court and that I will
6 address and which Mr. McKay suggested should be the first
7 issue we need to consider is whether or not the temporary
8 mandatory injunction that was entered first on December 29 by
9 Judge Cogan then extended and modified by this Court on
10 January 4th should be made permanent.

11 I believe the factual record for the continued basis
12 for the temporary injunction has been developed already
13 through a series of hearings before first Special Master
14 Woodin, Magistrate Mann and ultimately Judge Cogan. We have
15 for these proceedings submitted a proposed finding of fact
16 which outlines in detail the necessary factual predicate for
17 making this injunction permanent. Much of the material
18 findings of fact are documents and letters that have been
19 previously submitted to the Court. In addition, there is an
20 affidavit from the law firm, from the Lineer law firm which
21 initially retained Dr. Eagleman. And it is important to note
22 I think in the outset that the application for the injunction
23 that has been made and that is before you today is made on

24 behalf of both Lilly and the plaintiffs' steering committee
25 both of whom are party to the protective order that has been

0010

1 violated in this case and both of them recognize the
2 fundamental interests at stake when what happened here,
3 private parties affirmatively choose to subvert and order of
4 this Court and to decide to take the law into their own hands
5 to advance their own private agenda.

6 Let me review briefly the facts that have been
7 developed to date. Then we would call Mr. Gottstein to
8 testify.

9 As the Court knows, and as I just noted, Dr.
10 Eagleman was retained by the Lineer law firm --

11 THE COURT: I have read all the papers. You now
12 have the burden of proof. If you are going to introduce
13 documents, you'll have to do it in the regular course. If you
14 are going to call witnesses, you are going to have to do it.

15 I don't really need at this point, having read all
16 of the submissions, an opening statement.

17 MR. LEHNER: Then I think we would be prepared to
18 call Mr. Gottstein to the stand and have them testify as to
19 his involvement with Mr. Eagleman and his own involvement in
20 disseminating the documents that were subject to the
21 protective order.

22 So at this time we would call Mr. Gottstein to the
23 stand, please.

24 And if I might, I would turn the microphone over to
25 my colleague, Mr. Fahey, who will conduct the examination.

0011

1 THE COURT: Would you take the stand.

2 THE WITNESS: May I can take notes, your Honor?

3 THE COURT: You may, however any notes you take will
4 be subject to inspection by the attorneys.

5 THE WITNESS: Thank you, your Honor.

6 THE COURT: Would you swear the witness.

7 THE CLERK: Would state your name for the record.

8 THE WITNESS: James V -- Jim Gottstein,

9 G-O-T-T-S-T-E-I-N.

10 JAMES V. GOTTSTEIN, having been called as a
11 witness, first being duly sworn, was examined and
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. FAHEY:

15 Q Good afternoon, Mr. Gottstein.

16 My name is Sean Fahey.

17 You're an attorney, correct?

18 A That's correct.

19 Q And you graduated from Harvard Law School?

20 A Yes.

21 Q You are licensed from the State of Alaska?

22 A Yes.

23 Q You've been practicing as an attorney in Alaska for over
24 20 years, correct?

25 A Correct.

0012

1 Q As an attorney you are also an officer of the Court,
2 correct?

3 A Absolutely.

4 Q And as an attorney and officer of the Court, you have an
5 obligation to be truthful to the Court, correct?

6 A Absolutely.

7 Q That is true when you use the Court's subpoena power,
8 right?

9 A Absolutely.

10 Q You would agree that the privilege to use the Court's

11 subpoena power sets attorneys apart from most other
12 professions?
13 A The subpoena power is very powerful and I understand it.
14 Q And as an attorney, you have an obligation when using the
15 subpoena power in terms of those privileges that our
16 profession provides, correct?
17 A Yes.
18 Q With that privilege comes responsibility, correct?
19 A Yes.
20 Q It would be wrong as an attorney or officer of the Court
21 to misuse the Court's subpoena power?
22 A Yes.
23 Q It would be wrong as an attorney and officer of the Court
24 to abuse the Court's subpoena power, correct?
25 A Yes.

0013

1 Q As an attorney and officer of the Court, you also have an
2 obligation to be truthful when you speak to the Court during
3 hearings like this, correct?
4 A Yes.
5 Q And during the hearing that you testified with Magistrate
6 Judge Mann, correct?
7 A Well, I was truthful, your Honor. I don't think I was
8 actually testifying.
9 Q You spoke to Magistrate Judge Mann and you put out your
10 position?
11 A Yes.
12 Q You had an obligation to be truthful when you spoke to
13 the Court, correct?
14 A Yes, and I was.
15 Q You were present on the hearing with Judge Cogan on
16 December 18 as well, correct?
17 A Yes.
18 Q And you heard the words that your attorneys said,
19 correct?
20 A Well, I think it was very hard to hear him at times so I
21 heard what I did hear.
22 Q Understood, but you -- at the end of the conference you
23 actually spoke up and spoke to the Court, correct?
24 A I don't recall that, actually.
25 Q Do you remember when Judge Cogan asked you whether or not

0014

1 you submitted the December 17 letter to Special Master Woodin?
2 A I remember it was in either one or both of those
3 hearings, yes.
4 Q When you spoke up in that hearing, you had an obligation
5 to tell the Court the truth there as well?
6 A Yes.
7 Q Going back to the conference with Magistrate Judge Mann,
8 you were on that call on December 18, correct?
9 A Yes.
10 Q And you spoke to Magistrate Judge Mann, you answered her
11 questions?
12 A Yes.
13 Q And you answered them truthfully, yes?
14 A Yes.
15 Q And you posted the transcript for that telephone
16 conference on your website, didn't you?
17 A Yes.
18 Q Then you participated as we just talked about in another
19 conference with Judge Cogan, correct?
20 A Yes.
21 Q And your attorney was on that?
22 A Yes.
23 Q And there was a transcript prepared from that conference,

24 correct?

25 A Yes.

0015

1 Q And you posted that to your website as well, didn't you?

2 A Yes.

3 Q Now, you heard the things that your attorney was saying
4 during the call subject to your ability to be able to hear
5 them, right?

6 A Yes.

7 Q And you didn't hear your attorney say anything that you
8 knew to be untruthful, did you?

9 A No, I don't recall anything. I was called onto the phone
10 right then and I said well, I better try and get an attorney
11 and we put him on hold and I called Mr. McKay right then and
12 it was demanded that we get right back on the phone and we
13 did. So that was how that came about.

14 Q Now as an attorney and officer of the Court, you also
15 have an obligation to be truthful when you submit things in
16 writing to the Court, don't you?

17 A Yes. And I seem to be hesitating.

18 Q Yes, you did.

19 A And the reason for that is you know I styled my response
20 to the special master a draft for a number of reasons. I'm
21 not really quibbling over that but it was prepared very
22 hurriedly I notice one footnote just ends.

23 Q I didn't hear you.

24 A One footnote wasn't finished when I went back and read
25 it. I'm not saying anything in there was not truthful but

0016

1 that is a draft.

2 Q It's a draft, it's final, it's truthful, right?

3 A Yes.

4 Q And you wrote that letter to the special master on
5 December 17, correct?

6 A I believe that is true.

7 Q Then you posted that letter to your website?

8 A Yes, as it's been my practice in most of these cases that
9 I've been doing in this overall effort.

10 Q You do have a history of seeking documents in other
11 cases, don't you, seeking to put them on your website?

12 A Well, we put a lot of documents on our website so they
13 are not necessarily from proceedings. It's laid out, a
14 certain amount of that is laid out in the draft response.

15 Q In your draft response you talk about the history of your
16 desire to go out and find documents from litigation from other
17 sources and then make them widely available on your website,
18 correct?

19 A Correct.

20 Q And when you sent your letter to Special Master Woodin on
21 December 17, you attached a number of documents, correct?

22 A Correct.

23 Q 1 of them was a subpoena that you had issued in the case?

24 A Yes.

25 Q And the second was an amended subpoena that you had

0017

1 issued in the case?

2 A Yes.

3 Q And the case that we're talking about is a case in
4 Alaska, correct?

5 A Correct.

6 Excuse me, may I have some water, please?

7 THE COURT: Of course. We'll get you some
8 immediately.

9 Now before we go any further, while everybody is
10 taking refreshments, is Dr. Eagleman in the courtroom?

11 MR. REINERT: I'm his counselor. My name is
12 Alexander Reinert. Mr. Hayes is also present.
13 THE COURT: His counsel is present?
14 MR. REINERT: Yes, although we both did not expect
15 to be required at this hearing and both have to leave at
16 approximately 3:30.
17 THE COURT: I would suggest that counsel for Dr.
18 Eagleman come forward and sit at the table since your client
19 may be affected by what is going on and you may want to
20 object. You do have the power to object and you may want to
21 cross-examine. And if you wish the proceedings terminated
22 because you can't be here or for some other reason, please
23 speak up.
24 MR. REINERT: We will say that we haven't received
25 any notice to this point of any initiation of any contempt
0018 proceedings by Eli Lilly.
1 THE COURT: This is not a contempt proceeding. This
2 is a proceeding with respect to a mandatory injunction.
3 Do you understand that?
4 MR. REINERT: Yes, we do.
5 THE COURT: Would you give your name.
6 MR. HAYES: Edward Hayes, 515 Madison Avenue.
7 THE COURT: I know you are admitted to this Court.
8 MR. HAYES: This is the first time I've been down
9 here in a while.
10 MR. MCKAY: Let the record show my client is not
11 recalcitrant in case there are any consequences.
12 MR. HAYES: It's a joke.
13 THE COURT: Let's get back to the examination.
14 MR. FAHEY: I'm going to hand back -- actually,
15 your Honor, if I can hand the witness a document.
16 THE COURT: Of course.
17 Marked what?
18 We'll call you petitioner.
19 MR. FAHEY: This is Petitioner 1.
20 (So marked.)
21 Q Have you seen this document before, sir?
22 A Yes.
23 Q Could you tell the Court what it is?
24 A This is what I referred to earlier as the draft response.
0019
1 Q This is a letter -- I'm sorry.
2 A That I sent to Special Master Woodin on December 17 that
3 you referred to earlier. It appears to be it.
4 MR. FAHEY: I would move Petitioner 1 in evidence,
5 your Honor.
6 THE COURT: Admitted.
7 (So marked.)
8 Q Could you turn to page 4 of the letter, please.
9 This was the letter that you wrote to Special Master
10 Woodin after you had been ordered to return the documents that
11 you had received from Dr. Eagleman, correct?
12 A Correct.
13 Q This is the letter where you attempt to describe how you
14 came into possession of the document, correct?
15 A Yes.
16 Q Could you please read into the record starting with out
17 of the blue on the bottom of page 4.
18 A For how long?
19 Q Why don't you read the whole section about how you came
20 into the possession of the documents all the way down to
21 "analysis" on page 6.
22 A "Out of the blue on or about November 29, 2006, Dr.
23 Eagleman called me to ask if I had FOIA documents pertaining

24 to Zyprexa. He identified himself as one of the plaintiffs'
25 retained experts in Zyprexa damages litigation. I directed

0020

1 him to the location of the FOIA information available on Psych
2 Rights website and also mentioned to him the adverse events
3 database. During the course of the conversation I learned
4 that he had access to secret Eli Lilly documents pertaining to
5 Zyprexa. I told him that I wanted to access those documents
6 and would undertake a case from which to subpoena them. Dr.
7 Eagleman told me he was subject to a protective order to
8 provide notification of such a subpoena. I informed him that
9 I understood and indicated that typically forced drugging
10 hearings occur very quickly and they are often scheduled for
11 hearing the same day they are filed but that I always ask for
12 a short continuance to prepare.

13 Should I read the footnote there?

14 Footnote 14 see AS47.30.839E.

15 Q For the court reporter's benefit, I don't think you have
16 to read the footnotes for the rest of the paragraphs.

17 A I would prefer to.

18 "Since I knew at the time that I would be away from
19 Alaska from December 22, 2006 until January 15, 2007, I
20 preceded to try to acquire a suitable case in earnest and in
21 footnote 15, these efforts are chronicled at and then an URL
22 to that, a URL, which stands for uniform resource locator.

23 In spite of the impediments to doing so interposed
24 by the Alaska Psychiatric Institute I was able to acquire a
25 suitable case in the evening of December 5, 2006. This case

0021

1 however was not within an AS4730839 Court ordered forced
2 drugging proceeding but involved the guardianship wherein the
3 public guardian, the Alaska Office of Public Advocacy, OPA or
4 OPA was granted full guardianship powers under AS 13.26.090
5 through .155, including the power to quote approve
6 administration of psychotropic medications, meaning the right
7 to agree to the forced drugging of its ward who is now Psych
8 Rights' client. The next morning I filed papers to, among
9 other things, terminate the guardianship and remove the
10 guardian's rights to consent to forced drugging. The Court
11 issued four deposition subpoenas at my request.

12 If I may, it's the clerk's office that does that,
13 the clerk's office -- including one to Dr. Eagleman setting
14 his telephonic deposition for December 20, 2006, a copy of
15 which is attached. It is my belief that Dr. Eagleman promptly
16 notified Eli Lilly of the subpoena, a belief which is
17 supported by a December 14, 2006 letter from Eli Lilly's
18 Alaska counsel, Brewster Jamison, a copy of which is enclosed,
19 footnote 16. It is noted that this letter recites a copy of
20 Dr. Eagleman's letter transmitting the subpoena which was not
21 included in either the fax or a hard copy of the letter
22 received by Psych Rights. Over the weekend, in reviewing of
23 paperwork, I realized that the subpoena's requirement for Dr.
24 Eagleman to "bring with" him the subpoenaed materials didn't
25 make any sense for a telephonic deposition. So on Monday

0022

1 December 11th, 2006, the Court issued an amended subpoena, a
2 copy of which is enclosed, that required Dr. Eagleman to
3 deliver the subpoenaed materials to me prior to the
4 deposition. This amended subpoena, a copy of which is
5 enclosed, was served on Dr. Eagleman by E-mail which states in
6 its entirety: Dear Dr. Eagleman, I have (hopefully) attached
7 an amended subpoena. I assume that you will also accept
8 service of this amended subpoena in this manner. If not,
9 please notify me immediately. In reviewing the original
10 subpoena, I realized it did not take into account that this

11 was a telephonic deposition, therefore the amended order --
12 then it actually doesn't say you but I put it in here -- you
13 to deliver the material to me prior to the date and time set
14 for the deposition rather than bring it with you. In order
15 for the deposition to go smoothly and as efficiently as
16 possible by allowing me to review them ahead of time -- then
17 italicized, please deliver the subpoenaed materials to me as
18 soon as you can, emphasis added. I registered the internet
19 domain name or domain zyprexadocuments.net that same day
20 December 11, 2006 in order to set up a secure method via "file
21 transfer protocol" for Dr. Eagleman to deliver the subpoenaed
22 documents to me. I then so informed Dr. Eagleman. Subpoenaed
23 materials began being uploaded on December 12, 2006 but ceased
24 after I E-mailed Dr. Eagleman a copy of the afterhours Jami son
25 letter of December 14, 2006 which I received on December 15,

0023

1 2006 and which is enclosed. Footnote 17, I E-mailed this
2 letter to Dr. Eagleman because the fax cover sheet did not
3 indicate it had been faxed to him.

4 Q Okay.

5 And I just want to review some of the things -- and
6 those are the words that you wrote to Special Master Woodin to
7 describe how you came into possession of the Zyprexa
8 documents, correct?

9 A Correct.

10 Q On page 4 of your letter you told Special Master Woodin
11 that Dr. Eagleman called you in your words out of the blue on
12 November 29, correct?

13 A I think I said on or about or something like that. Going
14 back to my records, it looks like it was November 28th.

15 Q And those are records that you have in your possession?

16 A Yes.

17 Q That you haven't submitted at this point?

18 A No.

19 Q What type of evidence are you suggesting confirms that
20 there was a communication on November 28?

21 A I have an E-mail from him.

22 Q What does the E-mail say?

23 A That E-mail at my recollection is simply his contact
24 information, nothing else.

25 Q He just sent you an E-mail with his contact information?

0024

1 A Yes, after he had called me on the telephone.

2 Q So help me understand the phone call. He calls you out
3 of the blue and is looking for some documents that you have
4 posted on your website. How does he tell you that he has
5 access to secret documents?

6 A He says that he is a plaintiffs' expert in this
7 litigation.

8 Q And why was he telling you that in your view?

9 A Well, I mean I can kind of give my sense of that. Maybe
10 I have a pretty good sense of that. But anyway, basically he
11 -- he wanted -- he was interested in getting these documents
12 out as well. That was my sense of it.

13 Q So your sense was that Dr. Eagleman called you so that
14 you could help or he could help -- you could help him make the
15 documents public. That's what you just said, right?

16 A I'm trying to think exactly. One of the things is that I
17 had my interests and he had his interests. So I don't know
18 that I was really trying to help him at that point.

19 Q You both had an interest in publicizing the documents,
20 correct?

21 A Yes, I have my interest. I really hesitate to speak for
22 Dr. Eagleman.

23 Q But your understanding based on your conversation with

24 Dr. Eagleman was that he called you so that you could assist
25 him in disseminating the documents that were subject to a

0025

1 protective order, right?

2 MR. HAYES: I object. It calls for a state of mind
3 of Dr. Eagleman.

4 MR. McKAY: I also object because it -- it states
5 facts that aren't in the record. That's not what he said.
6 It's predicated on a --

7 THE COURT: Excuse me. I'll deal first with the
8 Eagleman objection.

9 What is your objection?

10 MR. HAYES: My objection is that it calls for his
11 analysis of Eagleman's state of mind.

12 THE COURT: That is overruled. The state of mind of
13 the witness is what is in issue at the moment and his belief
14 as to what Eagleman wanted to do is admissible.

15 MR. HAYES: Yes, your Honor. Thank you.

16 THE COURT: Your objection, sir?

17 MR. McKAY: My objection is framing the question, he
18 misstated what Mr. Gottstein's testimony was --

19 THE COURT: Sustained.

20 Reframe your question.

21 Q Mr. Gottstein, your understanding based on the
22 conversation with Dr. Eagleman, your state of mind at the time
23 was that you understood that the -- that Dr. Eagleman was
24 calling you so that you would assist him in disseminating
25 documents that were subject to a protective order, right?

0026

1 A I think that is probably correct. I was pretty focused
2 on my objectives not his objectives but it's hard for me to
3 say that is not accurate.

4 Q And your sense was -- we know that you wanted to get the
5 documents made public, you've already said that, right?

6 A Correct.

7 Q And your sense was that Dr. Eagleman shared your desire
8 to make them public, correct?

9 A Well, what I said is that -- it's my understanding that
10 he also had that objective, and so did he share mine? I don't
11 know but I think that was his objective.

12 Q And you are familiar with protective orders generally,
13 sir, aren't you?

14 A Somewhat. Actually, I haven't litigated that much in my
15 career.

16 Q But you understand what a protective order means in
17 litigation, right?

18 A Yes.

19 Q And you understand that a protective order is designed to
20 allow parties to share information to facilitate information,
21 correct?

22 A Yes. Well, I'm not sure that I think that is the reason
23 for a protective order. I think the reason is to protect
24 information that is produced.

25 Q Fine.

0027

1 In litigation though, right?

2 A Yes.

3 Q And you are aware that -- and Dr. Eagleman as you
4 testified told you that there were certain restrictions that
5 he was operating under with respect to the Zyprexa documents,
6 correct?

7 A Yes, and I told him he had to comply with those.

8 Q And you never asked for a copy of the protective order,
9 did you?

10 A Actually I did ask for it.

11 Q When?
12 A Probably the first telephone call. It was pretty early
13 on in the telephone conversations.
14 Q On November 28th?
15 A I don't remember the exact day.
16 Q Was there a conversation before the 28th?
17 A No, but it might have been in subsequent phone calls.
18 Q But subsequent to Dr. Eagleman sharing the documents with
19 you, you asked for the protective order, correct?
20 A Yes.
21 Q And you didn't get it, right?
22 A He said I didn't want it and I didn't push it.
23 Q Why did he say you didn't want it?
24 A Again, we're calling for his state of mind. My kind of
25 sense of it was that if I didn't have it, then I wouldn't be

0028

1 charged with the knowledge of it but.
2 Q And you wouldn't be here in a proceeding like this?
3 A No, I don't think that is correct because he did read the
4 relevant portions to me and I felt -- first off, I felt and do
5 feel that we followed the procedure set out in the protective
6 order; and second of all, I feel that it was Dr. Eagleman's
7 obligation to comply.
8 Now, subsequent to all of this coming out, I realize
9 that I probably should have been more insistent on getting the
10 protective order but I felt pretty confident that all I needed
11 to do was comply with my part of the process.
12 Q So essentially what you didn't know couldn't hurt you,
13 right?
14 A I really hesitate to answer that. I guess maybe that was
15 his sense of it. Mine was I wasn't really concerned about
16 that because I felt I had -- he read part of it to me.
17 Q What parts did he read to you?
18 A He read -- is it paragraph 14?
19 Q The part relating to dissemination of information?
20 A The one relating to when someone subpoenaed and he read
21 or told me about one about that notice was defined as three
22 days for one purpose and a longer period for another purpose.
23 But what I was -- anyway, I'm sorry.
24 Q So he read to you paragraph 14 of the protective order
25 which is actually in your letter, isn't it?

0029

1 A Yes.
2 Q You recite paragraph 14 in your letter?
3 A Yes.
4 Q One of the things that paragraph 14 requires is to
5 provide the producing party, in this case Eli Lilly, and
6 Section 3 under paragraph 14 is the location -- I'm sorry,
7 number 2 is the date on which compliance with the subpoena is
8 requested?
9 A Yes, and actually I don't know if I misheard or what and
10 I recall thinking of it as required rather than requested but
11 from my perspective, that doesn't really make any difference.
12 Q And you've said before that the protective order didn't
13 make much difference to you at all, it was not a concern of
14 yours?
15 MR. MCKAY: Objection. That misstates the
16 testimony.
17 A That's not what I said.
18 THE COURT: Reframe it.
19 Q Sure.
20 You understood there was a protective order
21 governing the production or dissemination of the documents
22 issued by this Court, correct?
23 A I'm sorry, could you repeat.

24 Q Sure.
25 You understood when you spoke to Dr. Eagleman that
0030
1 this Court had issued an order, a protective order relating to
2 the dissemination of the documents produced in this
3 litigation, correct?
4 A Yes.
5 Q And you further understood that the procedures in place
6 under that protective order required the producing party, in
7 this case it would be Dr. Eagleman who wanted to share the
8 documents with you, that he had to give notice to Lilly if
9 they were Lilly's documents prior to production, correct?
10 A Yes.
11 Q And one of the things that was important for Dr. Eagleman
12 to share with Lilly was the date on which the production would
13 be made, correct?
14 A Well, I think it says requested.
15 Q Requested by you, correct?
16 A Yes.
17 Q Right.
18 And then the production date that Dr. Eagleman
19 shared with Lilly was December 20, correct?
20 A I believe that's correct.
21 Q And he never shared and you know he never shared the
22 amended subpoena that you and he concocted to prepare an
23 earlier production?
24 MR. McKAY: Objection to the question.
25 Argumentative.
0031
1 THE COURT: Yes, reframe.
2 Q Let me back up. I'll rephrase.
3 On December 6 you sent a subpoena to Dr. Eagleman?
4 A Yes.
5 Q It was an Alaska State Court subpoena?
6 A Yes.
7 Q You didn't serve it on Dr. Eagleman properly, you sent an
8 E-mail to him?
9 A I actually did have it served.
10 Q By who?
11 A A process server. We arranged to have a Massachusetts
12 process server serve it.
13 Q That is the December 6 subpoena, the first one?
14 A Yes.
15 Q Why don't you turn to the page on -- the attachment to
16 your letter where the original subpoena is attached.
17 A Yes.
18 Q Now, before we get to the content of that subpoena, one
19 of the things that -- you and Dr. Eagleman had a problem on
20 November 29, didn't you, you didn't have a case that you could
21 use the subpoena the documents, right?
22 A Did you say November 28, I guess it would be.
23 Q November 28. But on November 28 when you knew that you
24 wanted the Zyprexa documents so that you could publicize them,
25 you had a problem because you didn't have a case that you
0032
1 could issue a subpoena from that would allow you to subpoena
2 the documents?
3 A I don't know if I would characterize it as a problem but
4 it was necessary to have an appropriate case in order to do
5 that.
6 Q Right, because you can't just send out subpoenas without
7 a case, right?
8 A Correct.
9 Q And you are supposed to use a subpoena for the purposes
10 of the case, right?

11 A You know, actually, I researched this before I did it
12 because I wasn't really concerned about the protective order
13 because -- for reasons why I said and probably that will come
14 out that I considered that Dr. Eagleman's responsibility. I
15 advised him to comply with it and in fact to maybe foreshorten
16 it, I told him repeatedly that he should give Eli Lilly the
17 amended subpoena. But what I was concerned --

18 Q Let's just stop there.

19 A Can I answer your question?

20 THE COURT: Finish your answer.

21 A But I was concerned about this issue of whether it would
22 be proper to issue a subpoena in a case that had dual
23 purposes, one in the case, and the other for this
24 dissemination. And I satisfied myself through that research
25 that it was proper.

