

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ROCCO J. LAFARO, M.D.,  
ARLEN G. FLEISHER, M.D.,  
and CARDIAC SURGERY GROUP, P.C..

Plaintiffs,

vs.

NEW YORK CARDIOTHORACIC  
GROUP, PLLC, STEVEN L. LANSMAN, M.D.,  
DAVID SPIELVOGEL, M.D., WESTCHESTER  
COUNTY HEALTH CARE CORPORATION  
and WESTCHESTER MEDICAL CENTER,

Defendants.

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: **SUPPLEMENTAL**  
: **DECLARATION**  
: **IN SUPPORT OF**  
: **DEFENDANTS' MOTION**  
: **FOR JUDGMENT**  
: **ON THE PLEADINGS**

: Case No. 07 Civ. 7984 (SCR)

JORDY RABINOWITZ, hereby declares under penalty of perjury pursuant to  
28 U.S.C. § 1746, as follows:

1. I am a Senior Associate General Counsel for Westchester County Health Care Corporation ("WCHCC") and the Hospital it operates, Westchester Medical Center ("WMC"). Together with the law firm of Garfunkel, Wild & Travis, P.C., I represent all of the Defendants in this matter, and submit this supplemental declaration in support of Defendants' motion for judgment on the pleadings, pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. The motion and supporting papers were filed on February 1, 2008.

2. At paragraph 14 of my February 1, 2008 Declaration in support of the motion, I stated "Attached as Exhibit 7 are copies of media reports of Dr. Fleisher's 2005 federal indictment, which alleged that he and others provided Viagra and other prescription drugs to the

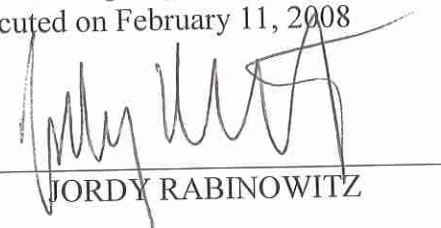
Gambino crime family.” The exhibits are copies of a May 5, 2005 press release from the United States Attorney’s Office and several media reports concerning the matter.

3. The only other reference to the “indictment” appears at the bottom of Paragraph 6 of Defendants’ Memorandum of Law.

4. On February 6, 2008, Plaintiffs’ counsel called me and advised that Dr. Fleisher was never indicted for selling Viagra to organized crime members and that the government ultimately did not pursue the case against him.. After further review of the U.S. Attorney’s press release, it appears that counsel is correct. It appears that members of the Gambino crime family were indicted, and that Dr. Fleisher was not indicted but instead was charged and arrested based on a criminal complaint. (However, the charges against Dr. Fleisher were as described in my Declaration and as specified in the government’s press release).

5. Accordingly, I submit this Declaration to clarify the record, and to apologize for any confusion. However, I decline counsel’s request that Defendants’ motion papers be withdrawn due to this issue, as the distinction between Dr. Fleisher’s arrest based on a criminal complaint rather than an indictment, and the government’s subsequent withdrawal of the charges, is immaterial to the issues raised by Defendants’ motion, and does not prejudice the Plaintiffs in any respect.

I declare under penalty of perjury  
that the foregoing is true and correct.  
Executed on February 11, 2008



JORDY RABINOWITZ