

**SUPERIOR COURT FOR THE STATE OF CALIFORNIA
JCCP 004032**

Date: Friday, November 13, 1998

DEPT. SE D

HONORABLE DANIEL SOLIS PRATT Judge

S. RAINWATER

Deputy Clerk

Y. KRANTZ Deputy Sheriff

LESLIE DE CAMP

Court Reporter

10:00 am

JCCP004032

Plaintiff
Counsel

IN RE: DIET DRUG CASES

Defendant
Counsel

**NATURE OF PROCEEDINGS: PETITION FOR GENERAL ORDER RE: IDENTIFICATION/DISMISSAL
OF PHENTERMINE DEFENDANTS; HEARING RE: GENERAL ORDER
NUMBER SIX**

The Court issues the following tentative ruling:

“Phentermine defendants petition for general order regarding identification/dismissal of phentermine defendants is hereby denied. Plaintiff’s proposed general order #6 is hereby ADOPTED.

As both parties agree, this court has broad discretion in managing these diet drug cases. See McGhan medical Corp. v. Superior Court 11 Cal.App.4th 804, 812. In its discretion, the court requested of the phentermine defendants that they provide additional product information to plaintiffs. The court was under the impression that such information would be provided and is surprised to learn it has not been. The court will therefore turn its request into an order.

The court is satisfied as to plaintiffs’ diligence up to this point.

The court cannot decide at this time the applicability of the doctrine of market share liability. As per plaintiffs’ proposed order, the court will entertain a motion for leave to amend the master complaint to allege such a theory of liability. Any such motion must be filed within 30 days and must fully brief the applicability of market share liability. Appropriate briefs in opposition and reply may be filed pursuant to the normal rules of civil procedure.”

The matter is called for hearing and argued.

THE COURT DOES NOT ADOPT THE ABOVE TENTATIVE RULING AS PREVIOUSLY ISSUED. THE MATTER STANDS SUBMITTED FOR DECISION.

Court and counsel confer re identification issues, market share issues, generic vs. specific discovery issues,.

Liaison Counsel for plaintiff reports that FACT SHEETS shall be served on all served defendants and plaintiff medical records shall be deposited with Pacific Copy Center.

THE COURT REMINDS COUNSEL THAT NEXT STATUS CONFERENCE IS SET FOR **DECEMBER 18, 1998 AT 10:00AM**

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HONORABLE DANIEL SOLIS PRATT	Judge	S. RAINWATER	Deputy Clerk
Y. KRANTZ	Deputy Sheriff	LESIE DE CAMP 11608	COURT REPORTER
10:00 am	JCCP004032	Plaintiff Counsel	
	IN RE: DIET DRUG CASES	Defendant Counsel	

MARK ROBINSON APPEARS AS LIAISON COUNSEL FOR PLAINTIFF. PLAINTIFFS' EXECUTIVE COMMITTEE APPEAR AS FOLLOWS: FRANK PITRE; TINA NIEVES, PETER POLOS AND CARLOS PRIETTO.

DEFENDANTS' LIAISON COUNSEL APPEAR AS FOLLOWS: TIMOTHY BRADFORD; DAVID STANLEY; THOMAS MOORE; MARIO HORWITZ; PATRICIA CARMICHAEL; BARBARA REARDON; MICHAEL HEALY; JOSEPH DECKER.

COUNSEL APPEARING FOR DEFENDANTS: MICHAEL RUGGLES; BRIAN MOONEY; JOSEPH BUTLER; MELISSA WOO; ANN ASIANO; MICHAEL STORTZ; ELLEN DARLING; CINDY SHAPIRO; FREDERICK ERNY; JEFFREY CARLSON; LISA KING; MARK SPOONER; DEBRA POLE; KERI KNAUBER; NANCY MORRISON; ROBERT DONOHUE; JEROME VARANINI.