0033

1 Q There is no evidence that DB was ever taking Zyprexa?

2 A There is no evidence, you mean in the record here?

3 Q You haven't offered any evidence that DB was taking
4 Zyprexa on December 6 when you issued the subpoena or at any
5 time since December 6, is that correct?

6 A That's correct.

7 Q And so you found a case to issue a subpoena calling for
8 Zyprexa documents and there is no evidence that the person
9 involved in that case ever was taking Zyprexa, correct?

10 A Well, again, it hasn't been produced in this proceeding
11 yet. I'm not sure that he has never been. At this time I'm
12 not sure that he has ever been. He certainly was potentially
13 subject to it and Eli Lilly's apparently illegal marketing
14 activity was certainly relevant to the question of whether or
15 not he should be ordered to take this drug against his will.

16 Q I understand what you are saying but I just want to make
17 it clear that you have no evidence to present to the Court
18 today that at any point from December 5th through today, you
19 have no evidence to provide to the Court that DB was taking
20 Zyprexa at any time during that period, correct?

21 A Correct.

22 Q And so you issued a subpoena, you found a case with
23 someone who has no evidence of taking Zyprexa and you issued a
24 subpoena to Dr. Eagleman on December 6.

25 Dr. Eagleman told you he had Zyprexa documents,

0034

1 right?

2 A Yes.

3 Q He didn't tell you he was an expert in any other cases
4 and had any other documents, correct?

5 A Yes.

6 Q Can you read the requested -- why don't you read the
7 attachment to your December 6 subpoena.

8 A Attachment to subpoena duces tecum (production of
9 documents) David Eagleman, MD, MPH; one, your curriculum
10 vitae; two, subject to any applicable restrictions, subject to
11 any applicable restrictions, all expert reports prepared by
12 you within the last five years pertaining to psychiatric
13 medications; subject to any applicable restrictions, all
14 documents you have in your possession or have access to,
15 including those in electronic format and have read, reviewed
16 or considered pertaining to the testing, marketing, efficacy,
17 effectiveness risks and harms of commonly prescribed
18 psychiatric drugs in the United States, including but not
19 limited to Halodol, Thorazine, Mellaril, Clozaril, Risperdal,
20 Zyprexa, Serenol, Abiliphi, Giadon, Lithium, Depakote,
21 Prozac, Paxil, Zolof and Wellbutrin.

22 Q How many medications besides Zyprexa did you just read
23 out? I lost track.

24 A 14.
25 Q So you, 14 and then Zyprexa is the 15th?
0035
1 A Zyprexa is in the middle.
2 Q Are you including Zyprexa in the 14 or not?
3 A I think you said other, so I don't think I counted it.
4 Q So you sent a subpoena to Dr. Eagleman asking for the
5 Zyprexa documents you knew he had plus 14 other, asking for 14
6 other drugs that you knew he didn't have, correct?
7 A Yes -- well, excuse me I guess I didn't know that he
8 didn't have. Although -- I mean I didn't know that for a
9 fact. It was Zyprexa that we had talked about for sure.
10 Q With respect to your interest to make these documents
11 public, we know you never got a copy of the protective order,
12 correct?
13 A Until later.
14 Q Did you ever ask Dr. Eagleman whether there was a way to,
15 within the court procedure to seek to dedesignate documents
16 that you wanted to publicize?
17 A I don't really recall that I did.
18 Q Did Dr. Eagleman ever tell you that there was a way that
19 the documents could be -- apply to the Court and ask for the
20 documents to be made public?
21 A No, I don't believe that he did.
22 Q Instead as you've said, you decided that you would
23 subpoena them, correct?
24 A Yes.
25 Q Dr. Eagleman understood that once they were subpoenaed,
0036
1 that you were going to disseminate them to the individuals
2 that you later certified as having disseminated them to?
3 A Yes, I think I already said that.
4 Q Did he share with you anybody that he would like to have
5 them disseminated with?
6 A Yes.
7 Q One was Alex Berenson from the New York Times?
8 A Yes. Yes.
9 Q Who else did Dr. Eagleman ask you to send the documents
10 to after he had given them to you?
11 A For sure Steve Cha.
12 Q He is with the Senate Finance Committee?
13 A He was with at the time the House Committee On Government
14 Reform minority office which is now the majority office.
15 Q Who else?
16 A Amelia Desanto. Yes.
17 Q Who is Amelio Desanto?
18 A She I think is the chief investigator for Senator
19 Waxman's committee and that may be the finance committee. I'm
20 not sure what committee it is.
21 Q Who else?
22 A I spelled her name wrong. Snigdha Prakash.
23 My counsel probably knows how to spell it.
24 MR. MCKAY: I believe it's S-N-I-G-D-H-A,
25 P-R-A-K-A-S-H.
0037
1 Q And Ms. Prakash is with NPR?
2 A Yes, National Public Radio. I believe that is true,
3 that's what he indicated.
4 Q Did he give you these names on a phone or in an E-mail or
5 how did he communicate the names to you?
6 A I think he E-mailed Ms. Prakash's address to me. I
7 remember that. Steve Cha called me and he E-mailed Amelia
8 Desanto and copied me with that.
9 Q So he gave you some E-mails and then he copied you on
10 other E-mails to other people to provide you with the

11 information by which you could use to send these documents,
12 correct?

13 A Yes.

14 Q Did he identify anybody else?

15 A You know, I don't recall at this time. If I went through
16 the list, that might jog my memory.

17 Q And these names were given to you before you were even
18 produced documents, correct, you started sending the documents
19 out the day you got them, right?

20 A Alex Berenson, yes. I don't think any of these others
21 were before I got them.

22 Q So before you got the documents you already knew that
23 when you got them you needed to send them to Alex Berenson at
24 the New York Times?

25 A I don't know that I would say needed to but.

0038

1 Q Dr. Eagleman had requested that you send them to Alex
2 Berenson?

3 A Yes.

4 Q Who did you decide to disseminate them to?

5 A There is Peter Bregan.

6 Q Who is Dr. Peter Bregan?

7 A He is a well-known psychiatrist, expert on psychiatric
8 drugs and psychiatric treatment, an author of many drugs -- I
9 mean many books and scholarly articles and a critic of current
10 psychiatric practices, just basically.

11 Q All psychiatric practices, not just Zyprexa?

12 A No, I wouldn't say all psychiatric practices.

13 Q He is not in favor of medicating patients with diagnosis
14 of psychiatric disease?

15 A I think that is generally true. I don't know that he
16 would say it's quite so categorically. For example, I think
17 he like another big critic who passed away a couple of years
18 ago and testified in the Meyers case feels like especially the
19 benzodiazepines might be helpful short-term to help people
20 recover, to get sleep and that will oftentimes bring them out
21 of psychosis. And so I think that he -- I'm not sure about
22 that but I think that he is not against that and then I know
23 Dr. Moser felt that even maybe Zyprexa was appropriate in some
24 circumstances when other efforts hadn't worked and you had
25 given them enough time and it might be helpful. So I'm not

0039

1 sure what Dr. Bregan's position on that is.

2 I do know that his position is, which I believe is
3 accurate, that these drugs basically are brain damaging and
4 therefore they should be used -- and have other problems, and
5 that therefore they should be used very carefully.

6 Q Dr. Bregan was the founder of an organization, and I
7 always have trouble remembering all the initials. Do you know
8 what I'm talking about?

9 A I believe you are referring to the International Center
10 for the Study of Psychiatry and Psychology, which is known as
11 ICSP.

12 Q Right.

13 And ICSP, they are -- are they a sponsor or are
14 they an affiliate of MindFreedom do you know?

15 A I don't really know. Well, they are probably a sponsor.

16 Q What is a sponsor for MindFreedom?

17 A It's basically someone who supports their mission, I
18 think.

19 I don't know if it even has to involve any kind of
20 fee or anything like that.

21 Q But you share common goals and interests?

22 A Right. Mainly I think it's people have the right to not
23 be forced to take these drugs.

24 Q And who are the other people that -- can you identify the
25 other people that you decided to disseminate the documents to?
0040

1 A Dr. Grace Jackson.

2 Q Who else?

3 A Dr. David Cohen, Judy Chamberlain, Bob Whitiker, Vera
4 Sharav. Did I say Will Hull? Laura Zigler.

5 It doesn't sound like that is enough. Is it in my
6 list?

7 Q Would your certification help you?

8 A Yes.

9 Q You mentioned Bruce Whittington?

10 A I hadn't mentioned him, yes.

11 Q Dr. Steven Kruszewski?

12 A Yes, I was going to say him but yes.

13 Q Then the two other people were Terrie Gottstein?

14 A Yes, that is right.

15 Q Is that your?

16 A And Jerry Winchester.

17 Q And Jerry Winchester lives in Alaska?

18 A Yes, his office is right next to mine.

19 Q Is there any other people that you remember disseminating
20 the documents to?

21 A No, but I mentioned Vera Sharav. I had spoken to her and
22 she wanted to get them to the Wall Street Journal and so I
23 gave her a password to access the FTP site but I don't believe
24 they did that.

25 Q They, meaning the Wall Street Journal?

0041

1 A Yes.

2 Q So your understanding was that Vera Sharav was going to
3 provide the password to your FTP server which contained the
4 Zyprexa documents to the Wall Street Journal?

5 A Right.

6 Q What is an FTP server?

7 A FTP stands for file transfer protocol, and it's a
8 mechanism to do just that, transfer files and especially
9 multiple files over the internet more reliably for sure than
10 E-mail attachments and with -- it's a lot easier than trying
11 to do it over say a website.

12 Q It's faster?

13 A And more reliable. You can do multiple documents that
14 way. That is relatively hard if you don't have special
15 software that will like what do they call it, crawl a website
16 or something like that to retrieve everything. File transfer
17 protocol is designed to -- you can download a whole directory.

18 Q So this FTP server and the data around the FTP server was
19 built on your computers, your servers?

20 A Yes, it was on one of our servers. I don't know about
21 built but.

22 Q Let's take a step back and we've already talked about the
23 December 6th subpoena and that called for the production of
24 documents on December 20th, correct?

25 A Correct.

0042

1 Q And you then issued an amended subpoena, correct?

2 A Correct.

3 Q And told Dr. Eagleman to start producing documents in
4 your words and I quote "as soon as possible", correct?

5 A No, it's as soon as you can and I realized since then
6 that can is ambiguous but what I meant was as soon as -- you
7 know, as soon as.

8 Q As soon as you can?

9 THE COURT: Don't interrupt him.

10 A As soon as he could under the protective order is what I

11 meant by it.

12 Q Did you say that?

13 A Well, I thought that -- that's what I intended when I
14 said that in the E-mail to him. I don't -- I don't know that
15 I communicated that separately to him.

16 Q Why did you move the date up from December 20 to as soon
17 as you can?

18 A I didn't really move the date of the deposition up.

19 Q You moved the date of the production of documents up,
20 correct?

21 A Well, I mean, what it said was -- it's like I put in the
22 E-mail, it didn't make any sense for him to bring the
23 documents with him in Attelboro, Massachusetts for me to try
24 to examine them in Anchorage, Alaska. So I had an amended one
25 that said to give it to me prior to the deposition and o give

0043

1 it to me as soon as he could so that I would have a chance to
2 review them before the deposition.

3 Q And the E-mail that you sent to Dr. Eagleman said produce
4 the documents "as soon as you can", correct?

5 A I believe that's true.

6 Q And that same day you set up the FTP server that you are
7 talking about that allowed for the rapid and efficient
8 transfer of documents, correct?

9 A Is that what I said -- is that what I wrote -- yes, could
10 be.

11 Q Then the production of documents started the next day on
12 December 12, correct?

13 A Yes.

14 Q And it continued until in your words you received the
15 December 14th fax from Lilly's counsel on the morning of
16 December 15th, correct?

17 A If that's what I said, yes.

18 Q And earlier you said you had told Dr. Eagleman repeatedly
19 that he should send the second subpoena to Lilly, correct?

20 A Yes.

21 Q And you knew he planned not to send it to Lilly, correct?

22 A Yeah, I think -- he told me he didn't see that it made
23 any difference.

24 Q And you decided that it was not important for you to send
25 the subpoena to Lilly either, correct?

0044

1 A My -- my position is that it was his responsibility under
2 the CMO and not mine.

3 Q As an officer of the Court, I'm just asking you, you made
4 the decision not to send the amended subpoena which called for
5 production of documents prior to December 20th to Eli Lilly,
6 correct?

7 A Correct.

8 Q And you knew at that time that Lilly had been provided
9 information that the document production would occur on
10 December 20th, correct?

11 A Yes, well, I mean that's what the subpoena says but
12 that's not -- I think it's not uncommon for documents to be
13 produced prior to the actual date.

14 Q I'm sorry, I may have interrupted.

15 A I think I was done.

16 Q Under Alaska rules, and you are an attorney in Alaska,
17 correct?

18 A Yes.

19 Q The Alaska rules for subpoenas are basically identical to
20 the Federal Rules, correct?

21 A I guess. I couldn't really say for sure.

22 Q Then let's just talk about the Alaska rule. You are
23 familiar with those rules?

24 A Yes. Like I said, I haven't done a lot but I reviewed
25 the rules before, I did.

0045

1 Q Under the Alaska rules, a party, all interested parties
2 are supposed to be given 10 days notice prior to a production
3 occurring, correct?

4 A Well, I don't know that is entirely accurate. I think
5 what it says is that any party to whom the subpoena, something
6 like that, to whom a subpoena is directed may object within 10
7 days.

8 Q And the production in this case occurred prior to 10
9 days, correct?

10 A Right, Dr. Eagleman did not object.

11 Q Of course.

12 Now, the second subpoena that we're talking about,
13 we already confirmed that you did not send that to Lilly,
14 right?

15 A I believe I've said that a number of times, yes.

16 Q And you did not send it to Dr. Eagleman's -- the law firm
17 that retained Dr. Eagleman in the Zyprexa litigation, correct?

18 A I don't think I even knew who that law firm was but no, I
19 didn't.

20 Q And you didn't send it to the parties in the Alaska
21 litigation at that time, did you?

22 A Well, under the Alaska rules, you don't send the
23 subpoena. You are required to send a notice of deposition and
24 when I -- actually when I went to get the subpoena issued, I
25 had a certificate of service that said I'm sending notices of

0046

1 deposition. There were three other ones and the clerk said
2 no, that's not good enough, I want to see the actual notices
3 of a deposition. So I went back and got them and brought them
4 to the clerk and showed them to her and then she issued the
5 subpoenas and that was December 6.

6 Q December 11?

7 A It was probably both actually.

8 Q But no other parties of the Alaska litigation received a
9 copy of the December 11 subpoena, correct?

10 A Right. That is not the practice.

11 Q So the only people knew that the subpoena had been
12 amended was you and Dr. Eagleman, correct?

13 A The only people?

14 I don't know if it's the only people. I didn't
15 notify Eli Lilly if that's really the question.

16 Q The question is you didn't notify anybody other than Dr.
17 Eagleman that there had been a change in the production date,
18 correct?

19 A Really, the deposition date hadn't changed.

20 Q The production date, the document production date, the
21 only person you notified of a change in the production date
22 was Dr. Eagleman, correct?

23 A I don't know about the only person. I might have told my
24 wife. I guess that is privileged, but anyway, I might have
25 told somebody else, but no, I didn't tell the other parties

0047

1 because it didn't change -- the deposition date wasn't changed
2 so there was really no reason to tell them unless Eli Lilly
3 was already in cahoots with them or something.

4 Q I'm not sure what that means.

5 A There is no -- I mean; A, they had notice of the
6 deposition. That hadn't changed and there was no reason to
7 notify them of this as far as I was concerned.

8 Q You already told us that you told Dr. Eagleman repeatedly
9 to notify?

10 A Eli Lilly, yes.

11 Q So that --
12 A I knew that Eli Lilly had an interest in this and so I
13 really -- I suggested that Eli Lilly should be notified but
14 the other parties in the Alaska case; A, they weren't -- I
15 didn't see why they would have an interest in knowing that.
16 The deposition date hadn't changed.
17 Q When you issued the subpoena, you reason you said you
18 needed the subpoena was so that you could review the documents
19 in advance of Dr. Eagleman's deposition, correct?
20 A Yes.
21 Q And instead of reviewing the documents you start making
22 copies of them as soon as you received them, correct?
23 A Yes.
24 Q And you proceeded to make copies for the next two days
25 and send them out to the people on your and Dr. Eagleman's

0048

1 list, correct?
2 A I made two batches.
3 Q Right, for the next two days, correct?
4 A In the next two. It wasn't for them. I didn't spend all
5 say two days doing it.
6 Q This is the question I want to make clear. You were so
7 busy making copies of these documents that you never got to
8 review them, did you?
9 A I looked at some of them. The deposition was quite -- a
10 few days off which is, I think, your complaint. So I would
11 pull up some of them and look at them and I -- and it wasn't
12 that I was so busy make copies. I had my laptop burning DVDs
13 and my main computer burning DVDs, another laptop making sure
14 that they were -- I would make them and then I would put them
15 in this other one to make sure that they came up and I don't
16 know, I don't think it took me an hour to do it each time.
17 Probably less.
18 Q And you were anxious to get them out as quickly as you
19 could, right?
20 A Anxious, yes, I thought it would be good to get them out.
21 Q Before the Court could enter an order telling you you
22 shouldn't?
23 A Well, I don't know. I mean I guess -- I don't know that
24 -- you know, I knew that Eli Lilly would want to try to stop
25 it.

0049

1 Q Right, and you wanted to get them out as quickly as you
2 could to make that harder?
3 A Well, I would say yeah, I wanted to get them out of the
4 way that would make it impossible to get them back.
5 Q Right. And I just want to confirm that you, sir, as an
6 officer of the Court and an attorney in the State of Alaska,
7 relied on a physician to determine the legal implications of a
8 protective order, correct?
9 A No, that is not precisely true. I advised him to get
10 counsel repeatedly and I looked at it in terms of what my
11 obligations were and that I didn't have any obligations under
12 what is called CMO-3 here, I think, the protective order, that
13 I had to follow the rules. I felt that the protective order
14 essentially provided a road map of how to do it and that I
15 followed that road map.
16 Q Based on Dr. Eagleman's description of that road map,
17 right?
18 A His -- well, he read that paragraph to me.
19 Q And let me just -- and the reason why I'm asking the
20 question, you submitted a declaration to the Court this
21 morning?
22 A Yes.
23 Q In paragraph 6 of that declaration, you wrote, and these

24 are your words: Dr. Eagleman indicated that three business
25 days could be construed as sufficient notice to comply?

0050

1 A Yes.

2 Q And you relied on Dr. Eagleman's interpretation of the
3 case management order and the procedures under which you were
4 supposed to be operating as an officer of the Court and you
5 never asked for the protective order and you never had a copy
6 of the protective order before you pursued your course of
7 action with Dr. Eagleman?

8 A There is a lot there and I'm kind of tired from
9 everything, flying all night and stuff but you said as an
10 officer of the Court. I was certainly an officer of the
11 Alaska Court and followed those rules.

12 I never did and I don't believe now that I am
13 subject to -- a party to that case management order. Now, I
14 think really the guts of the question is what was reasonable
15 notice. We discussed that and how -- actually, we discussed
16 and I know more about the law now but how ambiguous that order
17 was and so he said that he felt it could be construed that
18 way. One of the things, for example, that we discussed was,
19 and I mentioned it, that initially I assumed that I was going
20 to get one of those AS 47.30.839 proceedings where the usual
21 practice, which I think is an absolute outrage, is for the
22 hospital to file a petition sometimes only an hour before the
23 hearing and then go through and get a forced drugging order
24 then the hearing that starts an hour from when the respondent
25 was served. And that what is reasonable notice under those

0051

1 circumstances? And what I said, and I think I put it in my
2 draft response, is that well, I'm not going to do a hearing
3 under those conditions, and I always get a continuance. And
4 so we talked about that and what it meant to be reasonable
5 notice and we talked about that but I made it clear I was not
6 his attorney and he needed to consult his own attorney and
7 that it was his obligation to comply with the order.

8 Q Did he consult with his own attorney, if you know?

9 A He gave me the name of one attorney -- the name who
10 escapes me, they are not here -- who he said and I called them
11 and that attorney said no, I'm not his attorney.

12 Q Was that the law firm that terminated him after they
13 found out what he had done in this case?

14 A No.

15 Q A different law firm?

16 A A different lawyer.

17 Q Do you remember the first name?

18 A I don't.

19 Q Do you have -- how did you get the name of the attorney
20 to call?

21 A Dr. Eagleman told me.

22 Q Was it in an E-mail?

23 A No, I don't believe it was.

24 Q Where was the attorney that you called, what part of the
25 country?

0052

1 A I think it was in the Boston area, certainly the
2 northeast.

3 Q Is the name Tom Sobel?

4 A I don't know. It's not inconceivable but it doesn't
5 totally ring a bell.

6 Q So you had this conversation with this attorney?

7 A Yes, and that basically terminated after he said he
8 wasn't representing him.

9 Q What did you say to the attorney?

10 A I understand you are representing Dr. Eagleman and he

11 said no, I'm not, and that was pretty much it.
12 Q I wasn't on the call so I'm trying to understand how it
13 happened.
14 You picked up the phone, dialed the number, somebody
15 answered the phone, you asked to speak with the attorney that
16 you thought was representing Dr. Eagleman and that person gets
17 on the phone and what did he say?
18 A I think I already said that, that Dr. Eagleman says that
19 you are representing him with respect to this.
20 Q What is this?
21 A Documents in this case, the Zyprexa multi-district
22 litigation. I'm not sure exactly how I described it but I
23 described the case somewhat.
24 MR. HAYES: The time when this happened, judge?
25 Q This is before the documents were produced, correct?

0053

1 A Yes.
2 Q So prior to you receiving Dr. Eagleman -- documents from
3 Dr. Eagleman, he gave you the name of an attorney that he
4 thought was representing him in connection with his
5 communications with you, correct?
6 A That he told me that he was, yes.
7 Q I'm sorry?
8 A Yeah, he told me that he was representing him.
9 Q So you called that person and said?
10 A I think I have described pretty much the whole
11 conversation except for one other thing which is that he said
12 that he, he did know Dr. Eagleman and he -- I don't know if he
13 represented him or not in other matters but he definitely said
14 he wasn't representing him in this matter.
15 Q Do you have phone records that would show who you called?
16 A I believe buried on my desk somewhere is that note. I
17 tried to bring everything with me but I have a lot of stuff at
18 my desk and so I think -- so I think it's somewhere there.
19 Q What have you brought with you today?
20 A I brought -- I tried to get on my computer basically, I
21 think, most everything that they would be interested in. I
22 did bring hard copies of the E-mails from and to Dr. Eagleman.
23 Q Phone records?
24 A It's on my computer.
25 Q Any --

0054

1 A Not all of them. I mean I could go into why but I don't
2 think -- you might ask me a question about some of them but I
3 don't think there is anything in the phone records other than
4 his attorney's name and number. I don't know. One of the
5 things is that when I was ordered to preserve all my voice
6 mail, that actually presented a problem. And so I had my
7 secretary while I was gone take a little recorder and record
8 them before she deleted them. And then she E-mailed me the
9 records. But they would be in one E-mail. They didn't all
10 pertain to this case.
11 So where I filed them on my computer is in my law
12 office folder and so it's not here, but I can access my office
13 computer via the internet and so I could actually find that.
14 Q Did you bring anything with you that relates to your
15 communications with the people who you disseminated the
16 documents to?
17 A Well, I didn't -- there really isn't any. I mean there
18 is a, I think there is a cover letter to Mr. Cha, I believe I
19 have a copy of that.
20 I brought pretty much what I thought would be
21 responsive that I could do at the time before I left.
22 Q After you got off the call with the person that said they
23 weren't representing Dr. Eagleman for the purposes of your

24 communications, did you have any discussions with anybody else
25 who purported to be representing Dr. Eagleman?

0055

1 A I don't believe so.

2 Q Your Honor I think at this point I just want one minute
3 to check my notes.

4 (Pause.)

5 After you received a copy of the order of this Court
6 saying that you had improperly disseminated the documents in
7 violation of CMO-3, did you communicate that fact to the
8 recipients of the documents to whom you sent them to?

9 MR. McKAY: Objection, your Honor. As Mr. Fahey
10 knows, your Honor specifically struck the word improperly from
11 that order.

12 Q You received a copy of the mandatory injunction directed
13 to you, did you not, sir?

14 A Yes.

15 Q And that document said that you aided and abetted a
16 violation of CMO-3, correct?

17 A Yes, and I strenuously objected -- tried to object to
18 that before it got issued but it got issued before we were
19 able to.

