

Molchatsky et al v. United States Of America

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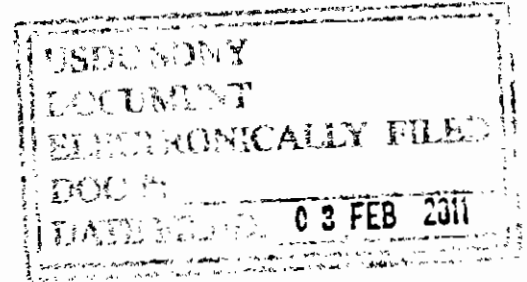
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February 2, 2011

BY FACSIMILE

Hon. Laura Taylor Swain
United States District Court
Southern District of New York
500 Pearl Street, Room 755
New York, New York 10007



Re: Molchatsky v. United States, 09 Civ. 8697 (LTS) (AJP)

The Litwin Foundation Inc. v. United States, 10 Civ. 7367 (LTS)

Dear Judge Swain:

We respectfully write on behalf of Plaintiffs in the above-captioned actions and in response to the Government's request to postpone the initial pre-trial conferences in these actions indefinitely, until a date ten days after the Court's resolution of the Government's pending motion to dismiss in Molchatsky v. United States.

The Molchatsky action was filed fifteen months ago in October 2009. As the Government acknowledges, the pre-trial conference in Molchatsky has already been adjourned five times and the pre-trial conference in Litwin has been adjourned twice, notwithstanding the fact that there has been no Court order staying discovery in either case. No progress has been made in either action, to the prejudice of our clients.

We object to the Government's request and have requested that the Government confer with Plaintiffs as soon as practicable as it -- like any other litigant -- is obligated to do pursuant to Rule 26(f) of the Federal Rules of Civil Procedure. A copy of the letter in which we made such request is enclosed for the Court's reference. We have attempted to confer with Mr. Corwin concerning our request for a Rule 26(f) conference but have been unable to reach him by telephone.

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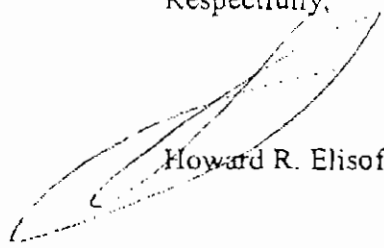
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Pursuant to Local Rule 37.2, we respectfully request a pre-motion conference with the Court to resolve this matter.

Respectfully,



Howard R. Elisofon

Enclosure

cc: Neil M. Corwin, Esq.
Jeffrey Paul Ehrlich, Esq.