

1 Patricia Carmichael, Esq. Bar Number: 146649
2 **TUVERSON & HILLYARD**
3 4675 MacArthur Center, Suite 650
Newport Beach, California 92660
4 Tel: (949) 752-7855 Fax: (949) 752-5437

5 Liaison Counsel for HEALTH CARE PROVIDER/
6 DIET CENTER Defendants

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

10
11 **Coordination Proceeding Special Title**
12 **(Rule 1550(b))**

13 **In Re**

14 **DIET DRUG CASES.,**

15 **THIS DOCUMENT PERTAINS TO THE**
16 **MASTER COMPLAINT.**

CASE NUMBER: **Judicial Council**
Coordination Proceeding No. 4032
[Judge Daniel S. Pratt, Dept. D]
(Complaint filed JUNE 16, 1998)

REQUEST FOR JUDICIAL NOTICE

DATE:
TIME:
DEPT: SE "D"

TRIAL DATE: NONE

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18 TO ALL PLAINTIFFS AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

19 The HEALTHCARE PROVIDER/ DIET CENTER defendants respectfully request
20 that the Court take judicial notice of the following identified document pursuant to the
21 provisions of Code of Civil Procedure Sections 430.70 and 437(b) and Evidence Code
22 Sections 450 through 453 at the hearing of defendants' Demurrer and Motion to Strike to
23 plaintiffs' Master Complaint:

24 The certified copy of Articles of Incorporation of Manhattan Weight Control Medical
25 Center Corp. dated October 6, 1995, which is attached hereto as Exhibit "A". The Court
26 is specifically requested to note that the corporate purpose identified in those Articles is
27 to engage in the profession of medicine.

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1 This request for judicial notice is based upon the provisions of California Evidence
2 Code sections 452 (c) and 453.

3 California Evidence Code section 452 provides in pertinent part:

4 "Judicial notice may be taken of the following matters
5 to the extent that they are not embraced within section 451:

6

7 (c) Official acts of the legislative, executive, and judicial
8 departments of the United States and of any state of the
9 United States."

10 Evidence Code section 453 provides:

11 "The trial court shall take judicial notice of any matter
12 specified in section 452 if a party requests it and:

13 (a) Gives each adverse party sufficient notice of the
14 request, through the pleadings or otherwise, to enable
15 such adverse party to prepare to meet the request; and

16 (b) Furnishes the court with sufficient information to
17 enable it to take judicial notice of the matter."
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19 Judicial notice is specifically authorized in the context of a demurrer and motion to
20 strike in Code of Civil Procedure Section 430.70 and 437(b) which provide:

21
22 "When the ground of a demurrer is based on a matter of which the court may
23 take judicial notice pursuant to Section 452 or 453 of the Evidence Code,
24 such matter shall be specified in the demurrer, or in the supporting points
25 and authorities for the purpose of invoking such notice, except as the court
26 may otherwise permit." C.C.P. Sec 430.70

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1 Code of Civil Procedure, Section 437(b) provides:

2 "Where the motion to strike is based on a matter of which the court may take
3 judicial notice pursuant to Section 452 or 453 or the Evidence Code, such
4 matters shall be specified in the notice of motion or in the supporting points
5 and authorities except as the court may otherwise permit."

6 **CONCLUSION**

7 The HEALTH CARE PROVIDER/DIET CENTER Defendants respectfully submit that
8 they have complied with the requirements of section 453 and that the attached document
9 is a records of official acts of the executive department of the State of California within the
10 meaning of section 452(c). Defendants therefore request that the Court take judicial notice
11 of the attached document at the hearing of the HEALTH CARE PROVIDER/DIET CENTER
12 Defendants' demurrer and motion to strike.

13 DATED: August 14, 1998 TUVERTON & HILLYARD

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By: _____
PATRICIA CARMICHAEL
Liaison Counsel on Behalf of the
HEALTH CARE PROVIDER/DIET
CENTER Defendants Steering Committee

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