20 Q You actually objected to that on the call with Judge
21 Cogan and your attorney?

22 A That is probably true, yes. I was pretty offended by it.

23 Q Then --

24 MR. McKAY: Your Honor, I apologize but in fairness,
25 and for the record I think I misheard or misunderstood what

0056

1 Mr. Fahey was understanding.

2 You struck the word improperly from your order. I
3 believe that he is referring to an earlier order so I
4 apologize for misunderstanding.

5 Q You communicated the fact that you were asked to
6 communicate, you were ordered to in fact communicate to
7 everyone who you disseminated the documents to and retrieve
8 them, right?

9 A Yes.

10 Q And that was on December 18 and 19, right, you started
11 doing it in the middle of the night, at least East Coast time
12 on the 18th?

13 A I think that is correct.

14 Q And by the time on the 19th, you had communicated with
15 everyone to whom you had disseminated the documents, correct?

16 A I don't think that is correct. I think -- I think I kind
17 of remembered other people and the one that comes to mind is
18 when I was preparing the -- maybe it was on the 19th,
19 preparing a compliance certificate, I came across Prakash's
20 name which I had forgotten. So then I sent her a letter so I
21 think that was the last one and maybe it was the 19th but it
22 might have been the 20th or even later.

23 Q When you communicated these documents in the first
24 instance to the recipients that you've identified, the 13 or
25 16 people, did you communicate to them that they had been

0057

1 received pursuant with your discussions -- or strike that.

2 When you communicated with the people who had --
3 when you were disseminating the documents, did you tell them
4 that you had received them from Dr. Eagleman and they involved
5 the Zyprexa litigation?

6 A I have to look at the E-mails. You have them. You were
7 copied on those E-mails because that way you could contact
8 them immediately.

9 Q Actually, what we were copied on was your request to have
10 them returned.

11 A I thought that was the question.
12 Q No. When you originally disseminated them on the 12th
13 and 13th, did you tell them these are the Zyprexa documents I
14 got from Dr. Eagleman?
15 A No.
16 Q What did you tell them?
17 A I didn't tell them -- it depends. Some people had no
18 idea they were coming and other people did.
19 Q What how did the other people know what were coming?
20 A I called them.
21 Q What did you tell them?
22 A It varied. Bob Whitiker, I just talked to Bob Whitiker
23 and told him that they were coming.
24 Q And you told him that they were the confidential
25 documents that you received from Dr. Eagleman from the Zyprexa
0058
1 litigation, correct?
2 A I don't know if I mentioned Dr. Eagleman by name.
3 Q But you were getting confidential documents from the
4 Zyprexa litigation?
5 A Actually at that point I did not consider they were
6 protected anymore.
7 Q But you understood that a lot of people in New York
8 thought they were protected, right?
9 A Well, I guess I didn't know that.
10 What timeframe are you talking about?
11 MR. McKAY: Your Honor, if I might object to that
12 question because it assumes facts not in evidence and it talks
13 about what people in New York unidentified thought at a time
14 when he wasn't --
15 THE COURT: Why don't you ask a more direct question
16 with respect to a specific person.
17 MR. FAHEY: Okay.
18 Q With respect to Dr. Whitiker, you said you called?
19 A He is not a doctor.
20 Q Robert Whitiker, before you sent him the documents you
21 said you had a telephone conversation with him, correct?
22 A I think I did.
23 Q And you told him these were the documents that had been
24 obtained from the Zyprexa litigation in New York, correct?
25 A I think I probably told him something like I've received
0059
1 documents pursuant to a subpoena out of this case and that I
2 was sending them to him.
3 Q And these were the secret documents that Dr. Eagleman had
4 told you about?
5 MR. McKAY: Objection, your Honor, Mr. Gottstein has
6 previously testified that he no longer considered them to be
7 confidential or secret.
8 THE COURT: Sustained.
9 Q When you told Robert Whitiker that you were getting
10 Zyprexa documents --
11 A I think I -- I'm sorry for interrupting.
12 Q Go ahead.
13 A I think I already had them at that point. In fact, I --
14 it may have been that they were -- that they were already in
15 the mail and I told him that they were in the mail. That is
16 almost certainly the way that -- the way it happened.
17 MR. FAHEY: Your Honor, without waiver we would like
18 to stop the examination at this point and request that the
19 documents that Mr. Gottstein has described that he has brought
20 with him as well as those that are subject to the order to
21 show cause be produced.
22 THE COURT: Well, we have representatives of Dr.
23 Eagleman here and I understand they want to leave at 3:30,

24 correct?

25 MR. HAYES: Yes, judge.

0060

1 THE COURT: It's now 3:25. I suggest that the
2 documents be made available to Dr. Eagleman and any of the
3 other parties who are present for immediate examination with
4 copies to be made by Lilly.

5 I guess you have the best access to a copier so why
6 don't you make copies for everybody that needs them, that we
7 then break the examination so that you can look at the
8 documents.

9 There will be possible cross-examination certainly
10 by Dr. Eagleman. I have a 4:00 hearing so we can't complete
11 this tonight.

12 Can you be here tomorrow?

13 THE WITNESS: Yes, your Honor.

14 THE COURT: I have a 10:00 motion. I suggest that
15 we convene again at 10:30 tomorrow, that you get all these
16 documents, immediately have them copied, return the originals
17 to the witness, make them available, whoever asks for them.
18 You can do that. If the witness would be so kind as to call
19 somebody in his office to look at his desk to get the name of
20 that -- try to get the name of that person who he called in
21 Massachusetts apparently. That would be helpful. Give that
22 to counsel.

23 Is there anything else you need before
24 10:30 tomorrow?

25 MR. FAHEY: I don't think so.

0061

1 THE COURT: Anybody else need anything?

2 MR. McKAY: Your Honor, I will note that Lilly
3 specifically was directed to provide before the hearing today
4 notice of any documents they intended to rely on, the
5 substance of those, and of course didn't. And I understand
6 that these are documents that Mr. Gottstein has that are
7 responsive to the order to show cause, if the order to show
8 cause were to be issued, and it shouldn't. The only reason I
9 raise that is that Mr. Gottstein has done his best to have
10 available, should the need arise, these documents but I think
11 he indicated that they are in his computer. We will do our
12 best to work with counsel locally to physically get these
13 things available. And I suggest that we may, because we may
14 run into questions, for example, if their request is for
15 anything close to the breath of the show cause request, which
16 I don't understand to be relevant here, but if it is, there is
17 no question that we may have some issues that arise about
18 privilege or anything else. So I would ask whether Mr. Woodin
19 or somebody else be made available if those questions should
20 arise.

21 THE COURT: Mr. Woodin, would you stay for a little
22 while at least to do that?

23 But I understood from the witness that he had hard
24 copy of most or all of what was in his computer?

25 THE WITNESS: Oh, no, your Honor. I can look but I

0062

1 think basically what I brought hard copies of are the E-mails
2 to and from Dr. Eagleman.

3 I've got -- I tried to like -- I copied my whole --
4 I copied all my Psych Rights E-mails. So I think -- it's an
5 unGodly amount. The other thing that I thought would be
6 fairly easy for me to do is I scanned a copy of the phone
7 records and I brought that. And if I can get a printer, I
8 think I can find that and get that out pretty quickly.

9 THE COURT: Work with counsel. They have technical
10 equipment. Your lawyer may want to look at some of these

11 documents before you turn them over.
12 You have a law office.
13 MR. LEHNER: Yes, we have a law office in New York.
14 We would be happy to make arrangements this evening for a
15 printer.
16 THE COURT: It's now 3:30. Your counsel wants to
17 look at the documents first, I'm sure.
18 MR. McKAY: Yes.
19 THE COURT: So arrange to be at the office of Lilly
20 at 5:00 this evening to turn over the documents. And if they
21 make a request for additional documents that you can easily
22 get, you'll try to get them.
23 The special master will be available immediately and
24 then by telephone. You can go back to your family tonight and
25 just be available by telephone.

0063

1 THE WITNESS: Your Honor, can we have an outside
2 time because I really -- I'm very tired and if I'm going to be
3 here at 10:45 in the morning, I would like to at least -- if
4 we can agree to cut it off at 9:00 or something.
5 THE COURT: They will accommodate you. They will
6 probably even give you dinner since it's --
7 MR. HAYES: I have some suggestions for restaurants.
8 THE COURT: It will be within the law firm, not at a
9 restaurant.
10 MR. McKAY: And I assume we're talking about in
11 terms of the breath of the order that hasn't been addressed
12 yet, we're talking about things that are reasonably addressed
13 to the proceedings before your Honor.
14 THE COURT: I want to move this forward. Let's not
15 have a lot of unnecessary effort. The central issues are
16 fairly clear.
17 THE WITNESS: If I may, I think I can really
18 identify what I think would be most relevant.
19 THE COURT: Try to do that so we can finish this as
20 quickly as possible and you can go back to your home.
21 THE WITNESS: Thank you.
22 THE COURT: I'll see you at 10:45 and the special
23 master will tell you how he can be consulted.
24 MR. VON LOHMANN: We can then at the 10:45 hearing
25 also hear from the other nonparties -- as you Honor knows,

0064

1 there are at least three represented non-parties who are
2 arguably named in the injunction who would like to argue the
3 motion to clarify or modify the Court's prior mandatory
4 injunction.
5 So I'm just clarifying are we on for that as well
6 after the close of evidence?
7 THE COURT: Yes, I'll hear from anybody who wants to
8 be heard. And if necessary, we'll go over to the following
9 day.
10 MR. HAYES: Thank you, your Honor.
11 THE COURT: And the day following.
12 Thank you very much, everybody.
13 (Matter concluded.)
14
15
16
17
18
19
20
21
22
23

24
25
0065
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

WITNESSES

Gottstein/Direct/Fahey	12
Petitioner Ex 1	20

EXHIBIT 8

Subject: subpoena
Date: Tue, 28 Nov 2006 15:45:25 -0500
X-MS-Has-Attach:
X-MS-TNEF-Correlator:
Thread-Topic: subpoena
Thread-Index: AccTLhs+xRYAhGIZQluffZ9pHODp0A==
From: "David Egilman" <degilman@egilman.com>
To: <jim@psychrights.org>

David Egilman MD, MPH
Clinical Associate Professor Of Community Medicine
Brown University
8 North Main Street
Attleboro, Massachusetts 02703
degilman@egilman.com
Office: 508-226-5091
Fax: 425-699-7033
Cell: 508-472-2809

EXHIBIT 9

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Wed, 06 Dec 2006 10:00:42 -0900
To: "David Egilman" <degilman@egilman.com>
From: Jim Gottstein <jim@psychrights.org>
Subject: subpoena
Cc: Jim Gottstein <jim@psychrights.org>

Dear Dr. Egilman,

My recollection is that you agreed to accept service either by fax or e-mail. We are doing both. Feel free to call if you have any questions.



[DEgilmanSubpoena.pdf](#)

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@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 10

IN THE ~~DISTRICT~~/SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

In the Matter of the Guardianship
of B.B.

Respondent ~~XXXXXXXXXX~~
~~XXX~~

~~XXXXXXXXXX~~

CASE NO. 3AN-04-545 P/G

SUBPOENA FOR TAKING DEPOSITION

To: David Egilman; MD, MPH
Address: 8 North Main Street, Attleboro, Massachusetts 02703

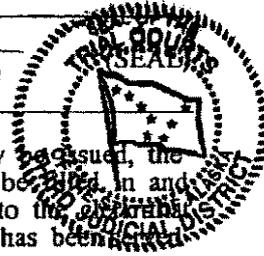
You are commanded to appear and testify ~~under oath~~ ^{/telephonically} in the above case at:
Date and Time: December 20, 2006 at 10:00 AST, 2:00 PM EST
~~Office of~~ Telephone No. 907) 274-7686
Address: n/a

Notice, as required by Civil Rule 45(d), has been served upon James H. Parker
on December 6, 2006. You are ordered to bring with you _____
See attached

12/16/06
Date

Subpoena issued at request of
James B. Gottstein, Esq.
Attorney for Respondent
Address: 406 G Street, Suite 206
Telephone: 274-7686
If you have any questions, contact the person
named above.


Deputy Clerk



Before this subpoena may be issued, the
above information must be filed in and
proof must be presented to the court that
a notice to take deposition has been served
upon opposing counsel.

RETURN

I certify that on the date stated below, I served this subpoena on the person to whom it is
addressed, _____, in _____,
Alaska. I left a copy of the subpoena with the person named and also tendered mileage and
witness fees for one day's court attendance.

Date and Time of Service

Service Fees:
Service \$ _____
Mileage \$ _____
TOTAL \$ _____

Signature

Print or Type Name

Title

If served by other than a peace officer, this return must be notarized.

Subscribed and sworn to or affirmed before me at _____, Alaska
on _____.

(SEAL)

Clerk of Court, Notary Public or other
person authorized to administer oaths.
My commission expires _____

Attachment to Subpoena Duces Tecum
(Production of Documents)
David Egilman MD, MPH

1. Your curriculum vitae.
2. Subject to any applicable restrictions, all expert reports prepared by you within the last five years pertaining to psychiatric medications.
3. Subject to any applicable restrictions, all documents you have in your possession, or have access to, including those in electronic format, and have read, reviewed or considered, pertaining to the testing, marketing, efficacy, effectiveness, risks and harms of commonly prescribed psychiatric drugs in the United States, including but not limited to Haldol, Thorazine, Mellaril, Clozaril, Risperdal, Zyprexa, Seroquel, Abilify, Geodon, Lithium, Depakote, Prozac, Paxil, Zoloft, and Wellbutrin.

EXHIBIT 11

December 6, 2006

Robert A. Armitage
General Counsel
Eli Lilly and Company
Lilly Corporate Center
Indianapolis, IN 46285
Phone: (317) 433-5499
FAX: (317) 433-3000

Dear Mr. Armitage:

I am a consulting witness in the Zyprexa litigation and have access to over 500,000 documents and depositions which Lilly claims are "Confidential Discovery Materials." Lilly defines these as "any information that the producing party in good faith believes properly protected under Federal Rule of Civil Procedure 26(c)(7)."

Lilly has claimed that newspaper articles and press releases fit this definition. I have received a subpoena attached that calls for the production of all these documents and depositions. In compliance with the protective order I am supplying a complete copy of the subpoena which notifies you of all the following:

- (1) the discovery materials that are requested for production in the subpoena;
- (2) the date on which compliance with the subpoena 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;

David Egilman MD
8 North Main Street
Suite 404
Attleboro, MA 02703
degilman@egilman.com
508-226-5091 ext 11
cell 508-472-2809

EXHIBIT 12

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:

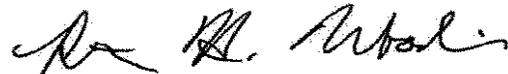
1. James Gottstein, Esquire, is in possession of documents produced by Eli Lilly and Company in the above-captioned action in violation of CMO-3, and has been so notified by counsel for Eli Lilly and Company without response by Mr. Gottstein.
2. Mr. Gottstein has further disseminated these documents 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 13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
:
In re: :
: 04-MD-1596 (JBW)
ZYPREXA PRODUCT LIABILITY :
LITIGATION, : December 18, 2006
: Brooklyn, New York
:
-----X

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

APPEARANCES:

For Eli Lilly: SEAN FAHEY, ESQ.

For Lanier Law Firm: EVAN JANUSH, ESQ.

Local Counsel for Lilly: BREWSTER JAMESON, ESQ.

Court Transcriber: SHARI RIEMER
TypeWrite Word Processing Service
356 Eltingville Boulevard
Staten Island, New York 10312

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.

10 * * * * *

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

4

5

6

Shari Riemer

7 Dated: 12/19/06

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

EXHIBIT 14

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 Janush (Lamer firm)

Eli Lilly
FOR DEFENDANT: Sean Fahy (Brewster Jameson & Co. in-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 15

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;

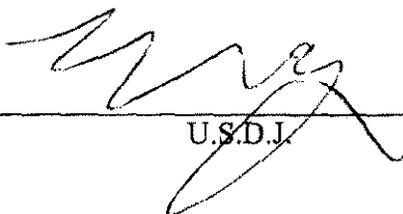
(4) Mr. Gottstein shall immediately take steps to retrieve any documents subject to this Order, regardless of their current location, and return all such documents to Special Master Woodin. This shall include the removal of any such documents posted on any website; and

(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 16

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.

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**

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 THE COURT: We agree that he could
2 put us on hold for I think I said five or ten
3 minutes, so he could try to get his lawyer on
4 the line. I think that's what he's trying.
5 I'm very lucky. I can't hear the music.

6 MR. JAMIESON: Okay. Sounds like Bob
7 Dylan, so I don't know if you're a fan.

8 THE COURT: No comment.

9 (RECESS.)

10 THE COURT: All right. Does one of
11 the defendants want to try Mr. Gottstein
12 offline, see if we can get him back?

13 MR. JAMIESON: Your Honor, Brewster
14 Jamieson from Alaska. I'll do that right now.

15 THE COURT: Okay.

16 MR. JAMIESON: Your Honor, Brewster
17 Jamieson from Alaska. I contacted his office,
18 and his secretary is following up on him right
19 now.

20 THE COURT: Thank you, Mr. Jamieson.

21 MR. JAMIESON: You're welcome.

22 THE COURT: Would you tell him that
23 this is Judge Cogan, and he'd like him to get
24 back on our line right now? Okay? Thank you.

25 MR. GOTTSTEIN: This is Jim. Sorry

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

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 17

Date: Fri, 22 Dec 2006 15:16:21 -0900
To: Peter Woodin <pwoodin@jamsadr.com>
From: John McKay <mckay@alaska.net>
Subject: Supplemental Information Re: Gottstein Compliance
Cc: "Fahey, Sean P." <Faheys@pepperlaw.com>,
Brewster Jamieson <JamiesonB@LanePowell.com>,
"Richard D. Meadow" <RDM@lanierlawfirm.com>,
Evan Janush <EMJ@lanierlawfirm.com>,
Jim Gottstein <jim.gottstein@psychrights.org>
X-ACS-Spam-Status: no
X-ACS-Scanned-By: MD 2.57; SA 3.1.6; spamdefang 1.117

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



[Addresses.pdf](#)

EXHIBIT 18

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**
ALL ACTIONS : **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 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 4:00 p.m.
Brooklyn, New York

EXHIBIT 19

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Mon, 18 Dec 2006 21:59:43 -0900
To: "breggin-hotmail.com" <breggin@hotmail.com>
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Zyprexa Documents
Cc: "Jim Gottstein" <jim.gottstein@psychrights.org>, mckay@alaska.net,
"Peter Woodin" <pwoodin@jamsadr.com>, EMJ@lanierlawfirm.com,
RDM@lanierlawfirm.com, JamiesonB@LanePowell.com, Faheys@pepperlaw.com

Dear Dr. Breggin,

I mailed you a DVD 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/>

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.

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
 Date: Mon, 18 Dec 2006 22:09:30 -0900
 To: "grace jackson" <gracejackson1@suddenlink.net>
 From: Jim Gottstein <jim.gottstein@psychrights.org>
 Subject: Zyprexa Documents
 Cc: "Jim Gottstein" <jim.gottstein@psychrights.org>, mckay@alaska.net,
 "Peter Woodin" <pwoodin@jamsadr.com>, EMJ@lanierlawfirm.com,
 RDM@lanierlawfirm.com, JamiesonB@LanePowell.com, Faheys@pepperlaw.com

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
 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/>



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.

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Mon, 18 Dec 2006 22:11:47 -0900
To: cohenda@fiu.edu
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Zyprexa Documents
Cc: "Jim Gottstein" <jim.gottstein@psychrights.org>, mckay@alaska.net,
"Peter Woodin" <pwoodin@jamsadr.com>, EMJ@lanierlawfirm.com,
RDM@lanierlawfirm.com, JamiesonB@LanePowell.com, Faheys@pepperlaw.com

Dear Dr. Cohen,

I mailed you a DVD 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/>

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.

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Mon, 18 Dec 2006 22:24:16 -0900
To: Will Hall <will@freedom-center.org>
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Zyprexa Documents
Cc: "Jim Gottstein" <jim.gottstein@psychrights.org>, mckay@alaska.net,
"Peter Woodin" <pwoodin@jamsadr.com>, EMJ@lanierlawfirm.com,
RDM@lanierlawfirm.com, JamiesonB@LanePowell.com, Faheys@pepperlaw.com

Hi Will,

I believe you downloaded *via* ftp and 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/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(s), 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/>



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.

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Mon, 18 Dec 2006 22:30:03 -0900
To: berenson@nytimes.com
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Zyprexa Documents
Cc: "Jim Gottstein" <jim.gottstein@psychrights.org>, mckay@alaska.net,
"Peter Woodin" <pwoodin@jamsadr.com>, EMJ@lanierlawfirm.com,
RDM@lanierlawfirm.com, JamiesonB@LanePowell.com, Faheys@pepperlaw.com

Dear Mr. Berenson,

I believe you downloaded via ftp and I FedExed one and mailed you another DVD 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(s), 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.

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Mon, 18 Dec 2006 22:32:11 -0900
To: "MadPride-aol.com" <MadPride@aol.com>
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Zyprexa Documents
Cc: "Jim Gottstein" <jim.gottstein@psychrights.org>, mckay@alaska.net,
"Peter Woodin" <pwoodin@jamsadr.com>, EMJ@lanierlawfirm.com,
RDM@lanierlawfirm.com, JamiesonB@LanePowell.com, Faheys@pepperlaw.com

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/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/>

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.

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Mon, 18 Dec 2006 22:33:54 -0900
To: "VERACARE" <veracare@ahrp.org>
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Zyprexa Documents
Cc: "Jim Gottstein" <jim.gottstein@psychrights.org>, mckay@alaska.net,
"Peter Woodin" <pwoodin@jamsadr.com>, EMJ@lanierlawfirm.com,
RDM@lanierlawfirm.com, JamiesonB@LanePowell.com, Faheys@pepperlaw.com

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/>

Psych Rights ®
Law Project for
Psychiatric Rights

The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of

Printed for

1/16/2007

PETITIONERS 7 0342

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.

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Mon, 18 Dec 2006 22:37:17 -0900
To: nemo@vtlink.net
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Zyprexa Documents
Cc: "Jim Gottstein" <jim.gottstein@psychrights.org>, mckay@alaska.net,
"Peter Woodin" <pwoodin@jamsadr.com>, EMJ@lanierlawfirm.com,
RDM@lanierlawfirm.com, JamiesonB@LanePowell.com, Faheys@pepperlaw.com

Hi Laura,

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/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(s), 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.

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Mon, 18 Dec 2006 22:45:04 -0900
To: skruszewski@spkmd.com
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Zyprexa Documents
Cc: "Jim Gottstein" <jim.gottstein@psychrights.org>, mckay@alaska.net,
"Peter Woodin" <pwoodin@jamsadr.com>, EMJ@lanierlawfirm.com,
RDM@lanierlawfirm.com, JamiesonB@LanePowell.com, Faheys@pepperlaw.com

Dear Dr. Kruszewski,

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/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/>

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.

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Mon, 18 Dec 2006 23:59:42 -0900
To: "robert.b.whitaker-verizon.net" <robert.b.whitaker@verizon.net>
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Zyprexa Documents
Cc: "Jim Gottstein" <jim.gottstein@psychrights.org>, mckay@alaska.net,
"Peter Woodin" <pwoodin@jamsadr.com>, EMJ@lanierlawfirm.com,
RDM@lanierlawfirm.com, JamiesonB@LanePowell.com, Faheys@pepperlaw.com

Dear Mr. Whitaker,

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/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/>

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.

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Wed, 20 Dec 2006 08:27:38 -0900
To: stephen.cha@mail.house.gov
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Zyprexa Documents
Cc: "Jim Gottstein" <jim.gottstein@psychrights.org>, mckay@alaska.net,
"Peter Woodin" <pwoodin@jamsadr.com>, EMJ@lanierlawfirm.com,
RDM@lanierlawfirm.com, JamiesonB@LanePowell.com, Faheys@pepperlaw.com

Dear Mr. Cha,

First, please allow me to apologize for misspelling your name on your address when I sent you the Zyprexa documents you requested.

Since then, I have been ordered to:

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

A copy of the order is posted at <http://psychrights.org/States/Alaska/CaseXX/EilLilly/InjunctionOrder.pdf> I strenuously disagree that it is a proper order, and it seems inevitable we will be taking steps to challenge its validity, but in the meantime it should be complied with.

Therefore, please return the DVD, hard copies and any other copies to Special Master Woodin immediately.

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

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.

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.

EXHIBIT 20

Date: Fri, 22 Dec 2006 16:30:41 -0500
From: "Peter Woodin" <pwoodin@jamsadr.com>
Subject: Return of Zyprexa documents
To: "John McKay" <mckay@alaska.net>,
"Fahey, Sean P." <Faheys@pepperlaw.com>,
"Brewster Jamieson" <JamiesonB@LanePowell.com>,
"Richard D. Meadow" <RDM@lanierlawfirm.com>,
"Evan Janush" <EMJ@lanierlawfirm.com>,
"Bill Audet" <waudet@alexanderlaw.com>,
"Andy Rogoff" <rogoffa@pepperlaw.com>
Cc: "Jim Gottstein" <jim.gottstein@psychrights.org>
X-Mailer: Microsoft Outlook, Build 10.0.6626

Dear Counsel:

In connection with the Order for Mandatory Injunction dated December 18, 2006, I write to update you concerning the return of documents that were produced by Eli Lilly and Company under CMO-3 and subsequently obtained and disseminated by James Gottstein, Esq.

