

Honorable Jack B. Weinstein  
March 23, 2007  
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Lilly to the test because I do think that to the extent documents can be de-designated, they should be de-designated.

June 2, 2006 Transcript, p. 63-64. Later during the call, he reiterated the plan:

Now, so what I would like to know is, report back to me after, Lilly, you have reviewed the complaint, the first amended complaint, and where we are on what documents you acquiesced on and what documents you want to maintain confidentiality on.

*Id.* at 70. Eli Lilly never responded to this directive.

In January 2007, we renewed our efforts to lawfully disseminate the documents, in light of the great public interest in the case. At that time, we wrote to Eli Lilly outlining our view that the company had failed to comply with the provisions of CMO-3 and Special Master Woodin's June 2, 2006 directive and that, accordingly, the documents were not validly designated and could be disseminated. Again, however, plaintiffs indicated we would not take any steps until the conclusion of the hearing scheduled before this Court on January 16, 2007 on the matter of the leak of selected documents to the New York Times and others ("Gottstein matter").

On January 18, 2007, plaintiffs requested a teleconference with Special Master Woodin about the challenge to the documents, in light of our past efforts and this Court's proceedings regarding the Gottstein matter.

On February 7, 2007, following a teleconference with the parties and in recognition of the fact that the proceedings concerning the leaked documents involved a challenge to the confidentiality of those documents, Special Master Woodin, with the consent of the parties, wrote to Your Honor to determine whether the Court wished to consider both matters together.