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CHAMBERS OF
LAURA TAYLOR SWAIN
U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
PHYLLIS MOLCHATSKY and STEVEN
SCHNEIDER, M.D.,

: Case No 09 CIV 8697 (LTS/AJP)

Plaintiffs,

: **NOTICE OF MOTION**

vs.

UNITED STATES OF AMERICA,

MEMO ENDORSED

Defendant.

-----X
PLEASE TAKE NOTICE that upon the accompanying declaration of Howard Elisofon, the exhibits thereto, and all of the prior proceedings herein, Plaintiffs Phyllis Molchatsky and Steven Schneider, M.D., will move this Court, in Courtroom 11C of the United States Courthouse located at 500 Pearl Street, New York, New York 10007, for an order:

(1) directing the attorneys of record for Defendant United States of America to appear for and attend a conference with Plaintiffs as required by Rule 26(f) of the Federal Rules of Civil Procedure;

(2) directing the attorneys of record for Defendant United States of America to confer with Plaintiffs in good faith on a proposed discovery plan, as required by Rule 26(f) of the Federal Rules of Civil Procedure; or, in the alternative;

(3) directing the attorneys of record for Defendant United States of America to appear for and attend a scheduling conference with the Court pursuant to Rule 16(b)(1) of the Federal Rules of Civil Procedure; and

(4) for the entry of a scheduling order pursuant to Rule 16(b) of the Federal Rules of Civil Procedure.

Plaintiffs hereby certify that they have used their best efforts to resolve informally the matters that are raised in their submission and have first requested an informal conference with the Court pursuant to Local Civil Rule 37.2.

Dated: New York, New York
February 17, 2011

HERRICK, FEINSTEIN LLP

/s/

Howard Elisofon
Christopher J. Sullivan
2 Park Avenue
New York, New York 10016
Attorneys for Plaintiffs

TO:

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Neil Corwin, Esq., Assistant United States Attorney
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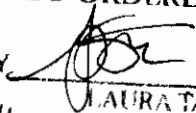
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*The within motion is
denied, without prejudice
to renewal after April 29, 2011.*

SO ORDERED.

NEW YORK, NY

Feb 24, 2011



LAURA TAYLOR SWAIN
UNITED STATES DISTRICT JUDGE