On December 20th, Mr. Gottstein's counsel delivered 7 DVDs to Brewster Jamieson, Lilly's counsel in Anchorage. Mr. Jamieson sent those 7 DVDs to me by express mail, and I received them today.

In response to letters and emails sent by Mr. Gottstein to various individuals to whom he transmitted copies of the documents, I have received the following:

- on December 20th, I received 2 DVDs from Grace Jackson with, as a cover letter, a printed copy of an email previously sent to me;
- today, December 22nd, I received 1 DVD from Congressman Henry Waxman, with a cover letter.

I am attaching copies of the Jackson email and Waxman letter. I have permitted counsel for Lilly to make copies of the DVDs I have received so they can better identify exactly what documents were disseminated to which individuals.

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
Fax: (212) 972-0027
pwoodin@jamsadr.com

Printed for

1/16/2007

PETITIONERS 7 0620



Zyprexa - Waxman ltr.pdf



Zyprexa - Jackson email.pdf

EXHIBIT 21

From: "Wendy Crane" <wcrane@spkmd.com>
To: <jim.gottstein@psychrights.org>,
<Faheys@pepperlaw.com>
Subject: In Re: Zyprexa Products Liability Litigation
Date: Tue, 9 Jan 2007 17:00:38 -0500
X-Mailer: Microsoft Office Outlook 11
Thread-Index: Acc0OZih2J2uPVRTSNKrWePwhQ2yjQ==
X-PopBeforeSMTPSenders:
dtobiasz@spkmd.com,jcrist@spkmd.com,jronayne@spkmd.com,rquigley@spkmd.com,skruszc
X-AntiAbuse: This header was added to track abuse, please include it with any abuse report
X-AntiAbuse: Primary Hostname - host.thebackofmymind.net
X-AntiAbuse: Original Domain - psychrights.org
X-AntiAbuse: Originator/Caller UID/GID - [47 12] / [47 12]
X-AntiAbuse: Sender Address Domain - spkmd.com
X-Source:
X-Source-Args:
X-Source-Dir:

Please see attached...

Sent on behalf of
Stefan P. Kruszewski, M.D.

Stefan P. Kruszewski, M.D.
Board Certified in Adult, Geriatric, Adolescent and Addiction Psychiatry
and Addiction Medicine
Actively licensed in CA, TX, NJ, PA, NE, IN

2033 Linglestown Road, Box 250
Harrisburg, Pennsylvania 17110
Office: 717-599-5787
Cell: 717-503-7862
Fax: 717-599-5197
Email: skruszewski@spkmd.com

CONFIDENTIAL NOTE: The information contained in, and any documents accompanying, this e-mail transmission are confidential and/or legally privileged materials from Stefan P. Kruszewski, MD. The information is intended only for the use of the individual(s) or entity(ies) addressed in this e-mail transmission. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance of the contents of this information is strictly prohibited, and that the documents attached should be discarded immediately. It is also your immediate responsibility to notify me at joeysdogma@comcast.net and skruszewski@spkmd.com that an email has been erroneously received.

--
No virus found in this outgoing message.
Checked by AVG Free Edition.
Version: 7.1.410 / Virus Database: 268.16.7/620 - Release Date: 1/8/2007



Woodin Zyprexa Documents 010807.pdf



RE Zyprexa Documents.pdf

EXHIBIT 22

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

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 Prooducts 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 23

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/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 this alert. He's on vacation."

## **Other actions you can take:**

Those interested may apparetly "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 24**

# [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



# **EXHIBIT 25**

To: Jim Gottstein <jim.gottstein@psychrights.org>  
From: David Oaks <oaks@mindfreedom.org>  
Subject: private  
Date: Tue, 19 Dec 2006 11:25:04 -0800  
X-Mailer: Apple Mail (2.752.3)

private

This blog went after me, too, when I was quoted in a mainstream publication:

[http://www.drugwonks.com/2006/12/alex\\_berensons\\_zyprexa\\_article.html](http://www.drugwonks.com/2006/12/alex_berensons_zyprexa_article.html)

Cc: Philip Dawdy <philip.dawdy@gmail.com>  
From: David Oaks <oaks@mindfreedom.org>  
Subject: to Jim and Philip  
Date: Thu, 21 Dec 2006 05:27:21 -0800  
To: Jim Gottstein <jim.gottstein@psychrights.org>  
X-Mailer: Apple Mail (2.752.3)

Hi Jim and Philip,

I mention you both in an e-mail below you may be interested in...  
Philip commented successfully on DrugWonks blog. My previous attempt to defend my own reputation on their blog was refused. Now that CMPI chooses to malign a hero like Jim, they've got my attention:

~~~~~

From: oaks@mindfreedom.org
Subject: to BOARD MEMBERS of CMPI - complaint re: Mr. Robert Goldberg
Date: December 21, 2006 5:26:06 AM PST
To: info@cmpi.org

Dear CMPI Board of Directors,

This is a second complaint about the way Mr. Robert Goldberg is representing your organization by using character assassination.

Please note that because we have contacted CMPI on this before, then morally and legally I lay the responsibility directly and personally for this activity before each individual CMPI board member, joint and severally. In other words, continuing to allow your nonprofit to put out character attacks, without allowing defense, is legally an example of gross negligence by board members, personally. You may ask your attorney about whether being on a board protects you individually from such "gross negligence."

The most recent example is the way Mr. Goldberg has tried to publicly attack the character of attorney Mr. Jim Gottstein, whose research has been used by the NY Times in three recent pieces (two articles and an editorial) about Eli Lilly and Zyprexa.

The reason I write to you is that this is not the first time I've seen Mr. Goldberg attack character unfairly.

A few months ago your blog was used by Mr. Goldberg to try to falsely connect our nonprofit organization to the Church of Scientology and its group Citizens Commission on Human Rights. This is a lie.

When I tried to post a public comment in response, Mr. Goldberg prevented any public comment to appear – even to defend my own personal character.

I will copy this to Mr. Jim Gottstein, who is a true hero in the movement for human rights in the field of mental health, and widely respected by thousands of individuals and many organizations in our field. Mr. Gottstein has worked tirelessly and selflessly for years to aid those who are among the most powerless and marginalized in our society. He deserves fairer treatment than the character assassination your organization is promoting.

BELOW is a post I have now attempted to submit about Mr. Goldberg's more recent attempt at unfair, unethical, and just plain wrong character assassination. Another individual (a person identifying themselves as "Philip") pointed out that the NY Times articles that quote Mr. Gottstein simply relied on documents... and so character assassination on Mr. Gottstein is irrelevant.

We shall see if my comment is allowed to appear on your blog.

As I said before, our attorney here in Oregon, David Atkin, is ready to address defamation against us of the kind described by you on your blog. Falsely claiming that we or Jim are connected to Scientology is a false purposeful attempt to cause harm -- a classic definition of defamation.

I encourage Mr. Gottstein's own law firm to be ready. There is no excuse for irresponsible, false, harmful personal attacks by nonprofit organizations like yourselves, especially without allowing any chance for public rebuttal. If his law firm has no problems with taking on Eli Lilly in the NY Times, then it ought to have no problem taking on CMPI for classic defamation.

Sincerely, David Oaks, Director, MindFreedom International

BELOW is what I submitted just now as comment on your blog attack on the character of Mr. Jim Gottstein, I will copy this to him:

http://www.drugwonks.com/2006/12/alex_berensons_zyprexa_article.html

Good point Daniel! Unfortunately, Mr. Robert Goldberg has a history of attempting public ad hominem character assassination via "guilt by association." A few months ago the Philadelphia Inquirer had a good investigation on how drug company money is behind a number of seemingly-independent nonprofit groups. The reporter quoted me. Mr. Goldberg used his blog to try to impugn and damage my reputation.

When I attempted to post a civil reply defending my reputation, Mr. Goldberg refused to permit my response on this web site. This is my 30th year doing human rights work, and this is one of the more

unsavory and unprofessional personal attacks I've seen.

You may read the text of the Philadelphia Inquirer article here:

<http://tinyurl.com/yg9buy>

You'll see the reporter did a professional job.

By the way, what was Mr. Goldberg's attempted character assassination on me in his blog? That among the hundreds of links on our web site for MindFreedom, he found one linking to a Scientology site. Of course, we have zero connection with or funding from Scientology or their group CCHR. And thousands of people and groups have links to countless places, proving nothing.

But a standard response for decades from defenders of the psychiatric drug industry has been to try to claim that all critics must be Scientologists. Our attorney, David Atkin, even has a letter that we use in such occasions, to explain to those who choose defamation that we will defend ourselves with the courts if need be.

Perhaps that is why Mr. Goldberg has chosen to end dialogue on this matter -- deprived of character assassination, what does he have left? Logic? Facts?

The reporters for both NY Times and Philadelphia Inquirer did professional jobs. Unfortunately, Mr. Goldberg is stooping to character assassination in an attempt to defend the industry. One wonders that financial links Mr. Goldberg himself may have to the pharmaceutical industry that he so passionately defends them, that he would use unethical and immoral approaches?

Sincerely,

David Oaks, Director, MindFreedom International
<http://www.mindfreedom.org>

From: David Oaks <oaks@mindfreedom.org>
Subject: Re: [MF-USA] assume you got this directly from mf-news list
Date: Tue, 26 Dec 2006 09:20:12 -0800
To: Jim Gottstein <jim.gottstein@psychrights.org>
X-Mailer: Apple Mail (2.752.3)

I personally changed from old e-mail address to jim.gottstein@psychrights.org on mindfreedom-news. I see you've accomplished that on mindfreedom-USA. I don't see you on mindfreedom-global.

If you have any other lists you want changed let me know -- we don't have an easy way to tell exactly what lists you are on.

Thanks for noting that you are required to save your emails.

We are putting this disclaimer out... let us know if we missed anything....

"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."

On Dec 26, 2006, at 7:38 AM, Jim Gottstein wrote:

Hi David,

I tried to change my global e-mail to my new one yesterday, but suspect I only managed to do MF-USA.
jim.gottstein@psychrights.org If you could take care of it, that would be great.

PS, I am under court order to save all relevant e-mails.

At 04:47 AM 12/26/2006, you wrote:

Hi MindFreedom USA e-mail list:

I'm assuming everyone on this MindFreedom USA discussion list got the below alert from the MindFreedom-NEWS list directly from that list yesterday... if not let me know OFF LIST with the e-mail address you should have received the below at.

~~~~~  
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@mindfreedom.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@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 with  
these words in the subject line:

