

Protective Order was filed. Fulbright's Motion was served on the Plaintiffs on January 23, 2006, and Keith Ugone (in the Northern District of Texas) and Phil Phillips (in the District of Columbia), two of Fulbright's expert witnesses, were served with subpoenas on January 24, 2006. The Plaintiffs have indicated that they will also serve a subpoena on another of Plaintiffs' experts – in the Western District of Philadelphia – for a deposition date prior to that on which he is available.

The subpoena directed to Keith Ugone directs him to appear for deposition on February 3, 2006. That date is *before* the Plaintiffs' response to the Motion for Protective Order is due to this Court, gives little time for a motion to quash to be heard in the court that issued the subpoena (the Northern District of Texas), and also is a date on which Dr. Ugone is unavailable.

The subpoena directed to Phil Phillips directs him to appear for deposition on February 13, 2006. That is a date before Dr. Bellomo's deposition *and* the next business day after the deposition of Plaintiffs' expert on FDA issues, the subject about which Mr. Phillips has offered opinions. Further, it is a date on which Mr. Phillips is unavailable.

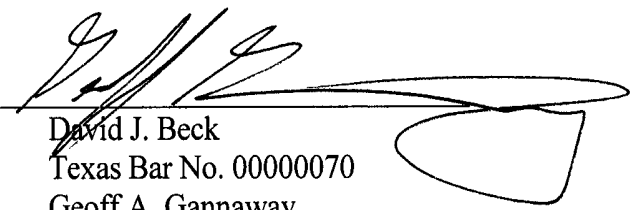
Because Fulbright's Motion for Protective Order would resolve, in one forum, the dispute about the relative timing of Dr. Bellomo's deposition and Fulbright's experts, Fulbright asks this Court to shorten the Plaintiffs' time to respond to the Motion for Protective Order and to resolve expeditiously this dispute. Otherwise, Motions to Quash will need to be litigated in the Western District of Philadelphia, the District for the District of Columbia, and the Northern District of Texas, all in the next week. Judicial efficiency would be disserved, with multiple judges reviewing and resolving these issues, and still without addressing the core issue: can the Plaintiffs unilaterally decide to provide a deposition of Dr. Bellomo *after* the close of discovery and expect Fulbright to produce its experts responding to issues hinging upon his testimony

before he actually gives his testimony? This Court is the only one before which that issue has been raised, and this Court is the one that should decide it. The outcome of that decision will moot the Motions to Quash that will otherwise need to be filed and heard on an expedited basis in other federal district courts.

CONCLUSION AND PRAYER

Fulbright respectfully requests that this Court shorten the time for Plaintiffs' Response to the Motion for Protective Order, so that the Court can rule upon the Motion for Protective Order prior to February 1, 2006.

Respectfully submitted,

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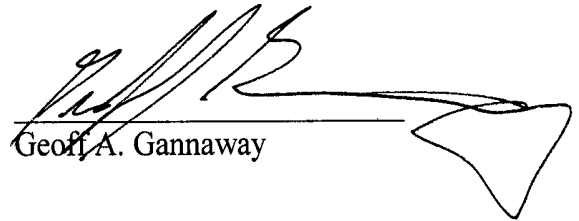
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served as shown below on counsel of record on January 24, 2006.

Via Facsimile and Certified Mail, Return-Receipt Certified

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