cooperation of the defendant. The papers submitted by both sides on this point are irreconcilable, but the quality and quantity of the government's affidavits and the documents, consisting of receipts and affidavits executed by the defendant himself, as well as several witnesses, as opposed to the sole, self-serving affidavit of the defendant as well as the absence of the corroborating affidavit of his former attorney, present at the time in question, demonstrate the strength of the government's position.

"The Court, however, is reluctant to determine the question presented, without affording the parties the opportunity of a trial of the issue before this Court, without a jury, at which time the witnesses may testify and be subjected to cross-examination. The authorities support this procedure, where the Constitutional right of immunity from unlawful search and seizure is involved. Such trial should be had, prior to the trial of the action, pursuant to Rule 41 (e) of the Federal Rules of Criminal Procedure."

Thereafter, the defendant changed his plea to guilty; and, on 3–13–56, he was fined $1,500.

4811. (F. D. C. No. 35612. S. Nos. 85–983/4 L, 88–580 L.)

INFORMATION FILED: 3–21–55, Dist. S. Dak., against **Independent Drug Store, a partnership, Sioux Falls, S. Dak., and William Trimble (manager).**

CHARGE: Between 5–19–54 and 6–30–54, *Benzedrine Sulfate tablets* were dispensed 3 times without a prescription.

PLEA: Guilty.

DISPOSITION: 10–25–55. Each defendant fined $150.

4812. (F. D. C. No. 37219. S. Nos. 40–416 L, 40–419 L, 40–421 L.)

INFORMATION FILED: 7–18–55, S. Dist. Calif., against **Royal Drug Co., Inc., Los Angeles, Calif., Alvin C. Weiss (president of the corporation), Joseph P. Shure (a pharmacist), and Jack Silberman (a clerk employed by the corporation).**

CHARGE: Between 2–16–54 and 5–19–54, *Dexedrine Sulfate tablets* were dispensed 3 times upon requests for prescription refills without authorization by the prescriber.

PLEA: Guilty—by each defendant to dispensing the tablets once.

DISPOSITION: 9–6–55. Corporation and Weiss each fined $1,000; Shure and Silberman each fined $200. Each individual also given sentence of 1 year in jail, which was suspended, and placed on probation for 6 months.

4813. (F. D. C. No. 37271. S. Nos. 90–094/5 L, 90–098 L.)

INFORMATION FILED: 8–19–55, W. Dist. Mo., against **Amin Boutros (a physician), Kansas City, Mo.**

CHARGE: Between 7–8–54 and 7–9–54, *dextro-amphetamine sulfate tablets* were dispensed twice and *secobarbital sodium capsules* were dispensed once without a prescription.

DISPOSITION: On 9–9–55, the defendant filed a motion to dismiss the information on the grounds that it failed to state facts sufficient to constitute an offense and that it attempted to charge the defendant, a duly licensed practitioner of medicine, with a violation of the Federal Food, Drug, and Cosmetic Act, which Act was not applicable to the defendant.

The court overruled the defendant's motion on 9–27–55. On 12–23–55, the defendant entered a plea of nolo contendere and was fined $3,000, plus costs, and was placed on probation for 3 years.

4814. (F. D. C. No. 37841. S. Nos. 68–758 L, 68–761 L.)

INFORMATION FILED: 6–14–55, E. Dist. N. Y., against **David G. Wald, t/a Wald Prescription Pharmacy, Brooklyn, N. Y., and Alvin Konigsberg (pharmacist).**