unsubscribe  
mindfreedom-news

---

MindFreedom-USA mailing list  
MindFreedom-USA@intenex.net  
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

~~~~~  
This list is a service for members of MindFreedom International
<http://www.MindFreedom.org>. Please only copy and forward posts
with the
explicit permission of the poster.
To unsubscribe, send a blank email to
<[a href="mailto:mindfreedom-usa-unsubscribe@intenex.net"](mailto:mindfreedom-usa-unsubscribe@intenex.net)>
mindfreedom-usa@intenex.net
.

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

Printed for

1/16/2007

PETITIONERS 7 0675

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/](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.

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

Cc: Jim Gottstein <jim.gottstein@psychrights.org>
From: David Oaks <oaks@mindfreedom.org>
Subject: Re: [Faheys@pepperlaw.com: RE: Zyprexa Documents]
Date: Sat, 30 Dec 2006 13:27:52 -0800
To: Eric Whalen <eric@joysoup.net>
X-Mailer: Apple Mail (2.752.3)

Okay, Eric, I will seek to post below on our web site.

Is the referenced "attached is the order" referring to this injunction on Jim's web site?

<http://psychrights.org/States/Alaska/CaseXX/EilLilly/InjunctionOrder.pdf>

If not, can you get me the attached file?

I am copying this exchange to Jim Gottstein.

Jim and Eric, I have already updated our web site alert on this topic (update 9) to reflect the below suppression.... and will seek to get our more info soon.

I realize Jim must keep all copies of e-mail for the courts.

Eric if you want to talk to me by phone, just e-mail me your phone number. I think technically Jim is on vacation, but if he wants to talk he may want to also talk by phone.

David

On Dec 30, 2006, at 12:29 PM, Eric Whalen wrote:

On Sat, Dec 30, 2006 at 12:20:48PM -0800, David Oaks wrote:
Can I share the below with others?

On Dec 30, 2006, at 12:14 PM, Eric Whalen wrote:

----- Forwarded message from "Fahey, Sean P."
<Faheys@pepperlaw.com> -----

Subject: RE: Zyprexa Documents
Date: Sat, 30 Dec 2006 14:16:22 -0500
From: "Fahey, Sean P." <Faheys@pepperlaw.com>
To: eric@joysoup.net
Cc: pwoodin@jamsadr.com, EMJ@lanierlawfirm.com

Attached is the order referenced below. As your own website indicates, and as our independent research confirms, the documents available for download on your website are the documents improperly obtained by

James
Gottstein. These documents are subject to a Federal Court
protective
order, and the further dissemination of these documents is enjoined
until at least January 3, 2007, at which time the arguments you
raise
below may fully be heard. If you have any doubts about the
import on
this Order, please state so immediately, and we will seek further
guidance from the Court today. You have been on notice now for
several
hours that you are operating in violation of a Federal Court Order,
and
you have thus far, refused to assure your compliance. Please shut
down
the link immediately, remove any cached material immediately, and
confirm that you will comply with the attached order.

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

From: Fahey, Sean P.
Sent: Saturday, December 30, 2006 12:02 PM
To: 'eric@joysoup.net'
Subject: Re: Zyprexa Documents

I need to know your intentions promptly, sir.

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

From: Fahey, Sean P.
To: 'eric@joysoup.net'
Sent: Sat Dec 30 10:46:10 2006
Subject: Re: Zyprexa Documents

Yes. An order entered yesterday afternoon by the Eastern
District of
New York applies directly to the documents obtained by Mr.
Gottstein,
regardless of who currently possesses them. We have obtained
several
statements by members of the organization you are involved with
(mindfreedom), which directly demonstrate these are the Gottstein
documents. You must take the link down immediately, or we will take
further legal action to shut down your website, and seek all
available
remedies.

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

From: Eric Whalen
To: Fahey, Sean P.
Sent: Sat Dec 30 08:41:14 2006
Subject: Re: Zyprexa Documents

On Sat, Dec 30, 2006 at 12:15:28AM -0500, Fahey, Sean P. wrote:

Mr. Whalen - You are facilitating the violation of a Federal Court order. Please immediately remove the link to the file "ZyprexaKills.tar.gz" (or its mirror), including all cached materials,

or we will take further legal action against your website.

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@pepperlaw.com
www.pepperlaw.com

This email is for the use of the intended recipient(s) only. If you

have received this email in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not

keep, use, disclose, copy or distribute this email without the author's

prior permission. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own

virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses. The information contained in this communication may be confidential and may

be subject to the attorney-client privilege. If you are the intended recipient and you do not wish to receive similar electronic messages from us in future then please respond to the sender to this effect.

The documents linked to on my website were downloaded from an anonymous

source. As far as I know I'm not under any court order.

Dissemination of the contents of the documents is clearly in the public interest. Is there a legal basis for you request?

This email is for the use of the intended recipient(s) only. If you have received this email in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not keep, use, disclose, copy or distribute this email without the author's prior permission. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses. The information contained in this communication may be confidential and may be subject to the attorney-client privilege. If you are the intended recipient and you do not wish to receive similar electronic messages from us in future then please respond to the sender to this effect.

----- End forwarded message -----

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

Go ahead.

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

David Oaks , Eric Whalen <eric@

To: David Oaks <oaks@mindfreedom.org>, Eric Whalen <eric@joysoup.net>
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Re: [Faheys@pepperlaw.com: RE: Zyprexa Documents]
Cc: Mckay@alaska.net
Bcc: berenson@nytimes.com
Attached:

Hi David,

It seems like there is a new order, which I haven't seen. I would like to see it.

Of course, pursuant to the earlier order, I have been and am asking that the documents be taken down, too.

At 12:27 PM 12/30/2006, David Oaks wrote:

Okay, Eric, I will seek to post below on our web site.

Is the referenced "attached is the order" referring to this injunction on Jim's web site?

<http://psychrights.org/States/Alaska/CaseXX/EilLilly/InjunctionOrder.pdf>

If not, can you get me the attached file?

I am copying this exchange to Jim Gottstein.

Jim and Eric, I have already updated our web site alert on this topic (update 9) to reflect the below suppression.... and will seek to get our more info soon.

I realize Jim must keep all copies of e-mail for the courts.

Eric if you want to talk to me by phone, just e-mail me your phone number. I think technically Jim is on vacation, but if he wants to talk he may want to also talk by phone.

David

On Dec 30, 2006, at 12:29 PM, Eric Whalen wrote:

On Sat, Dec 30, 2006 at 12:20:48PM -0800, David Oaks wrote:
Can I share the below with others?

On Dec 30, 2006, at 12:14 PM, Eric Whalen wrote:

----- Forwarded message from "Fahey, Sean P."
<Faheys@pepperlaw.com> -----

David Oaks , Eric Whalen <eric@

Subject: RE: Zyprexa Documents
Date: Sat, 30 Dec 2006 14:16:22 -0500
From: "Fahey, Sean P." <Faheys@pepperlaw.com>
To: eric@joysoup.net
Cc: pwoodin@jamsadr.com, EMJ@lanierlawfirm.com

Attached is the order referenced below. As your own website indicates, and as our independent research confirms, the documents available for download on your website are the documents improperly obtained by James Gottstein. These documents are subject to a Federal Court protective order, and the further dissemination of these documents is enjoined until at least January 3, 2007, at which time the arguments you raise below may fully be heard. If you have any doubts about the import on this Order, please state so immediately, and we will seek further guidance from the Court today. You have been on notice now for several hours that you are operating in violation of a Federal Court Order, and you have thus far, refused to assure your compliance. Please shut down the link immediately, remove any cached material immediately, and confirm that you will comply with the attached order.

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

From: Fahey, Sean P.
Sent: Saturday, December 30, 2006 12:02 PM
To: 'eric@joysoup.net'
Subject: Re: Zyprexa Documents

I need to know your intentions promptly, sir.

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

From: Fahey, Sean P.
To: 'eric@joysoup.net'
Sent: Sat Dec 30 10:46:10 2006
Subject: Re: Zyprexa Documents

Yes. An order entered yesterday afternoon by the Eastern District of New York applies directly to the documents obtained by Mr. Gottstein, regardless of who currently possesses them. We have obtained several

statements by members of the organization you are involved with (mindfreedom), which directly demonstrate these are the Gottstein documents. You must take the link down immediately, or we will take further legal action to shut down your website, and seek all available remedies.

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

From: Eric Whalen
To: Fahey, Sean P.
Sent: Sat Dec 30 08:41:14 2006
Subject: Re: Zyprexa Documents

On Sat, Dec 30, 2006 at 12:15:28AM -0500, Fahey, Sean P. wrote:
Mr. Whalen - You are facilitating the violation of a Federal Court order. Please immediately remove the link to the file "ZyprexaKills.tar.gz" (or its mirror), including all cached materials,

or we will take further legal action against your website.

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@pepperlaw.com
www.pepperlaw.com

This email is for the use of the intended recipient(s) only. If you have received this email in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not keep, use, disclose, copy or distribute this email without the author's prior permission. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses. The

information contained in this communication may be confidential and may be subject to the attorney-client privilege. If you are the intended recipient and you do not wish to receive similar electronic messages from us in future then please respond to the sender to this effect.

The documents linked to on my website were downloaded from an anonymous source. As far as I know I'm not under any court order. Dissemination of the contents of the documents is clearly in the public interest. Is there a legal basis for you request?

This email is for the use of the intended recipient(s) only. If you have received this email in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not keep, use, disclose, copy or distribute this email without the author's prior permission. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses. The information contained in this communication may be confidential and may be subject to the attorney-client privilege. If you are the intended recipient and you do not wish to receive similar electronic messages from us in future then please respond to the sender to this effect.

----- End forwarded message -----

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

Go ahead.

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

Cc: Jim Gottstein <jim.gottstein@psychrights.org>
From: David Oaks <oaks@mindfreedom.org>
Subject: Re: [Faheys@pepperlaw.com: RE: Zyprexa Documents]
Date: Sat, 30 Dec 2006 14:06:19 -0800
To: Eric Whalen <eric@joysoup.net>
X-Mailer: Apple Mail (2.752.3)

Hi Eric,

Okay, I've put in Update 10 with a link to the email exchange with Eli Lilly:

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

While we don't have lawyers on staff... I do know about activism. It would assist this campaign to humanize it. I know many people are reluctant to step out, but you bravely did when you apparently made these documents available for download....

So... a question that I feel may help campaign a bit:

Eric, do you have a nice digital photo of your face that we could add to that update page?

Again, if you want to talk about developments, just e-mail me your phone number

On Dec 30, 2006, at 12:29 PM, Eric Whalen wrote:

On Sat, Dec 30, 2006 at 12:20:48PM -0800, David Oaks wrote:
Can I share the below with others?

On Dec 30, 2006, at 12:14 PM, Eric Whalen wrote:

--- Forwarded message from "Fahey, Sean P."
<Faheys@pepperlaw.com> ---

Subject: RE: Zyprexa Documents
Date: Sat, 30 Dec 2006 14:16:22 -0500
From: "Fahey, Sean P." <Faheys@pepperlaw.com>
To: eric@joysoup.net
Cc: pwoodin@jamsadr.com, EMJ@lanierlawfirm.com

Attached is the order referenced below. As your own website indicates, and as our independent research confirms, the documents available for download on your website are the documents improperly obtained by James Gottstein. These documents are subject to a Federal Court protective order, and the further dissemination of these documents is enjoined

until at least January 3, 2007, at which time the arguments you raise below may fully be heard. If you have any doubts about the import on this Order, please state so immediately, and we will seek further guidance from the Court today. You have been on notice now for several hours that you are operating in violation of a Federal Court Order, and you have thus far, refused to assure your compliance. Please shut down the link immediately, remove any cached material immediately, and confirm that you will comply with the attached order.

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

From: Fahey, Sean P.
Sent: Saturday, December 30, 2006 12:02 PM
To: 'eric@joysoup.net'
Subject: Re: Zyprexa Documents

I need to know your intentions promptly, sir.

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

From: Fahey, Sean P.
To: 'eric@joysoup.net'
Sent: Sat Dec 30 10:46:10 2006
Subject: Re: Zyprexa Documents

Yes. An order entered yesterday afternoon by the Eastern District of New York applies directly to the documents obtained by Mr. Gottstein, regardless of who currently possesses them. We have obtained several statements by members of the organization you are involved with (mindfreedom), which directly demonstrate these are the Gottstein documents. You must take the link down immediately, or we will take further legal action to shut down your website, and seek all available remedies.

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

From: Eric Whalen
To: Fahey, Sean P.
Sent: Sat Dec 30 08:41:14 2006
Subject: Re: Zyprexa Documents

On Sat, Dec 30, 2006 at 12:15:28AM -0500, Fahey, Sean P. wrote:
| Mr. Whalen - You are facilitating the violation of a Federal Court order. Please immediately remove the link to the file "ZyprexaKills.tar.gz" (or its mirror), including all cached

materials,

or we will take further legal action against your website.

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@pepperlaw.com
www.pepperlaw.com

This email is for the use of the intended recipient(s) only. If you have received this email in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not keep, use, disclose, copy or distribute this email without the author's prior permission. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses. The information contained in this communication may be confidential and may be subject to the attorney-client privilege. If you are the intended recipient and you do not wish to receive similar electronic messages from us in future then please respond to the sender to this effect.

The documents linked to on my website were downloaded from an anonymous source. As far as I know I'm not under any court order. Dissemination of the contents of the documents is clearly in the public interest. Is there a legal basis for you request?

This email is for the use of the intended recipient(s) only. If you have received this email in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not keep, use, disclose, copy or distribute

this email without the author's prior permission. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses. The information contained in this communication may be confidential and may be subject to the attorney-client privilege. If you are the intended recipient and you do not wish to receive similar electronic messages from us in future then please respond to the sender to this effect.

----- End forwarded message -----

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

Go ahead.

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

Cc: Jim Gottstein <jim.gottstein@psychrights.org>
From: David Oaks <oaks@mindfreedom.org>
Subject: Re: SPAM-LOW: Re: Eli Lilly lawyer legal threat
Date: Sat, 30 Dec 2006 14:31:19 -0800
To: Eric Whalen <eric@joysoup.net>
X-Mailer: Apple Mail (2.752.3)

On Dec 30, 2006, at 12:39 PM, Eric Whalen wrote:

I submitted the C&D notice to the chilling effects database.

<http://www.chilingeffects.org>

Excellent! Let me know if and when they post something.

By the way -- minor typo in your url above, of course it's:

<http://www.chillingeffects.org/>

I know you know... but in case you copy what you sent me anywhere...
wanted to be sure you had correct spelling.

I really don't have any idea what legal resources you have available.
Maybe you could argue a case in court?

I am not a lawyer myself. I will copy this to Jim in case he has any
ideas about how this could be argued.

Thanks,

David

Cc: Eric Whalen <eric@joysoup.net>, Mckay@alaska.net
From: David Oaks <oaks@mindfreedom.org>
Subject: Re: [Faheys@pepperlaw.com: RE: Zyprexa Documents]
Date: Sat, 30 Dec 2006 14:43:48 -0800
To: Jim Gottstein <jim.gottstein@psychrights.org>
X-Mailer: Apple Mail (2.752.3)

As we say in our public alert 10 on our web site, we are not aware of any links making Zyprexa documents available at this time, they are all apparently not functional at this time.

I've asked Eric for a copy of the "attached order," and ask that he also get you a copy of that.

Thanks,

David

On Dec 30, 2006, at 2:32 PM, Jim Gottstein wrote:

Hi David,

It seems like there is a new order, which I haven't seen. I would like to see it.

Of course, pursuant to the earlier order, I have been and am asking that the documents be taken down, too.

At 12:27 PM 12/30/2006, David Oaks wrote:

Okay, Eric, I will seek to post below on our web site.

Is the referenced "attached is the order" referring to this injunction on Jim's web site?

<http://psychrights.org/States/Alaska/CaseXX/EilLilly/InjunctionOrder.pdf>

If not, can you get me the attached file?

I am copying this exchange to Jim Gottstein.

Jim and Eric, I have already updated our web site alert on this topic (update 9) to reflect the below suppression.... and will seek to get our more info soon.

I realize Jim must keep all copies of e-mail for the courts.

Eric if you want to talk to me by phone, just e-mail me your phone number. I think technically Jim is on vacation, but if he wants to talk he may want to also talk by phone.

David

On Dec 30, 2006, at 12:29 PM, Eric Whalen wrote:

On Sat, Dec 30, 2006 at 12:20:48PM -0800, David Oaks wrote:
Can I share the below with others?

On Dec 30, 2006, at 12:14 PM, Eric Whalen wrote:

----- Forwarded message from "Fahey, Sean P."
<Faheys@pepperlaw.com> -----

Subject: RE: Zyprexa Documents
Date: Sat, 30 Dec 2006 14:16:22 -0500
From: "Fahey, Sean P." <Faheys@pepperlaw.com>
To: eric@joysoup.net
Cc: pwoodin@jamsadr.com, EMJ@lanierlawfirm.com

Attached is the order referenced below. As your own website indicates, and as our independent research confirms, the documents available for download on your website are the documents improperly obtained by James Gottstein. These documents are subject to a Federal Court protective order, and the further dissemination of these documents is enjoined until at least January 3, 2007, at which time the arguments you raise below may fully be heard. If you have any doubts about the import on this Order, please state so immediately, and we will seek further guidance from the Court today. You have been on notice now for several hours that you are operating in violation of a Federal Court Order, and you have thus far, refused to assure your compliance. Please shut down the link immediately, remove any cached material immediately, and confirm that you will comply with the attached order.

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

From: Fahey, Sean P.
Sent: Saturday, December 30, 2006 12:02 PM
To: 'eric@joysoup.net'
Subject: Re: Zyprexa Documents

I need to know your intentions promptly, sir.

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

From: Fahey, Sean P.
To: 'eric@joysoup.net'
Sent: Sat Dec 30 10:46:10 2006
Subject: Re: Zyprexa Documents

Yes. An order entered yesterday afternoon by the Eastern District of New York applies directly to the documents obtained by Mr. Gottstein, regardless of who currently possesses them. We have obtained several statements by members of the organization you are involved with (mindfreedom), which directly demonstrate these are the Gottstein documents. You must take the link down immediately, or we will take further legal action to shut down your website, and seek all available remedies.

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

From: Eric Whalen
To: Fahey, Sean P.
Sent: Sat Dec 30 08:41:14 2006
Subject: Re: Zyprexa Documents

On Sat, Dec 30, 2006 at 12:15:28AM -0500, Fahey, Sean P. wrote:
Mr. Whalen - You are facilitating the violation of a Federal Court order. Please immediately remove the link to the file "ZyprexaKills.tar.gz" (or its mirror), including all cached materials,

or we will take further legal action against your website.

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@pepperlaw.com
www.pepperlaw.com

This email is for the use of the intended recipient(s) only. If

you
have received this email in error, please notify the sender
immediately
and then delete it. If you are not the intended recipient, you
must not
keep, use, disclose, copy or distribute this email without the
author's
prior permission. We have taken precautions to minimize the
risk of
transmitting software viruses, but we advise you to carry out
your own
virus checks on any attachment to this message. We cannot accept
liability for any loss or damage caused by software viruses. The
information contained in this communication may be confidential
and
may
be subject to the attorney-client privilege. If you are the
intended
recipient and you do not wish to receive similar electronic
messages
from us in future then please respond to the sender to this
effect.

The documents linked to on my website were downloaded from an
anonymous
source. As far as I know I'm not under any court order.
Dissemination of
the contents of the documents is clearly in the public
interest. Is
there a legal basis for you request?

This email is for the use of the intended recipient(s) only. If
you have received this email in error, please notify the sender
immediately and then delete it. If you are not the intended
recipient, you must not keep, use, disclose, copy or distribute
this email without the author's prior permission. We have taken
precautions to minimize the risk of transmitting software viruses,
but we advise you to carry out your own virus checks on any
attachment to this message. We cannot accept liability for any
loss or damage caused by software viruses. The information
contained in this communication may be confidential and may be
subject to the attorney-client privilege. If you are the intended
recipient and you do not wish to receive similar electronic
messages from us in future then please respond to the sender to
this effect.

----- End forwarded message -----

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

Go ahead.

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

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/](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.

David Oaks, Director
MindFreedom International
154 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

From: David Oaks <oaks@mindfreedom.org>
Subject: Re: SPAM-LOW: Re: private
Date: Tue, 26 Dec 2006 16:53:23 -0800
To: Jim Gottstein <jim.gottstein@psychrights.org>
X-Mailer: Apple Mail (2.752.3)

Sure. Let me know anything else we can do.

I got your voice mail today.

Unfortunately Erin apparently did not write down the correct phone number.

Correct area code though -- I got a surfers clothing shop I think!

If you can't reach me at 541-345-9106 feel free to phone me on my cell at 541-554-1559... but I do hope you are ACTUALLY getting an ACTUAL vacation despite the ubiquity of laps tops and cells.

David

On Dec 26, 2006, at 3:45 PM, Jim Gottstein wrote:

Thanks David.

At 01:27 PM 12/26/2006, you wrote:

I've immediately added what you asked to our "update 6."

On Dec 26, 2006, at 1:33 PM, Jim Gottstein wrote:

Hi David,

CCHR had absolutely no involvement in the Myers case.

It is tricky for me to respond to your alerts because of the injunction. In fact, maybe you should put in something like, "While Jim disputes the validity of the injunction against him, he is asking everyone to return the documents as required by the court order. <http://psychrights.org/States/Alaska/CaseXX/EilLilly/InjunctionOrder.pdf>"

At 12:18 PM 12/26/2006, you wrote:

Hi Jim,

I was kind of surprised to see that claim.... CCHR is usually more careful it seems in public stuff, more diplomatic and professional.... maybe because this one below was from a local affiliate they got sloppy....

What's their claim? That maybe they filed an amicus brief?

I know Paula is very upset about some recent confusion with CCHR.

Hope we can clarify without a mess...

Hey, aren't you on "vacation"?

If you see anything incorrect in alert we put out ("we are all Jim!")

hope that fun phrase was okay) let me know by e-mail or phone.

Now enjoy!

Thanks,

David

On Dec 26, 2006, at 1:06 PM, Jim Gottstein wrote:

Hello,

I am concerned that the below suggests I am affiliated with CCHR by stating that PsychRights' victory in the Myers case was a CCHR accomplishment.

While I understand CCHR does some good work against forced psychiatry, PsychRights simply can not carry the Scientology baggage that goes with any affiliation. PsychRights does not have any affiliation or association with CCHR and would appreciate a retraction or at least clarification to that effect.

At 07:47 AM 12/17/2006, you wrote:

<18f47177.jpg>

CITIZENS COMMISSION ON HUMAN RIGHTS®
OF ST. LOUIS, INC.

Established in 1969 by the Church of Scientology
to investigate and expose psychiatric violations of human
rights

P.O. Box 300256
St. Louis, MO 63130-9256
Office (314) 727-8307
psychiatric Abuse Hot Line (314) 729-2854
CCHRSTL@gmail.com

Dear CCHR Supporters,<?xml:namespace prefix = o ns =

"urn:schemas-microsoft-com:office:office" />

For CCHR internationally, 2006 has been an extraordinary year of achievements, including:

- + The "retirement" of Missouri Department of Mental Health chief Dorn Schuffman (May, 2006) due to "the high-profile investigations into abuse and neglect."
- + The four-day front page exposé of patient abuse throughout the Missouri Department of Mental Health in the St. Louis Post-Dispatch (June, 2006), "Broken Promises, Broken Lives" citing "Mentally retarded and mentally ill people in Missouri have been sexually assaulted, beaten, injured and left to die by abusive and neglectful caregivers in a system that for years has failed at every level to safeguard them."
- + An article in the St. Louis Post-Dispatch (11/30/2006), "Mental health reforms urged" "Calling the protection of mentally disabled residents one of Missouri's priorities, a task force released a plan Wednesday to toughen penalties for abusers, increase pay and training for caregivers, and limit the secrecy of internal investigations."
- + An article in the St. Louis Post-Dispatch (12/17/2006), "Eli Lilly Said To Play Down Risk Of Top Pill" said that, "The drugmaker Eli Lilly has engaged in a decade-long effort to downplay the health risks of Zyprexa."
- + More than 60 Food and Drug Administration and other drug regulatory agency warnings and studies exposing the dangers of psychiatric drugs. The warnings include that antidepressants cause birth defects in babies when taken by pregnant women; that these drugs are addictive with serious withdrawal effects; that they could cause homicidal thoughts and suicide. In fact, a December 13th FDA Hearing determined that the "black box" warnings from 2004 that indicated under 18 year olds were at risk of suicide when taking antidepressants should be extended to the age of 25. More than 70 people testified during the hearing, with several accusing the FDA of withholding information about murderous and suicidal adverse reactions that could have prevented patient deaths if announced when it was known of 15 years ago. International media ran on the findings, with more than 450 print media articles and 300 television news segments.

- + The FDA also ordered stronger warnings against stimulants to alert parents and consumers that the drugs can cause hallucinations, psychosis, strokes, heart attacks and death.
- + With the new CCHR museum, "Psychiatry: An Industry of Death" opened and the touring exhibit on the road, tens of thousands of people are also now educated about the criminality and abuse so prevalent in the psychiatric industry. Further, the release of our compelling new documentary of the same name, and translated into 15 languages, has resulted in more than 180,000 sales worldwide.
- + CCHR's media department issued hundreds of thousands of press releases and advisories throughout 2006, alerting media to the latest drug warnings, abuses, civil and criminal decisions, and much more. This year, there were more than 26,000 articles and electronic media exposing psychiatric abuses, including 11,960 television news items and shows. That's a 240% increase over the year before.
- + With our legal and prosecutions department alerting law enforcement and health insurance agents about criminal and civil abuses in the mental health system, there were 315 psychiatrists, psychologists or mental health workers convicted of crimes this year or that lost their license to practice or had it suspended. This comprises 68 criminal convictions for offenses including insurance fraud, sexual assault, rape, child molestation, drug trafficking, manslaughter and murder. There were 247 revoked or suspended licenses.
- + We more than doubled the number of Advisory Board Members, called Commissioners, with more than 171 attorneys, educators, doctors, nutritionists, chiropractors, businessmen, legislators and members of the entertainment industry now advising CCHR in their official capacity.
- + Since December 2005, there have been more than 1.4 million visits to the www.cchr.org website. Visitors are able to check out the latest breaking news in the fight against psychiatric abuse, locate CCHR chapters around the world and download information about CCHR and its campaigns. Many supporters and allies have created links to our website, helping to garner further support and raise awareness about the fight against human rights abuses.
- + On June 30th, an Alaska Supreme Court ruling struck a blow against enforced psychiatric drugging in the state's institutions. It was significant in that it challenged the constitution of the

state regarding forced drugging and found in favor of the patient.

Faith Myers, who was involuntarily committed to the Alaska Psychiatric Institute (API) in 2003 and refused to take damaging psychiatric drugs. Represented by attorney Jim Gottstein of the Law Project for Psychiatric Rights, the Supreme Court recognized the dangers of psychiatric drugs and their effects on the mind, stating: "Given the nature and potentially devastating impact of psychotropic medications...we now similarly hold that the right to refuse to take psychotropic drugs is fundamental."

+ DSM EXPOSED: Underpinning psychiatry's ability to drug millions is its fraudulent Diagnostic and Statistical Manual of Mental Disorders (DSM). A key campaign for CCHR has been exposing the pseudoscience that DSM is. More and more media are now questioning the "science" behind psychiatric diagnoses, including the following sample:

- o New Scientist reported a study that determined ads claiming there is a chemical imbalance in the brain that drugs need to correct are false.
 - o The Wall Street Journal reported, "There is no such thing as a scientifically correct 'balance' of serotonin."
 - o The Australian quoted a study by a lecturer in public health on psychiatrists' "disease mongering" to protect a market worth nearly \$300 million a year.
 - o A Los Angeles Times article was headlined, "Pill Popper nation: Drug companies are the pushers, the FDA a cop paid to look the other way" and debunks social anxiety disorder (SAD).
 - o The San Francisco Chronicle said the DSM "is like a tumor."
 - o The Washington Times exposed psychiatric statistics about mental illness as flawed and exaggerated, which pharmaceutical companies capitalize on.
 - o Harvard Magazine exposed a study that claimed 50% of Americans were mentally ill and quoted an expert that said the study was "medicalizing ordinary unhappiness." It reported a lack of any laboratory tests in psychiatry to substantiate its diagnoses.
- + A study by Lisa Cosgrove, a psychologist from the University of Massachusetts in Boston and Sheldon Krinsky, a Tufts University professor, published in the April edition of the journal

Psychotherapy and Psychosomatics, revealed that psychiatrists involved in the invention of DSM mental disorders were drug-company funded. The study determined that 100% of the "experts" on DSM-IV panels overseeing so-called "mood disorders" (which includes "depression") and "schizophrenia/psychotic disorders" were financially involved with drug companies. Media ran internationally on this.

INSANITY DEFENSE: CCHR's Commissioner and legal counsel, Rick Moxon, filed an amicus curiae brief ("friend of the court brief") with the Arizona Supreme Court, pointing out the lack of science in psychiatric testimony based on the DSM and how justice is denied if courts rely upon bogus diagnoses from psychiatric witnesses. On June 29, 2006, the U.S. Supreme Court upheld the right of the state of Arizona to make laws that excluded many forms of psychiatric testimony in criminal cases and quoting legal source in support of its decision, said, "No matter how the test for insanity is phrased, a psychiatrist or psychologist is no more qualified than any other person to give an opinion about whether a particular defendant's mental condition satisfies the legal test for insanity." In other words, any layperson could just as feasibly give an opinion about "insanity" as a psychiatrist or psychologist. The court determined that Arizona had "sensible reasons" for the law it passed, limiting psychiatric testimony on the insanity defense.

ppppp

These accomplishments are worthy of celebration, and they are but a sample of the overall forward progress we made. We are looking forward to another successful year that brings us even closer to realizing our goal of a world without psychiatric abuse. Much more needs to be done but in a united effort, it can be achieved.

We invite you to share in our celebration, and welcome a New Year of CCHR success in making St. Louis safe from psychiatry's fraud and abuse, by attending the Psychiatry: An Industry of Death traveling exhibit: Get Hooked on Health Expo at the America's Center, January 6-7, 2007; and Westfield South County Mall, January 6-14, 2007.

To volunteer some of your time staffing the exhibits, or to contribute to exhibit expenses, contact CCHR St. Louis (314) 727-8307, CCHRSTL@gmail.com.

Best regards,

CCHR St. Louis

<18f47177.jpg>

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.

David Oaks, Director

MindFreedom International

454 Willamette, Suite 216 - POB 11284

Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>

email: 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.

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/](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.

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

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/](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.

David Oaks, Director
MindFreedom International
154 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

Printed for

1/16/2007

PETITIONERS 7 0812

web: <http://www.mindfreedom.org>
email: 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.

To: Jim Gottstein <jim.gottstein@psychrights.org>
Cc: Judi Chamberlin <MadPride@aol.com>
Subject: Eli Lilly order
From: David Oaks <oaks@mindfreedom.org>
Date: Sat, 30 Dec 2006 17:54:41 -0800
X-Mailer: Apple Mail (2.752.3)

Hi Jim,

The order that Eli Lilly obtains mentions several people in it...
including Judi Chamberlin on our board. I'll copy this to her:



order.pdf

Cc: Eric Whalen <eric@joysoup.net>
From: David Oaks <oaks@mindfreedom.org>
Subject: Fwd: Eli Lilly attorneys
Date: Sat, 30 Dec 2006 18:11:48 -0800
To: Jim Gottstein <jim.gottstein@psychrights.org>
X-Mailer: Apple Mail (2.752.3)

I just send some of the people named in the court order to Eric an e-mail below to give them heads up.

Begin forwarded message:

From: David Oaks <oaks@mindfreedom.org>
Date: December 30, 2006 6:10:01 PM PST
Subject: Eli Lilly attorneys

Hi everybody,

You've gotten the attention of Eli Lilly, you are definitely a great group of folks -- but I knew that already!

First, let me mention that Jim Gottstein is under court order to keep his e-mails for possible court inspection... Of course ANYTHING one e-mails ought to be considered PUBLIC, there's little privacy on the Internet. But I just wanted to make sure everyone I'm e-mailing knows this. Everything by e-mail is very very public.

I'll copy this message separately to Jim, because Bruce is also mentioned.

What I'm e-mailing you about is that as you may know Eli Lilly documents were exposed, made NY Times, Jim Gottstein is a hero. You can read about that in lots of places, such as our alerts here, to refresh your memory.

Several people apparently put these documents up on the web for download, apparently including one of our MindFreedom members Eric Whalen. Eric did this on his own, personally, not representing MindFreedom.

Eric just got served an official-looking court order that Eli Lilly's attorneys obtained asking him to stop disseminating those. Of course, Eric complied, no longer distributes the material.

And not to panic, but the court order mentions each of you, and a few others I didn't have the e-mail address handy for. I'll send you a copy of a pdf of the court order in my next e-mail. I have absolutely no idea where they got your names, or what the order means, not being an attorney. My guess -- and this isn't legal advice -- is that they are flailing about, because this info is already out in the NY Times.

A few days before, they also got a court order to Jim... and of course he complied too. That court order pdf is on his site, and we have a link to it from our alert.

I can say we have put the following disclaimers on our web site, and in our e-mail alerts, and that applies here, to the effect:

"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."

Okay, in next e-mail I'll send the pdf.

David

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

To: Jim Gottstein <jim.gottstein@psychrights.org>
From: David Oaks <oaks@mindfreedom.org>
Subject: Bruce named, too
Date: Sat, 30 Dec 2006 18:12:07 -0800
X-Mailer: Apple Mail (2.752.3)



order1.pdf

From: David Oaks <oaks@mindfreedom.org>
Subject: Re: Compliance Certificate
Date: Sat, 30 Dec 2006 19:29:40 -0800
To: Jim Gottstein <jim.gottstein@psychrights.org>
X-Mailer: Apple Mail (2.752.3)

URL?

On Dec 30, 2006, at 7:20 PM, Jim Gottstein wrote:

Hi David,

I just posted the Compliance Certificate I filed regarding the injunction against me. I hadn't done it before because I didn't want people hounding the people I sent it to without at least asking them first. However, with this new order out there, that seems to no longer be a reason so I have posted it. People may find it of interest and maybe even some use.

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/>

PsychRights®
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/](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.

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

Printed for

1/16/2007

PETITIONERS 7 0822

web: <http://www.mindfreedom.org>
email: 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.

Cc: Jim Gottstein <jim.gottstein@psychrights.org>
From: David Oaks <oaks@mindfreedom.org>
Subject: Re: Eli Lilly attorneys
Date: Sun, 31 Dec 2006 08:01:56 -0800
To: Judi Chamberlin <MadPride@aol.com>,
Will Hall <will@freedom-center.org>,
Peter Breggin <breggin@hotmail.com>,
Grace Jackson <gracejackson@ncfreedom.net>,
David Cohen <david.cohen@fiu.edu>,
David Cohen <cohenda@fiu.edu>,
kleinman@wjh.harvard.edu,
skruszewski@spkmd.com,
Laura Ziegler <nemo@vtlink.net>,
Bob Whitaker <robert.b.whitaker@verizon.net>,
VERACARE HASSNER <veracare@ahrp.org>
X-Mailer: Apple Mail (2.752.3)

Okay, mystery solved about one thing – where Eli Lilly got your names.

I don't have the e-mail addresses for the other names on that court order, someone else has hopefully told them about the alert and the pdf below.

See Jim's "compliance order" in the pdf he supplies -- he listed where he had disseminated the documents, including you, I'll copy to Jim.

From: Jim Gottstein <jim.gottstein@psychrights.org>
Date: December 30, 2006 11:43:48 PM PST
To: David Oaks <oaks@mindfreedom.org>
Subject: SPAM-LOW: Re: Compliance Certificate

<http://psychrights.org/states/Alaska/CaseXX/EilLilly/SignedComplianceCertification.pdf>

You're all great folks, several of you are also MF members, in any case let us know how we can help, if you have any public statements let us know. Is there any possibility any of you can get someone to that court on 1/3?

MindFreedom News - 29 December 2006
<http://www.mindfreedom.org> - please forward

Eli Lilly "Panics" About "ZyprexaKills Campaign"

Eli Lilly Gets Second Court Order Targeting
MindFreedom Members To Try to Cover-Up Evidence

Secret Eli Lilly Documents on Psychiatric Drug Zyprexa Are Said to be Downloadable Once More Via a Grassroots Internet Campaign Using "Tor."

MFI Board Member Says Eli Lilly Is "Panicking" Because They Have "Committed Homicide."

Secret Eli Lilly documents about fraudulent marketing of the psychiatric drug Zyprexa are reportedly available once more for free download.

Eli Lilly has obtained a second court order, this one targeting a number of MindFreedom members. In an e-mail exchange today Eli Lilly threatened a MindFreedom member, Eric Whalen, with legal action to try to suppress the documents. Eric has complied.

See the new court gag order and threatening e-mails from Eli Lilly via MFI's Update 12 here:

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

But according to an anonymous report, the secret "ZyprexaKills" documents are still available to those able to use a super- sophisticated Internet privacy protection system called "Tor" which was developed by the Electronic Freedom Foundation (EFF) to create distributed network "cyber-tunnels" around censorship. More information about installing special Tor software to access ZyprexaKills documents can be found via a wiki not sponsored by MFI:

<http://zyprexa.pbwiki.com>

For the last six last days, a grassroots campaign appears to have successfully made hundreds of secret documents from Eli Lilly available using multiple web sites to hundreds of individuals who have downloaded the suppressed materials. The file itself appears to be about 269 megs of material in the compressed download.

Attorney Jim Gottstein of PsychRights began the furor by courageously making suppressed Zyprexa documents available resulting in three recent pieces in the NY Times.

Ted Chabasinski, a human rights activist on the MindFreedom board, commented that, "I'm an attorney, and I think the reason Lilly is panicking is that these documents literally show a conspiracy to commit murder. People talk about how these documents show that Lilly committed fraud. They do. But more importantly, if someone deliberately does something that they know will cause the death of another person, they have committed a homicide -- murder. Lying about the effects of Zyprexa has led to the deaths of many people."

Eli Lilly sought and obtained the first court gag order on 18

December, that one requiring 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 that first court order here:

<http://psychrights.org/States/Alaska/CaseXX/EilLilly/InjunctionOrder.pdf>

Said Ted, "Since Lilly does business in almost all states, and since people died as a result of Lilly's behavior as evidenced by these documents, if there were a courageous prosecutor somewhere who saw these documents, conceivably Lilly's executives could go to jail."

"The genie is still out of the bottle, and Eli Lilly is still paying their hard-hitting attorneys to try to frighten citizens into silence," 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."

You may read the text of the two articles and editorial about Zyprexa in the NY Times here:

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

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

Disclaimers by MindFreedom:

"In the public interest, MindFreedom is forwarding the anonymous alerts referred to on this page and in MFI 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 'ZyprexaKills' files, MFI is not encouraging anyone to conduct illegal activities regarding these files, and MFI itself is not providing the 'ZyprexaKills' files for download."

*** ACTION * ACTION * ACTION ***

You can help the break Eli Lilly's information blockade: Please Forward This Alert!

Other actions you may take:

Those interested may "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

There is also an e-mail list, not sponsored by MFI, that is discussing this grassroots campaign:

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

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](mailto: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@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(at)mindfreedom(dot)org) with these words in the subject line: unsubscribe
mindfreedom-news

David Oaks , Judi Chamberlin <M

To: David Oaks <oaks@mindfreedom.org>, Judi Chamberlin <MadPride@aol.com>, Will Hall <will@freedom-center.org>, nemoi@usadatanet.net, Peter Breggin <breggin@hotmail.com>, Grace Jackson <gracejackson@ncfreedom.net>, David Cohen <david.cohen@fiu.edu>, skruszewski@spkmd.com, Laura Ziegler <nemo@vmlink.net>, Bob Whitaker <robert.b.whitaker@verizon.net>, VERACARE HASSNER <veracare@ahrp.org>
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Re: Eli Lilly attorneys
Cc:
Bcc: Mckay@alaska.net
Attached:

Hi Everyone,

I was, of course, ordered to give them your names. I hadn't posted my Compliance Certificate before because I didn't want to get you publicly involved without asking you all first. With the new order you all have been publicly identified so I thought I might as well go ahead and post the Compliance Certificate.

<http://psychrights.org/states/Alaska/CaseXX/EliLilly/SignedComplianceCertification.pdf>

I do apologize for getting you in the middle of this without asking you all first. Since I have decided to comply with the order against me, I reiterate that I am asking you all to return the DVDs to the Special Master, and take any documents down from any websites. I won't go into why I decided to comply with the order against me in an e-mail.

With respect to the order against you all, I'm afraid I have to advise you to seek your own counsel. I know that is not feasible for at least a few of you and I apologize again for getting you in the middle of this.

At 07:01 AM 12/31/2006, David Oaks wrote:

Okay, mystery solved about one thing -- where Eli Lilly got your names.

I don't have the e-mail addresses for the other names on that court order, someone else has hopefully told them about the alert and the pdf below.

See Jim's "compliance order" in the pdf he supplies -- he listed where he had disseminated the documents, including you, I'll copy to Jim.

From: David Oaks <oaks@mindfreedom.org>
Subject: saw your nice note to Bob...
Date: Tue, 2 Jan 2007 10:28:57 -0800
To: Jim Gottstein <jim.gottstein@psychrights.org>
X-Mailer: Apple Mail (2.752.3)

I keep thinking you're still in Hawaii.

When you get back (unless you've chosen to live on beach), perhaps you can give me a call sometime, for even a brief chit chat about weather, etc.?

You can pick a time or two if that's easiest.

Or just try your luck at 541-345-9106 during business hours and if not there try cell 541-554-1559.

Or give me a number to reach you.

Or all of above.

Thanks,

David

Re SPAM-LOW Re [MF-USA] Question about the Zyprexa files.txt
Received: from GWA13.webcontrolcenter.com
by touchngo.net (Merak 7.6.4) with ESMTP id LSM74872
for <jim.gottstein@psychrights.org>; Fri, 05 Jan 2007 06:24:00 -0900
Received: from maila59.webcontrolcenter.com [216.119.106.109] by
GWA13.webcontrolcenter.com with SMTP;
Fri, 5 Jan 2007 08:23:19 -0700
Received: from UnknownHost [198.107.16.214] by MAILA59.WEBCONTROLCENTER.COM with
SMTP;
Fri, 5 Jan 2007 08:22:47 -0700
Mime-Version: 1.0 (Apple Message framework v752.3)
In-Reply-To: <7.0.1.0.2.20070104224853.04305e98@psychrights.org>
References: <20070104163858.91090.qmail@web34913.mail.mud.yahoo.com>
<A0BC7C47-F864-4ACF-AC5C-D88E1F4128A7@mindfreedom.org>
<7.0.1.0.2.20070104224853.04305e98@psychrights.org>
Content-Type: text/plain; charset=ISO-8859-1; delsp=yes; format=flowed
Message-Id: <7C35DE3D-FCA1-4A53-ADFE-66987A6FF41B@mindfreedom.org>
From: David Oaks <oaks@mindfreedom.org>
Subject: Re: SPAM-LOW: Re: [MF-USA] Question about the Zyprexa files
Date: Fri, 5 Jan 2007 07:22:42 -0800
To: Jim Gottstein <jim.gottstein@psychrights.org>
X-Mailer: Apple Mail (2.752.3)

<x-flowed>

I do too Jim. Thus the word "theoretically" -- though if you'd like to put out a public statement, we'd be glad to use that!

On Jan 4, 2007, at 11:50 PM, Jim Gottstein wrote:

> Thanks David.

>

> I like to think that jail time and bar disciplinary action are
> relatively unlikely. I still believe I followed the rules and Eli
> Lilly sat on its rights.

>

> At 07:57 AM 1/4/2007, David Oaks wrote:

>> According to MindFreedom's attorney, the judge explicitly took "no
>> position" about those who already have copies of the files but who
>> are already named in the court order that is being disputed. In other
>> words, such folks are apparently free to do with it as they will.

>>

>> Please note that Eli Lilly has not gone after _NY Times_ which of
>> course already has the documents -- why is Eli Lilly naming
>> grassroots organizations and not the _NY Times_? Because at this
>> point keeping those documents totally private is "futile," as both
>> Ted and the judge put it. So at this point Eli Lilly is hoping to
>> chill people's First Amendment rights. "Don't be chilled by Eli
>> Lilly!"

>>

>> The main individual who is potentially facing consequences here is
>> attorney and hero Jim Gottstein, who theoretically faces possible
>> consequences of substantial fine, loss of license to practice law and
>> jail time. "we are all Jim." Thank you to those who are continuing to
>> get the word out... As always MindFreedom itself is not advising
>> people about legality or illegality, or providing these documents
>> itself, but congratulates those who are challenging Eli Lilly
>> oppression!

>>

>> David

>>

>> On Jan 4, 2007, at 8:38 AM, Jent Lynne wrote:

>>

>>> Hello everyone,

Re SPAM-LOW Re [MF-USA] Question about the zyprexa files.txt

>>>
>>> --- Patrick HOOKER <patriko@norlights.net> wrote:
>>>> Regarding those who downloaded or recieved Eli-Lilly's zyprexa
>>>> files, as
>>>> I understand, at this point the court orders to stop sharing these
>>>> files
>>>> don't likely cover those who were not specifically mentioned in
>>>> them.
>>>
>>> I'm guessing it also can't begin to cover anything that's already
>>> spread
>>> internet-wide, on anonymous servers and such (where such "banned"
>>> things often
>>> end up). Eli-Lilly may well end up like McDonalds in England --
>>> sorry it tried
>>> to squash dissent, because in the end it made them look even worse
>>> than they
>>> did before.
>>>
>>> Jent
>>>
>>> "The greater part of what my neighbors call good, I believe in my
>>> soul to be bad, and if I repent of anything, it is very likely to
>>> be my good behavior. What demon possessed me that I behaved so
>>> well?" -Henry David Thoreau
>>>
>>> _____
>>> Do You Yahoo!?
>>> Tired of spam? Yahoo! Mail has the best spam protection around
>>> <http://mail.yahoo.com>
>>>
>>> _____
>>> MindFreedom-USA mailing list
>>> MindFreedom-USA@intenex.net
>>> <http://www.intenex.net/lists/listinfo/mindfreedom-usa>
>>>
>>> ~~~~~
>>> This list is a service for members of MindFreedom International
>>> <http://www.MindFreedom.org>. Please only copy and forward posts with
>>> the
>>> explicit permission of the poster.
>>>
>>> To unsubscribe, send a blank email to
>>>
>>> mindfreedom-usa@intenex.net
>>> .
>>
>> David Oaks, Director
>> MindFreedom International
>> 454 Willamette, Suite 216 - POB 11284
>> Eugene, OR 97440-3484 USA
>>
>> web: <http://www.mindfreedom.org>
>> email: 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

Re SPAM-LOW Re [MF-USA] Question about the Zyprexa files.txt

- >> 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.
- >>
- >>
- >>
- >>
- >> _____
- >> MindFreedom-USA mailing list
- >> MindFreedom-USA@intenex.net
- >> <http://www.intenex.net/lists/listinfo/mindfreedom-usa>
- >>
- >> ~~~~~
- >> This list is a service for members of MindFreedom International
- >> <http://www.MindFreedom.org>. Please only copy and forward posts
- >> with the
- >> explicit permission of the poster.
- >> To unsubscribe, send a blank email to
- >>
- >> mindfreedom-usa@intenex.net
- >> .
- >
- >
- > 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://](http://psychrights.org/)
- > 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.

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: oaks@mindfreedom.org
office phone: (541) 345-9106
fax: (541) 345-3737

Re SPAM-LOW Re [MF-USA] Question about the Zyprexa files.txt
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.

</x-flowed>

From: David Oaks <oaks@mindfreedom.org>
Subject: Re: SPAM-LOW: Re: [MF-USA] Question about the Zyprexa files
Date: Fri, 5 Jan 2007 07:22:42 -0800
To: Jim Gottstein <jim.gottstein@psychrights.org>
X-Mailer: Apple Mail (2.752.3)

I do too Jim. Thus the word "theoretically" – though if you'd like to put out a public statement, we'd be glad to use that!

On Jan 4, 2007, at 11:50 PM, Jim Gottstein wrote:

Thanks David.

I like to think that jail time and bar disciplinary action are relatively unlikely. I still believe I followed the rules and Eli Lilly sat on its rights.

At 07:57 AM 1/4/2007, David Oaks wrote:

According to MindFreedom's attorney, the judge explicitly took "no position" about those who already have copies of the files but who are already named in the court order that is being disputed. In other words, such folks are apparently free to do with it as they will.

Please note that Eli Lilly has not gone after NY Times which of course already has the documents – why is Eli Lilly naming grassroots organizations and not the NY Times? Because at this point keeping those documents totally private is "futile," as both Ted and the judge put it. So at this point Eli Lilly is hoping to chill people's First Amendment rights. "Don't be chilled by Eli Lilly!"

The main individual who is potentially facing consequences here is attorney and hero Jim Gottstein, who theoretically faces possible consequences of substantial fine, loss of license to practice law and jail time. "We are all Jim." Thank you to those who are continuing to get the word out... As always MindFreedom itself is not advising people about legality or illegality, or providing these documents itself, but congratulates those who are challenging Eli Lilly oppression!

David

On Jan 4, 2007, at 8:38 AM, Jent Lynne wrote:

Hello everyone,

— Patrick HOOKER <patriko@norlights.net> wrote:

Regarding those who downloaded or recieved Eli-Lilly's Zyprexa files, as

I understand, at this point the court orders to stop sharing these

files
don't likely cover those who were not specifically mentioned in them.

I'm guessing it also can't begin to cover anything that's already spread internet-wide, on anonymous servers and such (where such "banned" things often end up). Eli-Lilly may well end up like McDonalds in England -- sorry it tried to squash dissent, because in the end it made them look even worse than they did before.

Jent

"The greater part of what my neighbors call good, I believe in my soul to be bad, and if I repent of anything, it is very likely to be my good behavior. What demon possessed me that I behaved so well?" -Henry David Thoreau

Do You Yahoo!?

Tired of spam? Yahoo! Mail has the best spam protection around
<http://mail.yahoo.com>

MindFreedom-USA mailing list
MindFreedom-USA@intenex.net
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

