

**Pepper Hamilton LLP**  
Attorneys at Law

3000 Two Logan Square  
Eighteenth and Arch Streets  
Philadelphia, PA 19103-2799  
215.981.4000  
Fax 215.981.4750

July 18, 2008

**VIA HAND DELIVERY**

The Honorable Mark Rindner  
Alaska Court System  
825 West Fourth Avenue, Room 432  
Anchorage, Alaska 99501-2004

Re: State of Alaska v. Eli Lilly and Company  
Case No. 3AN-06-05630 CI

Dear Judge Rindner:

We are writing on behalf of our client Eli Lilly and Company. During yesterday's hearing regarding the application of principles of comity to this matter, Your Honor requested Lilly provide a list of documents which are both subject to this Court's June 13 Order and available on the Internet due to the violation of Case Management Order No. 3 ("CMO-3") in MDL 1596. So far as we can determine there are only two documents which fit into this category: Plaintiff's Exhibit 4121 and Plaintiff's Exhibit Number 8262. The remaining three exhibits protected by CMO-3 and listed in Lilly's Amended Notice of Correcting Misstatement are not available on the Internet. Those documents are labeled as FDACDER and Plaintiff's Exhibit Numbers 3909 and 10052.

Further, during yesterday's hearing Your Honor asked Lilly whether any matters related to de-designating the confidential status of documents produced under CMO-3 involve documents beyond the scope of Judge Weinstein's February 14, 2008 Permanent Injunction Order. In fact, Judge Weinstein is presiding over matters where the confidentiality of documents is being challenged in a circumstance unrelated to the Injunction Order.

Judge Weinstein, with the assistance of Special Discovery Master Peter Woodin, is presiding over *UFCW Local 1776 v. Eli Lilly and Company* and *Eric Tayag v. Eli Lilly and Company*. In these cases, plaintiffs' counsel, Thomas Sobol, has sought declassification of hundreds of Lilly's confidential documents. This matter is unrelated to the Gottstein appeal. Mr.

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Sobol has submitted four motions requesting the Court remove the confidential designation of Lilly's documents which have been attached to motions in those cases. The most recent request was submitted in November 2007. The documents are under review and parties are awaiting a ruling.

If the Court requests additional information, Lilly would be happy to provide that information.

Thank You,

*John F. Brenner / ADS*

John F. Brenner

cc: Jon S. Dawson, Esquire  
Eric T. Sanders, Esquire  
Brewster H. Jamieson, Esquire