

EXHIBIT A

**SUPPLEMENTAL DECLARATION
OF NANCY B. SAGER**

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

CARETOLIVE,)	
a not-for-profit corp.,)	
)	Civil No. 2:08-CV-00005
Plaintiff,)	
)	JUDGE FROST
v.)	
)	MAGISTRATE JUDGE KING
U.S. FOOD and DRUG)	
ADMINISTRATION,)	
)	
Defendant.)	

SUPPLEMENTAL DECLARATION OF NANCY B. SAGER

I, Nancy B. Sager, declare as follows:

1. I am the Director of the Division of Information Disclosure Policy ("DIDP"), Center for Drug Evaluation and Research ("CDER"), United States Food and Drug Administration ("FDA"), in Rockville, Maryland. I submit this declaration to provide an update to the court on the amount of time remaining before the FDA will be able to respond to Plaintiff's Freedom of Information Act ("FOIA") request.

2. I have supervisory authority over DIDP, which processes and responds to requests for documents in the possession of CDER made pursuant to the FOIA. DIDP is also responsible for proactively reviewing, redacting, and posting on FDA's website, consistent with Executive Order 13,392, documents anticipated to be frequently requested, such as drug approval packages and warning letters. In addition, DIDP responds to requests for documents made by the U.S. Congress, foreign, state, and local governments, and other federal agencies, and to third-party subpoenas and court orders for CDER documents.

3. The statements made in this declaration are based upon my personal knowledge, information made known to me in my official capacity, and information available to me in my official capacity and about which I have become knowledgeable.

4. As explained in my declaration filed with the Defendant United States Food and Drug Administration's Motion to Stay Proceedings (Civil Docket No. 10), FOIA requests concerning human drugs and therapeutic biological products are referred to DIDP for processing. CDER considers FOIA requests that can be answered quickly with readily available documents, and that require no further searching or redacting, to be "simple" requests, which generally are processed on a fast track (the "Simple Track"). Other requests are considered "complex" requests, which follow a slower processing track (the "Complex Track"). DIDP staff generally process Simple and Complex Track requests in queues, on a first-in, first-out basis.

5. As discussed in my previous declaration, Plaintiff's request has been assigned to the Complex Track. I initially estimated that Plaintiff's request would rise to the top of its queue in October 2009 (approximately 20 months from the date of my previous declaration). This estimate was based on DIDP's backlog and processing time for requests seeking this type of information. I also initially estimated that DIDP would require approximately one week to process the request once it rises to the top of its queue.

6. Consistent with DIDP's practice of processing Complex Track requests on a first-in, first-out basis, and the fact that approximately 950 Complex Track requests remain ahead of Plaintiff's request, DIDP continues to estimate that Plaintiff's request will not rise to the top of its queue until October 2009.

7. However, in accordance with the Court's May 22, 2008 Opinion and Order, FDA will pull Plaintiff's request from its queue and ensure that the request is processed and completed by May 18, 2009. In order to treat as many Complex Track FOIA requests as possible in an equitable manner, FDA will continue to process these requests on a first-in, first-out basis, before pulling Plaintiff's request from its queue.

8. In summary, DIDP will respond to Plaintiff's request on or before May 18, 2009.

Pursuant to 28 U.S.C. § 1746, I declare under the penalty of perjury that the foregoing is true and correct.



NANCY B. SAGER
Director, Division of Information
Disclosure Policy
Center for Drug Evaluation and Research
Food and Drug Administration
U.S. Department of Health and Human Services

Executed on November 25th, 2008, in Silver Spring, Maryland.