~~~~~  
This list is a service for members of MindFreedom International  
<http://www.MindFreedom.org>. Please only copy and forward posts with the explicit permission of the poster.

To unsubscribe, send a blank email to  
<[a href="mailto:mindfreedom-usa-unsubscribe@intenex.net"](mailto:mindfreedom-usa-unsubscribe@intenex.net)>  
[mindfreedom-usa@intenex.net](mailto:mindfreedom-usa@intenex.net)  
</a>.

David Oaks, Director  
MindFreedom International  
454 Willamette, Suite 216 - POB 11284  
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>  
email: [oaks@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.

---

MindFreedom-USA mailing list  
MindFreedom-USA@intenex.net  
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

~~~~~  
This list is a service for members of MindFreedom International <http://www.MindFreedom.org>. Please only copy and forward posts with the explicit permission of the poster. To unsubscribe, send a blank email to <mailto:mindfreedom-usa-unsubscribe@intenex.net>> mindfreedom-usa@intenex.net .

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@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/](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.

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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.

From: David Oaks <oaks@mindfreedom.org>
Subject: Re: [MF-USA] Question about the Zyprexa files
Date: Fri, 5 Jan 2007 11:21:37 -0800
To: Jim Gottstein <jim.gottstein@psychrights.org>
X-Mailer: Apple Mail (2.752.3)

Feel free to phone me at any time at 541-345-9106 or cell 541-554-1559, any time.

I don't want to be completely accurate in anything I put out regarding you and how you'd like support, okay?

Thanks!

David

On Jan 5, 2007, at 10:14 AM, Jim Gottstein wrote:

Hi David,

I was just feeling the way it was presented made it seem like I had done something illegal. I hadn't focused on the words "potentially" and "theoretically." I totally appreciate your public expressions of support. At some point, I very well might want as many people as possible to do something on my behalf. An example would be if there is a hearing on a contempt charge. Unless Evil Lilly changes course, it seems pretty likely that will occur.

At 06:22 AM 1/5/2007, you wrote:

I do too Jim. Thus the word "theoretically" -- though if you'd like to put out a public statement, we'd be glad to use that!

On Jan 4, 2007, at 11:50 PM, Jim Gottstein wrote:

Thanks David.

I like to think that jail time and bar disciplinary action are relatively unlikely. I still believe I followed the rules and Eli Lilly sat on its rights.

At 07:57 AM 1/4/2007, David Oaks wrote:

According to MindFreedom's attorney, the judge explicitly took "no position" about those who already have copies of the files but who are already named in the court order that is being disputed. In other words, such folks are apparently free to do with it as they will.

Please note that Eli Lilly has not gone after NY Times which of

course already has the documents – why is Eli Lilly naming grassroots organizations and not the _NY Times_? Because at this point keeping those documents totally private is "futile," as both Ted and the judge put it. So at this point Eli Lilly is hoping to chill people's First Amendment rights. "Don't be chilled by Eli Lilly!"

The main individual who is potentially facing consequences here is attorney and hero Jim Gottstein, who theoretically faces possible consequences of substantial fine, loss of license to practice law and jail time. "We are all Jim." Thank you to those who are continuing to get the word out... As always MindFreedom itself is not advising people about legality or illegality, or providing these documents itself, but congratulates those who are challenging Eli Lilly oppression!

David

On Jan 4, 2007, at 8:38 AM, Jent Lynne wrote:

Hello everyone,

— Patrick HOOKER <patriko@norlights.net> wrote:

Regarding those who downloaded or recieved Eli-Lilly's Zyprexa files, as I understand, at this point the court orders to stop sharing these files don't likely cover those who were not specifically mentioned in them.

I'm guessing it also can't begin to cover anything that's already spread internet-wide, on anonymous servers and such (where such "banned" things often end up). Eli-Lilly may well end up like McDonalds in England – sorry it tried to squash dissent, because in the end it made them look even worse than they did before.

Jent

"The greater part of what my neighbors call good, I believe in my soul to be bad, and if I repent of anything, it is very likely to be my good behavior. What demon possessed me that I behaved so well?" -Henry David Thoreau

Do You Yahoo!?
Tired of spam? Yahoo! Mail has the best spam protection around
<http://mail.yahoo.com>

MindFreedom-USA mailing list
MindFreedom-USA@intenex.net
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

~~~~~  
This list is a service for members of MindFreedom International  
<http://www.MindFreedom.org>. Please only copy and forward posts  
with  
the  
explicit permission of the poster.

To unsubscribe, send a blank email to  
<[a href="mailto:mindfreedom-usa-unsubscribe@intenex.net"](mailto:mindfreedom-usa-unsubscribe@intenex.net)>  
mindfreedom-usa@intenex.net  
</a>.

David Oaks, Director  
MindFreedom International  
454 Willamette, Suite 216 - POB 11284  
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>  
email: [oaks@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.

---

MindFreedom-USA mailing list

MindFreedom-USA@intenex.net  
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

-----  
This list is a service for members of MindFreedom International  
<http://www.MindFreedom.org>. Please only copy and forward posts  
with the  
explicit permission of the poster.  
To unsubscribe, send a blank email to  
<[a href="mailto:mindfreedom-usa-unsubscribe@intenex.net"](mailto:mindfreedom-usa-unsubscribe@intenex.net)>  
mindfreedom-usa@intenex.net  
</a>.

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/](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.

David Oaks, Director  
MindFreedom International  
454 Willamette, Suite 216 - POB 11284  
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>  
email: 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.

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/](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.

David Oaks, Director  
MindFreedom International  
154 Willamette, Suite 216 - POB 11284  
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>  
email: [oaks@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.

From: David Oaks <oaks@mindfreedom.org>  
Subject: Re: Correction  
Date: Sun, 7 Jan 2007 19:17:09 -0800  
To: Jim Gottstein <jim.gottstein@psychrights.org>  
X-Mailer: Apple Mail (2.752.3)

Oopsie!

Thanks for spotting it and thanks for READING the article!

By the way, I've asked John Ryan (our media chair) to help me write an "introductory 101 overview" about this whole thing with a fact sheet and chronology... we need a "shallow end of the pool" for people new to this to read.

David

On Jan 7, 2007, at 6:07 PM, Jim Gottstein wrote:

Hi David,

I believe Evil Lilly settled for \$500 million, not billion.

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/>

PsychRights®  
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/](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.

Printed for

1/16/2007

PETITIONERS 7 1062

David Oaks, Director  
MindFreedom International  
454 Willamette, Suite 216 - POB 11284  
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>  
email: [oaks@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.

Received: from zoot.intenex.net  
by touchngo.net (Merak 7.6.4) with ESMTTP id LSM74872  
for <jim.gottstein@psychrights.org>; Mon, 25 Dec 2006 08:31:35 -0900  
Received: from zoot.intenex.net (localhost.localdomain [127.0.0.1])  
by zoot.intenex.net (8.12.11.20060308/8.12.11) with ESMTTP id kBPHUc0G028104;  
Mon, 25 Dec 2006 11:30:39 -0600  
Received: from GWA13.webcontrolcenter.com (gwa13.webcontrolcenter.com  
[63.134.207.64])  
by zoot.intenex.net (8.12.11.20060308/8.12.11) with ESMTTP id  
kBPHTL2P027898  
for <mindfreedom-usa@intenex.net>; Mon, 25 Dec 2006 11:29:21 -0600  
Received: from maila59.webcontrolcenter.com [216.119.106.109] by  
GWA13.webcontrolcenter.com with SMTP;  
Mon, 25 Dec 2006 10:28:40 -0700  
Received: from 71-210-19-150.eugn.qwest.net [71.210.19.150] by  
MAILA59.WEBCONTROLCENTER.COM with SMTP;  
Mon, 25 Dec 2006 10:28:06 -0700  
Mime-Version: 1.0 (Apple Message framework v752.3)  
Content-Transfer-Encoding: 7bit  
Message-Id: <FD47A07F-E7A4-4CB9-9D5A-F12CE7C6B337@mindfreedom.org>  
Content-Type: text/plain; charset=US-ASCII; delsp=yes; format=flowed  
To: MF-USA <mindfreedom-usa@intenex.net>  
From: David Oaks <oaks@mindfreedom.org>  
Date: Mon, 25 Dec 2006 09:28:05 -0800  
X-Mailer: Apple Mail (2.752.3)  
Subject: [MF-USA] will distribute widely when double-checked  
X-BeenThere: mindfreedom-usa@intenex.net  
X-Mailman-Version: 2.1.5  
Precedence: list  
List-Id: "MindFreedom members for change in USA of mental health system."  
<mindfreedom-usa.intenex.net>  
List-Unsubscribe: <<http://www.intenex.net/lists/listinfo/mindfreedom-usa>>,  
<<mailto:mindfreedom-usa-request@intenex.net?subject=unsubscribe>>  
List-Archive: <<http://www.intenex.net/lists/private/mindfreedom-usa>>  
List-Post: <<mailto:mindfreedom-usa@intenex.net>>  
List-Help: <<mailto:mindfreedom-usa-request@intenex.net?subject=help>>  
List-Subscribe: <<http://www.intenex.net/lists/listinfo/mindfreedom-usa>>,  
<<mailto:mindfreedom-usa-request@intenex.net?subject=subscribe>>  
Sender: mindfreedom-usa-bounces@intenex.net  
Errors-To: mindfreedom-usa-bounces@intenex.net  
X-Intenex-MailScanner-Information: Please contact Intenex support for more informati  
X-Intenex-MailScanner: Found to be clean  
X-MailScanner-From: mindfreedom-usa-bounces@intenex.net

<x-flowed>

Hi MF USA folks,

Below is the most recent information I have about how to download the  
Zyprexa info....

I am trying to get it double-checked using a new e-mail list on  
this... when it is double-checked I will get it out more widely.

In meantime, with that disclaimer, here it is:

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

---

MindFreedom-USA mailing list

[http://psychiatrized.org/Zproduction/\[MF-USA\]%20will%20distribute%20widely%20whe...](http://psychiatrized.org/Zproduction/[MF-USA]%20will%20distribute%20widely%20whe...) 1/17/2007

MindFreedom-USA@intenex.net  
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

-----  
This list is a service for members of MindFreedom International  
<http://www.MindFreedom.org>. Please only copy and forward posts with the  
explicit permission of the poster.

To unsubscribe, send a blank email to  
<[a href="mailto:mindfreedom-usa-unsubscribe@intenex.net"](mailto:mindfreedom-usa-unsubscribe@intenex.net)>  
mindfreedom-usa@intenex.net  
</a>.

</x-flowed>

[http://psychiatrized.org/Zproduction/\[MF-USA\]%20will%20distribute%20widely%20whe...](http://psychiatrized.org/Zproduction/[MF-USA]%20will%20distribute%20widely%20whe...) 1/17/2007

Received: from zoot.intenex.net  
by touchngo.net (Merak 7.6.4) with ESMTTP id LSM74872  
for <jim.gottstein@psychrights.org>; Tue, 26 Dec 2006 04:51:38 -0900  
Received: from zoot.intenex.net (localhost.localdomain [127.0.0.1])  
by zoot.intenex.net (8.12.11.20060308/8.12.11) with ESMTTP id kBQDoBhP023326;  
Tue, 26 Dec 2006 07:50:21 -0600  
Received: from GWA13.webcontrolcenter.com (gwa13.webcontrolcenter.com  
[63.134.207.64])  
by zoot.intenex.net (8.12.11.20060308/8.12.11) with ESMTTP id  
kBQDmPrx023055  
for <mindfreedom-usa@intenex.net>; Tue, 26 Dec 2006 07:48:25 -0600  
Received: from maila59.webcontrolcenter.com [216.119.106.109] by  
GWA13.webcontrolcenter.com with SMTP;  
Tue, 26 Dec 2006 06:47:45 -0700  
Received: from 71-210-19-150.eugn.qwest.net [71.210.19.150] by  
MAILA59.WEBCONTROLCENTER.COM with SMTP;  
Tue, 26 Dec 2006 06:47:10 -0700  
Mime-Version: 1.0 (Apple Message framework v752.3)  
Content-Transfer-Encoding: 7bit  
Message-Id: <E0732594-5607-4F83-9783-B88FEB689345@mindfreedom.org>  
Content-Type: text/plain; charset=US-ASCII; delsp=yes; format=flowed  
To: MF-USA <mindfreedom-usa@intenex.net>  
From: David Oaks <oaks@mindfreedom.org>  
Date: Tue, 26 Dec 2006 05:47:09 -0800  
X-Mailer: Apple Mail (2.752.3)  
Subject: [MF-USA] assume you got this directly from mf-news list  
X-BeenThere: mindfreedom-usa@intenex.net  
X-Mailman-Version: 2.1.5  
Precedence: list  
List-Id: "MindFreedom members for change in USA of mental health system."  
<mindfreedom-usa.intenex.net>  
List-Unsubscribe: <<http://www.intenex.net/lists/listinfo/mindfreedom-usa>>,  
<<mailto:mindfreedom-usa-request@intenex.net?subject=unsubscribe>>  
List-Archive: <<http://www.intenex.net/lists/private/mindfreedom-usa>>  
List-Post: <<mailto:mindfreedom-usa@intenex.net>>  
List-Help: <<mailto:mindfreedom-usa-request@intenex.net?subject=help>>  
List-Subscribe: <<http://www.intenex.net/lists/listinfo/mindfreedom-usa>>,  
<<mailto:mindfreedom-usa-request@intenex.net?subject=subscribe>>  
Sender: mindfreedom-usa-bounces@intenex.net  
Errors-To: mindfreedom-usa-bounces@intenex.net  
X-Intenex-MailScanner-Information: Please contact Intenex support for more informati  
X-Intenex-MailScanner: Found to be clean  
X-MailScanner-From: mindfreedom-usa-bounces@intenex.net

<x-flowed>

Hi MindFreedom USA e-mail list:

I'm assuming everyone on this MindFreedom USA discussion list got the  
below alert from the MindFreedom-NEWS list directly from that list  
yesterday... if not let me know OFF LIST with the e-mail address you  
should have received the below at.

-----

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

[http://psychiatrized.org/Zproduction/\[MF-USA\]%20assume%20you%20got%20this%20di...](http://psychiatrized.org/Zproduction/[MF-USA]%20assume%20you%20got%20this%20di...) 1/17/2007

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://psychiatrized.org/Zproduction/\[MF-USA\]%20assume%20you%20got%20this%20di...](http://psychiatrized.org/Zproduction/[MF-USA]%20assume%20you%20got%20this%20di...) 1/17/2007

<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 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@mindfreedom.org](mailto:office@mindfreedom.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@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@mindfreedom.org](mailto:office@mindfreedom.org) with these words in the subject line: unsubscribe mindfreedom-news

[http://psychiatrized.org/Zproduction/\[MF-USA\]%20assume%20you%20got%20this%20di...](http://psychiatrized.org/Zproduction/[MF-USA]%20assume%20you%20got%20this%20di...) 1/17/2007

---

MindFreedom-USA mailing list  
MindFreedom-USA@intenex.net  
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

~~~~~

This list is a service for members of MindFreedom International
<http://www.MindFreedom.org>. Please only copy and forward posts with the
explicit permission of the poster.

To unsubscribe, send a blank email to
<[a href="mailto:mindfreedom-usa-unsubscribe@intenex.net"](mailto:mindfreedom-usa-unsubscribe@intenex.net)>
mindfreedom-usa@intenex.net
.

</x-flowed>

Received: from zoot.intenex.net
by touchngo.net (Merak 7.6.4) with ESMTTP id LSM74872
for <jim.gottstein@psychrights.org>; Sat, 30 Dec 2006 22:32:30 -0900
Received: from zoot.intenex.net (localhost.localdomain [127.0.0.1])
by zoot.intenex.net (8.12.11.20060308/8.12.11) with ESMTTP id kBV6xjCL030576;
Sun, 31 Dec 2006 00:59:49 -0600
Received: from GWA13.webcontrolcenter.com (gwa13.webcontrolcenter.com
[63.134.207.64])
by zoot.intenex.net (8.12.11.20060308/8.12.11) with ESMTTP id
kBV6eBwW028441
for <mindfreedom-usa@intenex.net>; Sun, 31 Dec 2006 00:40:11 -0600
Received: from maila59.webcontrolcenter.com [216.119.106.109] by
GWA13.webcontrolcenter.com with SMTP;
Sat, 30 Dec 2006 23:39:35 -0700
Received: from 71-210-19-150.eugn.qwest.net [71.210.19.150] by
MAILA59.WEBCONTROLCENTER.COM with SMTP;
Sat, 30 Dec 2006 23:39:02 -0700
Mime-Version: 1.0 (Apple Message framework v752.3)
Content-Transfer-Encoding: 7bit
Message-Id: <16F0EF08-8515-4C19-80EF-F18BF2741FD4@mindfreedom.org>
Content-Type: text/plain; charset=US-ASCII; delpsp=yes; format=flowed
To: MF-USA <mindfreedom-usa@intenex.net>
From: David Oaks <oaks@mindfreedom.org>
Date: Sat, 30 Dec 2006 22:39:01 -0800
X-Mailer: Apple Mail (2.752.3)
Subject: [MF-USA] this is big - urgent to MF-USA folk
X-BeenThere: mindfreedom-usa@intenex.net
X-Mailman-Version: 2.1.5
Precedence: list
List-Id: "MindFreedom members for change in USA of mental health system."
<mindfreedom-usa.intenex.net>
List-Unsubscribe: <<http://www.intenex.net/lists/listinfo/mindfreedom-usa>>,
<<mailto:mindfreedom-usa-request@intenex.net?subject=unsubscribe>>
List-Archive: <<http://www.intenex.net/lists/private/mindfreedom-usa>>
List-Post: <<mailto:mindfreedom-usa@intenex.net>>
List-Help: <<mailto:mindfreedom-usa-request@intenex.net?subject=help>>
List-Subscribe: <<http://www.intenex.net/lists/listinfo/mindfreedom-usa>>,
<<mailto:mindfreedom-usa-request@intenex.net?subject=subscribe>>
Sender: mindfreedom-usa-bounces@intenex.net
Errors-To: mindfreedom-usa-bounces@intenex.net
X-Intenex-MailScanner-Information: Please contact Intenex support for more informati
X-Intenex-MailScanner: Found to be clean
X-MailScanner-From: mindfreedom-usa-bounces@intenex.net

<x-flowed>

Hi MF USA list,

Please note that second court order by Eli Lilly, below, mentions
several MindFreedom members... all for one and one for all! Please
help get this out! You also ought to be receiving this directly from
the list (if you don't get it let me know off list at
oaks@mindfreedom.org)

MindFreedom News - 30 December 2006
<http://www.mindfreedom.org> - please forward

Eli Lilly "Panics" About "ZyprexaKills Campaign"

[http://psychiatrized.org/Zproduction/\[MF-USA\]%20this%20is%20big%20-%20urgent%20...](http://psychiatrized.org/Zproduction/[MF-USA]%20this%20is%20big%20-%20urgent%20...) 1/17/2007

Eli Lilly Gets Second Court Order Targeting
MindFreedom Members To Try to Cover-Up Evidence

Secret Eli Lilly Documents on Psychiatric Drug
Zyprexa Are Said to be Downloadable Once More
Via a Grassroots Internet Campaign Using "Tor."

MFI Board Member Says Eli Lilly Is "Panicking"
Because They Have "Committed Homicide."

Secret Eli Lilly documents about fraudulent marketing of the
psychiatric drug Zyprexa are reportedly available once more for free
download.

Eli Lilly has obtained a second court order, this one targeting a
number of MindFreedom members. In an e-mail exchange today Eli Lilly
threatened a MindFreedom member, Eric Whalen, with legal action to
try to suppress the documents. Eric has complied.

See the new court gag order and threatening e-mails from Eli Lilly
via MFI's Update 12 here:

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

But according to an anonymous report, the secret "ZyprexaKills"
documents are still available to those able to use a super-
sophisticated Internet privacy protection system called "Tor" which
was developed by the Electronic Freedom Foundation (EFF) to create
distributed network "cyber-tunnels" around censorship. More
information about installing special Tor software to access
ZyprexaKills documents can be found via a wiki not sponsored by MFI:

<http://zyprexa.pbwiki.com>

For the last six last days, a grassroots campaign appears to have
successfully made hundreds of secret documents from Eli Lilly
available using multiple web sites to hundreds of individuals who
have downloaded the suppressed materials. The file itself appears to
be about 269 megs of material in the compressed download.

Attorney Jim Gottstein of PsychRights began the furor by courageously
making suppressed Zyprexa documents available resulting in three
recent pieces in the NY Times.

Ted Chabasinski, a human rights activist on the MindFreedom board,
commented that, "I'm an attorney, and I think the reason Lilly is
panicking is that these documents literally show a conspiracy to
commit murder. People talk about how these documents show that Lilly
committed fraud. They do. But more importantly, if someone
deliberately does something that they know will cause the death of
another person, they have committed a homicide -- murder. Lying about
the effects of Zyprexa has led to the deaths of many people."

Eli Lilly sought and obtained the first court gag order on 18
December, that one requiring 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 that first

[http://psychiatrized.org/Zproduction/\[MF-USA\]%20this%20is%20big%20-%20urgent%20...](http://psychiatrized.org/Zproduction/[MF-USA]%20this%20is%20big%20-%20urgent%20...) 1/17/2007

court order here:

<http://psychrights.org/States/Alaska/CaseXX/EilLilly/InjunctionOrder.pdf>

Said Ted, "Since Lilly does business in almost all states, and since people died as a result of Lilly's behavior as evidenced by these documents, if there were a courageous prosecutor somewhere who saw these documents, conceivably Lilly's executives could go to jail."

"The genie is still out of the bottle, and Eli Lilly is still paying their hard-hitting attorneys to try to frighten citizens into silence," 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."

You may read the text of the two articles and editorial about Zyprexa in the NY Times here:

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

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

Disclaimers by MindFreedom:

"In the public interest, MindFreedom is forwarding the anonymous alerts referred to on this page and in MFI 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 'ZyprexaKills' files, MFI is not encouraging anyone to conduct illegal activities regarding these files, and MFI itself is not providing the 'ZyprexaKills' files for download."

* ACTION * ACTION * ACTION *

You can help the break Eli Lilly's information blockade: Please Forward This Alert!

Other actions you may take:

Those interested may "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

There is also an e-mail list, not sponsored by MFI, that is discussing this grassroots campaign:

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

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

[http://psychiatrized.org/Zproduction/\[MF-USA\]%20this%20is%20big%20-%20urgent%20...](http://psychiatrized.org/Zproduction/[MF-USA]%20this%20is%20big%20-%20urgent%20...) 1/17/2007

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](mailto: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.

MindFreedom-USA mailing list
MindFreedom-USA@intenex.net
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

This list is a service for members of MindFreedom International
<http://www.MindFreedom.org>. Please only copy and forward posts with the explicit permission of the poster.

To unsubscribe, send a blank email to
<[a href="mailto:mindfreedom-usa-unsubscribe@intenex.net">mindfreedom-usa-unsubscribe@intenex.net](mailto:mindfreedom-usa-unsubscribe@intenex.net)>
.

</x-flowed>

[http://psychiatrized.org/Zproduction/\[MF-USA\]%20this%20is%20big%20-%20urgent%20...](http://psychiatrized.org/Zproduction/[MF-USA]%20this%20is%20big%20-%20urgent%20...) 1/17/2007

Received: from zoot.intenex.net
by touchngo.net (Merak 7.6.4) with ESMTTP id LSM74872
for <jim.gottstein@psychrights.org>; Thu, 04 Jan 2007 11:07:14 -0900
Received: from zoot.intenex.net (localhost.localdomain [127.0.0.1])
by zoot.intenex.net (8.12.11.20060308/8.12.11) with ESMTTP id 104HUjiB005443;
Thu, 4 Jan 2007 11:30:46 -0600
Received: from GWA13.webcontrolcenter.com (gwa13.webcontrolcenter.com
[63.134.207.64])
by zoot.intenex.net (8.12.11.20060308/8.12.11) with ESMTTP id
104GwglM001173
for <mindfreedom-usa@intenex.net>; Thu, 4 Jan 2007 10:58:42 -0600
Received: from maila59.webcontrolcenter.com [216.119.106.109] by
GWA13.webcontrolcenter.com with SMTP; Thu, 4 Jan 2007 09:58:02 -0700
Received: from 71-210-19-150.eugn.qwest.net [71.210.19.150] by
MAILA59.WEBCONTROLCENTER.COM with SMTP;
Thu, 4 Jan 2007 09:57:27 -0700
Mime-Version: 1.0 (Apple Message framework v752.3)
In-Reply-To: <20070104163858.91090.gmail@web34913.mail.mud.yahoo.com>
References: <20070104163858.91090.gmail@web34913.mail.mud.yahoo.com>
Content-Type: text/plain; charset=US-ASCII; delsp=yes; format=flowed
Message-Id: <A0BC7C47-F864-4ACF-AC5C-D88E1F4128A7@mindfreedom.org>
Content-Transfer-Encoding: 7bit
From: David Oaks <oaks@mindfreedom.org>
Subject: Re: [MF-USA] Question about the Zyprexa files
Date: Thu, 4 Jan 2007 08:57:26 -0800
To: MF-USA <mindfreedom-usa@intenex.net>
X-Mailer: Apple Mail (2.752.3)
X-BeenThere: mindfreedom-usa@intenex.net
X-Mailman-Version: 2.1.5
Precedence: list
List-Id: "MindFreedom members for change in USA of mental health system."
<mindfreedom-usa.intenex.net>
List-Unsubscribe: <<http://www.intenex.net/lists/listinfo/mindfreedom-usa>>,
<<mailto:mindfreedom-usa-request@intenex.net?subject=unsubscribe>>
List-Archive: <<http://www.intenex.net/lists/private/mindfreedom-usa>>
List-Post: <<mailto:mindfreedom-usa@intenex.net>>
List-Help: <<mailto:mindfreedom-usa-request@intenex.net?subject=help>>
List-Subscribe: <<http://www.intenex.net/lists/listinfo/mindfreedom-usa>>,
<<mailto:mindfreedom-usa-request@intenex.net?subject=subscribe>>
Sender: mindfreedom-usa-bounces@intenex.net
Errors-To: mindfreedom-usa-bounces@intenex.net
X-Intenex-MailScanner-Information: Please contact Intenex support for more informati
X-Intenex-MailScanner: Found to be clean
X-MailScanner-From: mindfreedom-usa-bounces@intenex.net

<x-flowed>

According to MindFreedom's attorney, the judge explicitly took "no position" about those who already have copies of the files but who are already named in the court order that is being disputed. In other words, such folks are apparently free to do with it as they will.

Please note that Eli Lilly has not gone after NY Times which of course already has the documents -- why is Eli Lilly naming grassroots organizations and not the NY Times? Because at this point keeping those documents totally private is "futile," as both Ted and the judge put it. So at this point Eli Lilly is hoping to chill people's First Amendment rights. "Don't be chilled by Eli Lilly!"

The main individual who is potentially facing consequences here is attorney and hero Jim Gottstein, who theoretically faces possible

[http://psychiatrized.org/Zproduction/Re%20\[MF-USA\]a%20Question%20about%20the%2...](http://psychiatrized.org/Zproduction/Re%20[MF-USA]a%20Question%20about%20the%2...) 1/17/2007

consequences of substantial fine, loss of license to practice law and jail time. "We are all Jim." Thank you to those who are continuing to get the word out... As always MindFreedom itself is not advising people about legality or illegality, or providing these documents itself, but congratulates those who are challenging Eli Lilly oppression!

David

On Jan 4, 2007, at 8:38 AM, Jent Lynne wrote:

> Hello everyone,
>
> --- Patrick HOOKER <patriko@norlights.net> wrote:
>> Regarding those who downloaded or recieved Eli-Lilly's Zyprexa
>> files, as
>> I understand, at this point the court orders to stop sharing these
>> files
>> don't likely cover those who were not specifically mentioned in them.
>
> I'm guessing it also can't begin to cover anything that's already
> spread
> internet-wide, on anonymous servers and such (where such "banned"
> things often
> end up). Eli-Lilly may well end up like McDonalds in England --
> sorry it tried
> to squash dissent, because in the end it made them look even worse
> than they
> did before.
>
> Jent
>
> "The greater part of what my neighbors call good, I believe in my
> soul to be bad, and if I repent of anything, it is very likely to
> be my good behavior. What demon possessed me that I behaved so
> well?" -Henry David Thoreau
>
>
> _____
> Do You Yahoo!?
> Tired of spam? Yahoo! Mail has the best spam protection around
> <http://mail.yahoo.com>
>
> _____
> MindFreedom-USA mailing list
> MindFreedom-USA@intenex.net
> <http://www.intenex.net/lists/listinfo/mindfreedom-usa>
>
> -----
> This list is a service for members of MindFreedom International
> <http://www.MindFreedom.org>. Please only copy and forward posts with
> the
> explicit permission of the poster.
>
> To unsubscribe, send a blank email to
>
> mindfreedom-usa@intenex.net
> .

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284

[http://psychiatrized.org/Zproduction/Re%20\[MF-USA\]a%20Question%20about%20the%2...](http://psychiatrized.org/Zproduction/Re%20[MF-USA]a%20Question%20about%20the%2...) 1/17/2007

Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>

email: 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.

MindFreedom-USA mailing list
MindFreedom-USA@intenex.net
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

This list is a service for members of MindFreedom International .
<http://www.MindFreedom.org>. Please only copy and forward posts with the explicit permission of the poster.

To unsubscribe, send a blank email to
<[a href="mailto:mindfreedom-usa-unsubscribe@intenex.net"](mailto:mindfreedom-usa-unsubscribe@intenex.net)>
mindfreedom-usa@intenex.net
.

</x-flowed>

[http://psychiatrized.org/Zproduction/Re%20\[MF-USA\]a%20Question%20about%20the%2...](http://psychiatrized.org/Zproduction/Re%20[MF-USA]a%20Question%20about%20the%2...) 1/17/2007

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Thu, 04 Jan 2007 22:50:21 -0900
To: David Oaks <oaks@mindfreedom.org>, MF-USA <mindfreedom-usa@intenex.net>
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Re: [MF-USA] Question about the Zyprexa files
Cc:
X-BeenThere: mindfreedom-usa@intenex.net
X-Mailman-Version: 2.1.5
List-Id: "MindFreedom members for change in USA of mental health system."
<mindfreedom-usa.intenex.net>
List-Unsubscribe: <<http://www.intenex.net/lists/listinfo/mindfreedom-usa>>,
<<mailto:mindfreedom-usa-request@intenex.net?subject=unsubscribe>>
List-Archive: <<http://www.intenex.net/lists/private/mindfreedom-usa>>
List-Post: <<mailto:mindfreedom-usa@intenex.net>>
List-Help: <<mailto:mindfreedom-usa-request@intenex.net?subject=help>>
List-Subscribe: <<http://www.intenex.net/lists/listinfo/mindfreedom-usa>>,
<<mailto:mindfreedom-usa-request@intenex.net?subject=subscribe>>
Sender: mindfreedom-usa-bounces@intenex.net
X-Intenex-MailScanner-Information: Please contact Intenex support for more informati
X-Intenex-MailScanner: Found to be clean
X-MailScanner-From: mindfreedom-usa-bounces@intenex.net

Thanks David.

I like to think that jail time and bar disciplinary action are relatively unlikely.

At 07:57 AM 1/4/2007, David Oaks wrote:

According to MindFreedom's attorney, the judge explicitly took "no position" about those who already have copies of the files but who are already named in the court order that is being disputed. In other words, such folks are apparently free to do with it as they will.

Please note that Eli Lilly has not gone after NY Times which of course already has the documents -- why is Eli Lilly naming grassroots organizations and not the NY Times? Because at this point keeping those documents totally private is "futile," as both Ted and the judge put it. So at this point Eli Lilly is hoping to chill people's First Amendment rights. "Don't be chilled by Eli Lilly!"

The main individual who is potentially facing consequences here is attorney and hero Jim Gottstein, who theoretically faces possible consequences of substantial fine, loss of license to practice law and jail time. "We are all Jim." Thank you to those who are continuing to get the word out... As always MindFreedom itself is not advising people about legality or illegality, or providing these documents itself, but congratulates those who are challenging Eli Lilly oppression!

David

On Jan 4, 2007, at 8:38 AM, Jent Lynne wrote:

Hello everyone,

--- Patrick HOOKER <patriko@norlights.net> wrote:

Regarding those who downloaded or recieved Eli-Lilly's Zyprexa

[http://psychiatrized.org/Zproduction/Re%20\[MF-USA\]%20Question%20aabout%20the%2...](http://psychiatrized.org/Zproduction/Re%20[MF-USA]%20Question%20aabout%20the%2...) 1/17/2007

files, as
I understand, at this point the court orders to stop sharing these
files
don't likely cover those who were not specifically mentioned in them.

I'm guessing it also can't begin to cover anything that's already
spread
internet-wide, on anonymous servers and such (where such "banned"
things often
end up). Eli-Lilly may well end up like McDonalds in England --
sorry it tried
to squash dissent, because in the end it made them look even worse
than they
did before.

Jent

"The greater part of what my neighbors call good, I believe in my
soul to be bad, and if I repent of anything, it is very likely to
be my good behavior. What demon possessed me that I behaved so
well?" -Henry David Thoreau

Do You Yahoo!?

Tired of spam? Yahoo! Mail has the best spam protection around
<http://mail.yahoo.com>

MindFreedom-USA mailing list
MindFreedom-USA@intenex.net
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

This list is a service for members of MindFreedom International
<http://www.MindFreedom.org>. Please only copy and forward posts with
the
explicit permission of the poster.

To unsubscribe, send a blank email to
<[a href="mailto:mindfreedom-usa-unsubscribe@intenex.net">mailto:mindfreedom-usa-unsubscribe@intenex.net](mailto:mindfreedom-usa-unsubscribe@intenex.net)>
mindfreedom-usa@intenex.net
.

David Oaks, Director
MindFreedom International
454 Willamette, Suite 216 - POB 11284
Eugene, OR 97440-3484 USA

web: <http://www.mindfreedom.org>
email: 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

[http://psychiatrized.org/Zproduction/Re%20\[MF-USA\]%20Question%20aabout%20the%2...](http://psychiatrized.org/Zproduction/Re%20[MF-USA]%20Question%20aabout%20the%2...) 1/17/2007

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.

MindFreedom-USA mailing list
MindFreedom-USA@intenex.net
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

This list is a service for members of MindFreedom International
<http://www.MindFreedom.org>. Please only copy and forward posts with the
explicit permission of the poster.
To unsubscribe, send a blank email to

mindfreedom-usa@intenex.net
.

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

MindFreedom-USA mailing list
MindFreedom-USA@intenex.net
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

This list is a service for members of MindFreedom International
<http://www.MindFreedom.org>. Please only copy and forward posts with the
explicit permission of the poster.

To unsubscribe, send a blank email to

mindfreedom-usa@intenex.net
.

[http://psychiatrized.org/Zproduction/Re%20\[MF-USA\]%20Question%20aabout%20the%2...](http://psychiatrized.org/Zproduction/Re%20[MF-USA]%20Question%20aabout%20the%2...) 1/17/2007

Received: from zoot.intenex.net
by touchngo.net (Merak 7.6.4) with ESMTMP id LSM74872
for <jim.gottstein@psychrights.org>; Mon, 08 Jan 2007 09:39:17 -0900
Received: from zoot.intenex.net (localhost.localdomain [127.0.0.1])
by zoot.intenex.net (8.12.11.20060308/8.12.11) with ESMTMP id 108IbdtH016667;
Mon, 8 Jan 2007 12:37:40 -0600
Received: from GWA12.webcontrolcenter.com (gwa12.webcontrolcenter.com
[63.134.207.59])
by zoot.intenex.net (8.12.11.20060308/8.12.11) with ESMTMP id
108Ia8US016509
for <mindfreedom-usa@intenex.net>; Mon, 8 Jan 2007 12:36:08 -0600
Received: from maila59.webcontrolcenter.com [216.119.106.109] by
GWA12.webcontrolcenter.com with SMTP; Mon, 8 Jan 2007 11:35:49 -0700
Received: from UnknownHost [198.107.16.214] by MAILA59.WEBCONTROLCENTER.COM
with SMTP; Mon, 8 Jan 2007 11:35:16 -0700
Mime-Version: 1.0 (Apple Message framework v752.3)
Content-Transfer-Encoding: 7bit
Message-Id: <1422BCB3-13D2-489D-9C30-8C114A864457@mindfreedom.org>
Content-Type: text/plain; charset=US-ASCII; delpsp=yes; format=flowed
To: MF-USA <mindfreedom-usa@intenex.net>
From: David Oaks <oaks@mindfreedom.org>
Date: Mon, 8 Jan 2007 10:35:10 -0800
X-Mailer: Apple Mail (2.752.3)
Subject: [MF-USA] thanks for letting me know
X-BeenThere: mindfreedom-usa@intenex.net
X-Mailman-Version: 2.1.5
Precedence: list
List-Id: "MindFreedom members for change in USA of mental health system."
<mindfreedom-usa.intenex.net>
List-Unsubscribe: <<http://www.intenex.net/lists/listinfo/mindfreedom-usa>>,
<<mailto:mindfreedom-usa-request@intenex.net?subject=unsubscribe>>
List-Archive: <<http://www.intenex.net/lists/private/mindfreedom-usa>>
List-Post: <<mailto:mindfreedom-usa@intenex.net>>
List-Help: <<mailto:mindfreedom-usa-request@intenex.net?subject=help>>
List-Subscribe: <<http://www.intenex.net/lists/listinfo/mindfreedom-usa>>,
<<mailto:mindfreedom-usa-request@intenex.net?subject=subscribe>>
Sender: mindfreedom-usa-bounces@intenex.net
Errors-To: mindfreedom-usa-bounces@intenex.net
X-Intenex-MailScanner-Information: Please contact Intenex support for more informati
X-Intenex-MailScanner: Found to be clean
X-MailScanner-From: mindfreedom-usa-bounces@intenex.net

<x-flowed>

A bunch of you contacted from MindFreedom-USA list after I asked, and said you did *not* get the below. There's a chance a spam catcher got it, but I think it just plain didn't get out to everyone. It did get to some people. I am asking our Intenex provider for some advice. There have been times that the list took a day or two to get the "news" out.

Those who have contacted me (about seven of you) and said you didn't get it... if and when you get the below directly from mindfreedom-news please let me know off-list at oaks@mindfreedom.org.

Ted goes to court in a few minutes, so we'll have a new update anyway...

(Meanwhile John Ryan is working on a '101' introductory piece for our web site to inform those new to this, controversy a kind of 'shallow end of the pool.' It would be a few paragraphs introduction, a chronology, a 'talking points' fact sheet. This is a chance to build

[http://psychiatrized.org/Zproduction/\[MF-USA\]%20thanks%20for%20letting%20me%20k...](http://psychiatrized.org/Zproduction/[MF-USA]%20thanks%20for%20letting%20me%20k...) 1/17/2007

up the 'team effort' on the Eli Lilly files... Anyone who wants to help John can either e-mail him something or offer to help at: jfryan@nmsu.edu)

From: news@mindfreedom.org
Subject: News: Eli Lilly Targets Free Speech on MindFreedom Web Site
Date: January 7, 2007 2:06:19 PM PST
To: news@mindfreedom.org

MindFreedom News - 7 January 2007
Nonviolent Revolution in Mental Health
To unsubscribe see BOTTOM of this message.
<http://www.MindFreedom.org> - please forward

Eli Lilly Targets Free Speech on MindFreedom's Web Site in Battle Over Zyprexa Documents.

MindFreedom appears in court for 2nd time tomorrow 8 Jan. 2007 to defend the public right to know.

OpEdNews publishes new article today by journalist Evelyn Pringle covering the controversy.

Why is mass publicity of exposed files about psychiatric drug Zyprexa a threat to Eli Lilly?

For all this news and analysis see MindFreedom News Update 21 published 7 January 2007:

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

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

ACTIONS:

Please redistribute this news to all appropriate places on and off the Internet.

See the alert about how you can contact you Attorney General and ask for criminal prosecution of Eli Lilly executives.

For more info on MindFreedom see the newly redesigned web site at <http://www.MindFreedom.org>

Do you want to...

- * Win human rights campaigns in mental health?
- * End abuse by the psychiatric drug industry?
- * Support self-determination of psychiatric survivors?

[http://psychiatrized.org/Zproduction/\[MF-USA\]%20thanks%20for%20letting%20me%20k...](http://psychiatrized.org/Zproduction/[MF-USA]%20thanks%20for%20letting%20me%20k...) 1/17/2007

* Promote safe, humane, effective options in mental health?

You are not alone! 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.

<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@mindfreedom.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@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@mindfreedom.org with these words in the subject line: unsubscribe mindfreedom-news

MindFreedom-USA mailing list
MindFreedom-USA@intenex.net
<http://www.intenex.net/lists/listinfo/mindfreedom-usa>

This list is a service for members of MindFreedom International
<http://www.MindFreedom.org>. Please only copy and forward posts with the explicit permission of the poster.

To unsubscribe, send a blank email to
<[a href="mailto:mindfreedom-usa-unsubscribe@intenex.net"](mailto:mindfreedom-usa-unsubscribe@intenex.net)>
mindfreedom-usa@intenex.net
.

[http://psychiatrized.org/Zproduction/\[MF-USA\]%20thanks%20for%20letting%20me%20k...](http://psychiatrized.org/Zproduction/[MF-USA]%20thanks%20for%20letting%20me%20k...) 1/17/2007

</x-flowed>

[http://psychiatrized.org/Zproduction/\[MF-USA\]%20thanks%20for%20letting%20me%20k...](http://psychiatrized.org/Zproduction/[MF-USA]%20thanks%20for%20letting%20me%20k...) 1/17/2007

EXHIBIT 26

From: "VERACARE" <veracare@ahrp.org>
To: <jim@psychrights.org>
Subject: Re: Message From PsychRights Web Form-Mail
Date: Sun, 17 Dec 2006 11:37:27 -0500
X-Mailer: Microsoft Office Outlook 11
Thread-Index: Acch4U+WYzevB+EvRluzD/WWxo7nJgAF+DLA
X-Intenex-MailScanner-Information: Please contact Intenex support for more information
X-Intenex-MailScanner: Found to be clean
X-MailScanner-From: veracare@ahrp.org

jim
Hope i get the copies--
I intend to call NYS AG Andrew Cuomo office tomorrow and deliver--
then will send to other AGs -
I think this is groundbreaking--

Lilly is finally having a PT disaster

i'd like to coordinate this with you--
when you write up the summary of threats etc--
forward so I can incorporate into Infomail--

Vera
p.s.
your protrait is 1/3 of the page!!

From: ebliversidge@earthlink.net [mailto:ebliversidge@earthlink.net]
Sent: Sunday, December 17, 2006 8:43 AM
To: veracare@ahrp.org
Subject: Fw: Re: Message From PsychRights Web Form-Mail

-----Forwarded Message-----

From: Jim Gottstein
Sent: Dec 17, 2006 7:11 AM
To: ebliversidge@earthlink.net
Subject: Re: Message From PsychRights Web Form-Mail

Hi Ellen,

The drug companies always require confidentiality as a condition of settlement. The order requiring confidentiality in this case is attached to the letter at <http://psychrights.org/States/Alaska/CaseXX/EilLilly/SeanFahyt12-15-06.pdf> I got the documents through the procedures set forth in section 14.

I'm in the throes of dealing with Lilly's (and the plaintiffs' lawyers') wrath. See, the first half dozen other links at <http://psychrights.org/States/Alaska/CaseXX.htm> I haven't had

a chance to write the narrative about them, but the linked to documents seem relatively self-explanatory, although I should probably reassure you that I was very careful in how I went about it so don't take the threats too seriously (other than the sheer size and bullying power of Lilly).

At 04:04 AM 12/17/2006, you wrote:

Jim, take a BOW!!!! While the attorneys were negotiating with Lilly on the 8000 plaintiff settlement, my attorney said there were many incriminating documents, and they would all be revealed once the agreement was reached. WRONG. The attorneys, allegedly representing our interests, signed an agreement of confidentiality with Lilly. Then my lawyer lied to me, saying "all the information had been revealed." That was pretty much the end of any collegiality with the firm.

What I am trying to get at is whether it is possible to get Lilly to prison. Enron execs went and that was only people's life savings. This is people's lives. Do you have any idea on how this could be accomplished? I know it hasn't happened to Merck.

Thanks. Ellen

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

From: Jim Gottstein

Sent: Dec 17, 2006 6:49 AM

To: ebliversidge@earthlink.net

Subject: Re: Message From PsychRights Web Form-Mail

Hi Ellen,

I think there are all kinds of reasons why Eli Lilly and other drug company executives should be in jail.

At 03:18 AM 12/17/2006, you wrote:

Hi Jim, Kudos for your action. Alex told me he was working on a Zyprexa story but didn't say that you were the canary. He asked me for the names of some families but didn't use them.

I have been waiting for this day for a long time.

Question: Can Lilly be taken to court or jailed with this information? They belong there.

Ellen

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

From: Jim Gottstein

Sent: Oct 4, 2006 9:09 AM

To: ebliversidge@earthlink.net

Cc: Grace jackson , Jim Gottstein
Subject: Re: Message From PsychRights Web Form-Mail
Hi Ellen,

The FDA FOIA response is at
<http://psychrights.org/States/Alaska/CaseOne/30-Day/ExhC-FDAonOlanzapine.pdf>

And Grace's analysis of it is at
<http://psychrights.org/States/Alaska/CaseOne/30-Day/ExhibitD-Olanzapine.htm>

I just OCR'd the FOIA response so it should be word searchable now.

At 05:51 AM 10/4/2006, you wrote:

I heard from Grace that you have the work she did on Bob Whitaker's information on Zyprexa. Do you have it available to send?

James B. (Jim) Gottstein, Esq.
Law Project for Psychiatric Rights
406 G Street, Suite 206
Anchorage, Alaska 99501
Phone: (907) 274-7686 Fax: (907) 274-9493
jim@psychrights.org
<http://psychrights.org/>

Psych Rights AA®
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.

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 ^{LA}

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.

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 27



SEARCH THIS BLOG

SEARCH ALL BLOGS

BlogThis!

GET YOUR OWN BLOG

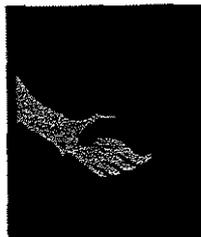
NEXT BLOG»

Speaking the truth
to power

ALLIANCE FOR HUMAN RESEARCH PROTECTION

A catalyst for public debate

About us



[Home page and archive of posts](#)

[Blogger profile](#)

[Email us](#)

Archives

- [September 2006](#)
- [October 2006](#)
- [November 2006](#)
- [December 2006](#)

Recent Posts

- [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.

<p>Which is More Dangerous to Your Health - the Flu or the FDA?</p> <p>Blood substitute 'a disaster' - Northfield still plans to seek FDA approval</p>
<p>Links</p>
<p>AHRP Main Website PsychRights Pharma Marketing Blog Integrity in Science GozNews Yolande Lucire Scientific Misconduct Blog Honest Medicine</p>
<p>Feeds</p>
<p>ATOM feed</p> 

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**
 ALL ACTIONS : **MANDATORY INJUNCTION**
 :
 -----X

Upon receipt of the (3) 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.

EXHIBIT 28

From: "VERACARE" <veracare@ahrp.org>
To: "Will Hall" <will@freedom-center.org>
Cc: <robert.b.whitaker@verizon.net>,
"Jim Gottstein" <jim.gottstein@psychrights.org>,
"David Oaks" <oaks@mindfreedom.org>
Subject: RE: Eli Lilly attorneys
Date: Tue, 2 Jan 2007 15:26:16 -0500
X-Mailer: Microsoft Office Outlook 11
Thread-Index: Accup2YO89QPTTyrRVWhxomt6QzyngABM5Pg
X-Intenex-MailScanner-Information: Please contact Intenex support for more information
X-Intenex-MailScanner: Found to be clean
X-MailScanner-From: veracare@ahrp.org

thanks Will for the tracking url will post ASAP

Vera

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

From: Will Hall [mailto:will@freedom-center.org]
Sent: Tuesday, January 02, 2007 2:51 PM
To: VERACARE
Cc: robert.b.whitaker@verizon.net; 'Jim Gottstein'; 'David Oaks'
Subject: Re: Eli Lilly attorneys

yes to what bob said!

jim you are a hero to be congratulated...

www.zyprexakills.us tracks where people can get the docs

the internet postings of the actual files have been some anonymous person(s), i don't think any of us know who, it could have been a ton of people... maybe jim doesn't even know (those files could have come from more than just thru him... the plaintiff had them right? Eli-Lilly might have another whistleblower, who knows...)

what a great new years gift... massive eli-lilly psych drug scandal...

happy new years

- will

VERACARE wrote:

> Dear all,
>
> It's important to keep track of where / when the documents may surface again
> on cyberspace and let people know.
>
> Bringing truthful information to the public is our only weapon in this war
> against
> fraudulent drug marketing practices.

Printed for

1/16/2007

>
> Everyone who has had the courage to spread the truth about Zyprexa and the
> truth about Lilly's marketing of the drug --David Egilman, MD, included--
> deserves our gratitude.
>
> Best to all
>
> Vera
>
>
>
> -----Original Message-----
> From: Bob Whitaker [<mailto:robert.b.whitaker@verizon.net>]
> Sent: Tuesday, January 02, 2007 11:19 AM
> To: Jim Gottstein
> Cc: David Oaks; Will Hall; VERACARE HASSNER
> Subject: Re: Eli Lilly attorneys
>
>
> Dear Jim,
>
> I understand that any email to you may not remain private, and I am
> writing this with that knowledge. I have cc'd a couple of people--Will
> Hall, David Oaks, and Vera Sharav--whom I don't think will mind
> receiving this email. If they want to share it with others who received
> the documents, that is fine with me.
>
> You mentioned in your email that you were "sorry" to get us involved.
> Please remember that you have done a very fine thing by getting these
> documents to the New York Times. It will be an act that you will always
> look back on with great pride.
>
> We are talking about the dissemination of knowledge that will save
> lives. It isn't simply that Zyprexa causes diabetes. It clearly causes a
> broader kind of metabolic dysfunction that manifests in several
> ways--diabetes, obesity, the high blood sugars, etc. In other words, it
> interferes with the basic processes that allow a person to physically
> live and thrive.
>
> And this drug, of course, has been marketed to millions of people,
> including very, very young children. Every single person who stays on
> olanzapine "indefinitely" will have his or her life shortened. The
> drug, in essence, gives them a metabolic disease.
>
> The fact that the New York Times printed those articles will cause some
> doctors to refrain from prescribing Zyprexa, and certainly from
> prescribing it to children. Unfortunately, not all doctors will be so
> moved, but many will. And that means your actions will have saved many
> lives, including the lives of many children. And let us remember too
> that Zyprexa is regularly given to foster children to make them more
> "manageable"--such children will benefit too from your actions.

>

> There is no finer action than to get out information like this that will
> achieve such an end as saving the lives of the innocent. I'm sorry that
> you are having to suffer the expense of defending yourself from Eli
> Lilly's attacks. The fact that the company would continue in this vein
> is beyond comprehension; it puts them in the position of wanting to
> continue to cover up the fact that it has misled the public about the
> harm that its drug regularly causes, even as it promotes it to children.
> The immorality of that is mind boggling.

>

> The same kudos should go to others who have helped get this information
> out--Will Hall, David Oaks, Vera Sharav, MindFreedom. This is a fight
> very much worth fighting.

>

> That's all, Jim. Just wanted to know that I'm sorry to know that Eli
> Lilly is causing you such trouble, but that you should be very very
> proud of what you did. What you did was the very definition of a moral
> act: You did the right thing, even though, as I'm sure you could
> probably knew when you did it, it was going to cause you some trouble.

>

> Happy New Year, and thank you for sending me a copy of the documents.

>

> Bob Whitaker

>

>

>

>

EXHIBIT 29

[Fwd diebold vs the bloggers].txt
Received: from srv03.jrox.com
by touchngo.net (Merak 7.6.4) with ESMTP id LSM74872
for <jim@psychrights.org>; Wed, 13 Dec 2006 09:27:16 -0900
Received: from pool-71-127-1-55.spsfdma.east.verizon.net ([71.127.1.55]
helo=[192.168.1.46])
by srv03.jrox.com with esmtpsa (TLSv1:AES256-SHA:256)
(Exim 4.52)
id lGuYoQ-0002Lz-2d
for jim@psychrights.org; wed, 13 Dec 2006 12:26:38 -0600
Message-ID: <458045EF.9000200@valleyfreeradio.org>
Date: wed, 13 Dec 2006 13:26:55 -0500
From: willhall <willhall@valleyfreeradio.org>
User-Agent: Thunderbird 1.5.0.8 (Macintosh/20061025)
MIME-Version: 1.0
To: Jim Gottstein <jim@psychrights.org>
Subject: [Fwd: diebold vs. the bloggers]
Content-Type: text/plain; charset=ISO-8859-1; format=flowed
Content-Transfer-Encoding: 7bit
X-AntiAbuse: This header was added to track abuse, please include it with any abuse
report
X-AntiAbuse: Primary Hostname - srv03.jrox.com
X-AntiAbuse: Original Domain - psychrights.org
X-AntiAbuse: Originator/Caller UID/GID - [0 0] / [47 12]
X-AntiAbuse: Sender Address Domain - valleyfreeradio.org
X-Source:
X-Source-Args:
X-Source-Dir:

<x-flowed>

----- Original Message -----
Subject: diebold vs. the bloggers
Date: wed, 13 Dec 2006 11:13:52 -0500
To: will hall <will@theicarusproject.net>
<http://cyber.law.harvard.edu/briefings/dvb/>

</x-flowed>

EXHIBIT 30

Re It's Been Quite a Day and now destroy this email.txt
Received: from vms048pub.verizon.net
by touchngo.net (Merak 7.6.4) with ESMTTP id LSM74872
for <Jim@PsychRights.org>; Sat, 16 Dec 2006 14:05:49 -0900
Received: from [68.163.182.123] by vms048.mailsvcs.net
(Sun Java System Messaging Server 6.2-6.01 (built Apr 3 2006))
with ESMTTP id <0JAE0021Q2SU5SPC@vms048.mailsvcs.net> for
Jim@PsychRights.org; Sat, 16 Dec 2006 17:05:25 -0600 (CST)
Date: Sat, 16 Dec 2006 18:05:10 -0500
From: Bob Whitaker <robert.b.whitaker@verizon.net>
Subject: Re: It's Been Quite a Day and now destroy this email
In-reply-to: <7.0.1.0.2.20061216101202.04143048@PsychRights.org>
To: Jim Gottstein <Jim@PsychRights.org>
Reply-to: robert.b.whitaker@verizon.net
Message-id: <45847BA6.9090009@verizon.net>
MIME-version: 1.0
Content-type: text/plain; charset=ISO-8859-1; format=flowed
Content-transfer-encoding: 8BIT
References: <7.0.1.0.2.20061215145955.040d92d8@psychrights.org>
<458403E3.70601@verizon.net>
<7.0.1.0.2.20061216101202.04143048@PsychRights.org>
User-Agent: Thunderbird 1.5.0.8 (Windows/20061025)

<x-flowed>
Hi Jim,

well, you know the law and I don't, but this does seem like big trouble, and all I am advising you is to protect yourself. I' am not sure what the New York Times is going to do with the documents, but if it for some reason doesn't it run with the story, I will certainly try to do so, and I would consider building a website that would, ahem, make all the documents available. what could they do to me? And how could they know how the documents got to me? There are several channels apparently that could be the source. You should proceed now in whatever way makes it easiest for you, and let others worry about getting this information out or making it public.

Bob

Jim Gottstein wrote:

> Hi Bob,
>
> The latest is at
> <http://psychrights.org/states/Alaska/CaseXX/EilLilly/DiscoveryOrder12-15-2006.pdf>
> It is the only one that is trouble and it is potentially big
> trouble. I suppose I could give them back the documents. I have them
> legally, though, as far as I know (and I know a lot)
>
> At 05:34 AM 12/16/2006, you wrote:
>> Boy, they are serious. Probably because the communications expose
>> something akin to criminal wrongdoing. You need to protect yourself
>> here, and make sure they don't try to come after your law license.
>> Perhaps give them back the documents . . . and who knows how they
>> might surface elsewhere? I'm going to wait and see what the NY Times
>> does, and then decide whether to pitch a magazine article.
>>
>> Bob
>>
>> Jim Gottstein wrote:
>>> Hi Bob,
>>>
>>> I thought you might be interested in the latest communication I have
>>> received from Lilly.
>>>

Re It's Been Quite a Day and now destroy this email.txt

```
>>> -----
>>>
>>> *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.
>
>
> *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.
</x-flowed>
```

EXHIBIT 31

This Exhibit is subject to a claim of privilege and has been deleted from this online posting pending determination

EXHIBIT 32

From: "Bruce Whittington" <Bruce.Whittington@PsychRights.Org>
To: "Jim Gottstein" <jim.gottstein@psychrights.org>
Subject: RE: FW: [Actmad] Zyprexa lawsuit documents
Date: Sun, 24 Dec 2006 12:09:10 -0800
X-Mailer: Microsoft Outlook IMO, Build 9.0.2416 (9.0.2910.0)

Jim--

There are quite a few of them, actually, coming in from all over the place. I'm saving them.

B

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

From: Jim Gottstein [mailto:jim.gottstein@psychrights.org]
Sent: December 24, 2006 7:14 AM
To: Bruce Whittington
Subject: Re: FW: [Actmad] Zyprexa lawsuit documents

Hi Bruce,

I wasn't aware of it, no. I quit getting ActMad when I switched over e-mails and I just now found this in that folder. These three e-mails, of course, need to be preserved pursuant to the court order (which is fine).

At 11:50 PM 12/23/2006, you wrote:

Jim -- I assume you know about this. It wasn't up here several hours ago, but it seems to be all over the place now.

BW

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

From: actmad-bounces@actmad.net [mailto:actmad-bounces@actmad.net] On Behalf Of Eric Whalen
Sent: December 23, 2006 7:28 PM
To: actmad@actmad.net
Subject: [Actmad] Zyprexa lawsuit documents

Looks like someone put copies of Zyprexa product liability documents online here - <http://zyprexakills.pbwiki.com>

I have a copy mirrored here -

<http://www.joysoup.net/archives/06/12/23/08052.html>

Actmad mailing list
Actmad@actmad.net
http://mail.actmad.net/mailman/listinfo/actmad_actmad.net

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.

To: "Bruce Whittington" <Bruce.Whittington@PsychRights.Org>
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Re: FW: [Actmad] Zyprexa lawsuit documents
Cc:
Bcc:
Attached:

Hi Bruce,

I wasn't aware of it, no. I quit getting ActMad when I switched over e-mails and I just now found this in that folder. These three e-mails, of course, need to be preserved pursuant to the court order (which is fine).

At 11:50 PM 12/23/2006, you wrote:

Jim -- I assume you know about this. It wasn't up here several hours ago, but it seems to be all over the place now.

BW

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

From: actmad-bounces@actmad.net [mailto:actmad-bounces@actmad.net] On Behalf Of Eric Whalen
Sent: December 23, 2006 7:28 PM
To: actmad@actmad.net
Subject: [Actmad] Zyprexa lawsuit documents

Looks like someone put copies of Zyprexa product liability documents online here - <http://zyprexakills.pbwiki.com>

I have a copy mirrored here -

<http://www.joysoup.net/archives/06/12/23/08052.html>

Actmad mailing list
Actmad@actmad.net
http://mail.actmad.net/mailman/listinfo/actmad_actmad.net

Reply-To: "Pat Risser" <parisser@att.net>
From: "Bruce Whittington" <Bruce.Whittington@PsychRights.Org>
To: "Jim Gottstein" <jim.gottstein@psychrights.org>
Subject: Secret Zyprexa Documents
Date: Mon, 1 Jan 2007 11:37:31 -0800
X-Mailer: Microsoft Outlook IMO, Build 9.0.2416 (9.0.2910.0)
X-Sender: parisser@ipostoffice.att.net

Gosh, what a mess. I'm sorry but I wasn't aware of any court order at the time I downloaded the "secret zyprexa documents" so, I not only downloaded them but I made several copies (burned them to CD's) and distributed them. I mailed them to some family and friends as well as several newspapers (in Ohio and Oregon). Since I had some extra copies (about 40 or so) I also passed them out to folks who seemed interested as I stood outside of a shopping center store. I have no idea who these strangers were so I can't possibly get these CD's returned. I'm so sorry. I figured since you're making such a fuss over the thousands of copies that went over the internet, I'd better let you know that this "secret" has spread and I really can't help stop the spread at this point. Sorry.

Sincerely,
Pat Risser

Content-Type: text/plain/octet-stream;
name="RFOHeader2.txt"
Content-Disposition: attachment;
filename="RFOHeader2.txt"



RFOHeader233.txt

EXHIBIT 33

X-Mailer: QUALCOMM Windows Eudora Version 7.0.1.0
Date: Fri, 22 Dec 2006 08:58:07 -0900
To: "Lawrence A. Plumlee" <laplumlee@pol.net>,
Jim Gottstein <jim.gottstein@psychrights.org>
From: Jim Gottstein <jim.gottstein@psychrights.org>
Subject: Re: PsychRights Appoints First Executive Director

Thanks Larry,

The Evil Lilly thing came like Manna from Heaven and after that it was just a matter of trying to get it. I am surprised, but it is not inconceivable Evil Lilly is going to get the cat back into the bag. I would have sent more copies out if I thought they could get back all the ones they seem to be.

At 06:42 AM 12/22/2006, Lawrence A. Plumlee wrote:

Congratulations, Jim,

It's amazing how much you are doing, and how well organized you're getting. You are an inspiration to me.

Merry Christmas to you all you love,

Larry

At 09:58 PM 12/21/2006, you wrote:

FOR IMMEDIATE RELEASE

CONTACT:

Jim Gottstein
907 274-7686
jim.gottstein@psychrights.org

December 21, 2006

PsychRights Appoints First Executive Director

As another step in its campaign to end unwarranted court ordered psychiatric drugging against people diagnosed with mental illness, the Law Project for Psychiatric Rights, PsychRights®, is pleased to announce the appointment of Bruce Whittington as its Executive Director.

PsychRights is a 501(c)(3) non-governmental organization formed to undertake a coordinated, strategic effort to use the law to end the inhumane practices of forced psychiatric drugging and electroshock in the United States.

As of December 15, 2006, Bruce Whittington has taken responsibility for organizing and directing the work of PsychRights in mounting its campaign of strategic litigation, working with other groups and individuals in establishing a nation-wide network of resources, and developing a strategy for sustainable funding.

Jim Gottstein, President and CEO of PsychRights, said: "Bruce's role is key to taking our campaign to a new level of activity and giving PsychRights the national scope we need. His appointment is a huge step for our legal campaign, dramatically improving our ability to work with others in promoting psychiatric rights and ending the horror of court-ordered psychiatric drugging."

Bruce has extensive experience as an activist promoting the rights of people labeled mentally ill. He has a solid background in human rights promotion, having worked as a consultant to government agencies and NGOs, and as the Yukon Territory's human rights officer.

- 30 -

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.

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.

EXHIBIT 34

This exhibit is subject to a claim of privilege and has been removed from this online posting pending determination.