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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

IN RE DIET DRUGS LITIGATION	)	Judicial Council
_____	)	Coordination Proceeding
	)	No. 4032
THIS DOCUMENTS RELATES TO:	)	
ALL ACTIONS	)	<b>FIRST AMENDED GENERAL ORDER NO. 4: SERVICE OF PROCESS REQUIREMENTS AND DUE DILIGENCE STATEMENT RE PRODUCT IDENTIFICATION</b>
_____	)	_____

Having heard the comments and proposals of the parties, and pursuant to California Rules of Court, Rule 1541:

IT IS HEREBY ORDERED:

In order to 1) conserve the resources of the Court and avoid or minimize unnecessary litigation expense, including costs and attorneys' fees, and 2) to ensure, to the extent possible, that only proper parties are before the Court in each individual included action, the Court hereby adopts the following protocol for the service and maintenance of actions against defendants who are licensors, manufacturers and/or distributors of fenfluramine, dexfenfluramine and/or phentermine ("product liability defendants").

1           1.     In all individual diet drug cases subject to these  
2 coordinated proceedings, plaintiffs are required at the time of  
3 service of their Notice Re: Adoption of Master Complaint, to  
4 serve therewith a completed Product Identification Due Diligence  
5 Statement, the form of which is attached hereto as **Exhibit "A."**  
6 In the Product Identification Due Diligence Statement, each  
7 plaintiff shall identify the evidentiary support, in accordance  
8 with California Code of Civil Procedure § 128.7(b)(3), for the  
9 allegation that plaintiff or decedent ingested a product  
10 manufactured and/or supplied by a specific product liability  
11 defendant. Plaintiff, or counsel for plaintiff, shall verify  
12 that a reasonable inquiry and investigation has been made in good  
13 faith to ascertain the specific identity, by trade name, of the  
14 product(s) plaintiff or decedent allegedly ingested.

15           2.     The verification required above may include, by  
16 way of example, the following bases for having joined a product  
17 liability defendant: a) the existence of medical records which  
18 support product identification; b) the existence of pharmacy  
19 records which support product identification; c) the existence  
20 and/or possession of other tangible evidence, e.g., prescription  
21 bottle, product packaging, package insert, which supports product  
22 identification; and d) information supplied by a health care  
23 provider or his/her staff which supports product identification.

24           3.     No plaintiff shall join a product liability  
25 defendant in any diet drug case without having first having  
26 conducted an inquiry reasonable under the circumstances in  
27 accordance with California Code of Civil Procedure § 128.7(b).

28 ///

1           4.     Attempted service of any Summons and Complaint or  
2 Notice Re: Adoption of Master Complaint without accompanying  
3 service of a verified Product Identification Due Diligence  
4 Statement shall be deemed invalid and defendants need not answer  
5 or otherwise file a responsive pleading.

6           5.     With respect to all Diet Drug cases filed by  
7 September 1, 1998, each plaintiff shall serve on all named  
8 defendants, who are listed in **Exhibit "B"** attached hereto as  
9 agreeing to accept service of process, a Notice Re: Adoption of  
10 Master Complaint and completed Product Identification Due  
11 Diligence Statement no later than November 1, 1998. With respect  
12 to all Diet Drug cases filed subsequent to September 1, 1998,  
13 each plaintiff shall serve on all named defendants, who are  
14 listed in **Exhibit "B"** attached hereto as agreeing to accept  
15 service of process, a Notice Re: Adoption of Master Complaint  
16 and completed Product Identification Due Diligence Statement no  
17 later than sixty (60) days after the date of filing of the Notice  
18 Re: Adoption of Master Complaint. **Failure to comply with the**  
19 **provisions of this paragraph shall subject plaintiff's Complaint**  
20 **to dismissal.** The Court, without the necessity of a noticed  
21 motion or hearing, shall dismiss any such Diet Drug case, without  
22 prejudice, fifteen (15) days after counsel for plaintiff has been  
23 served with written notice, in the form attached hereto as  
24 **Exhibit "C"**. If plaintiff complies with the service requirements  
25 of this paragraph within fifteen (15) days after being served  
26 with such written notice, plaintiff shall notify the Court by  
27 letter with a copy to defendants that the case should not be  
28 dismissed.



**Product Identification Due Diligence Statement**

Pursuant to General Order No. 4, each plaintiff whose action is subject to Coordination Proceeding No. 4032 is required to complete and serve a verified Product Identification Due Diligence Statement at the time of service of their Notice Re: Adoption of Master Complaint.

<b>I. PERSONAL INFORMATION:</b>	
Name of Plaintiff or Decedent (Last, First, Initial):	
Jurisdiction:	
Case No.:	
Date of Birth:	
Social Security No.:	

<b>II. EXPOSURE INFORMATION:</b>	
<b>A. General Anorectic Drugs to Which Plaintiff or Decedent Alleges Exposure:</b> (check all appropriate boxes <input type="checkbox"/> )	
<b>Anorectic Drug:</b>	<b>Dates of Exposure:</b>
<input type="checkbox"/> Dexfenfluramine alone	
<input type="checkbox"/> Dexfenfluramine/Phentermine combined	
<input type="checkbox"/> Fenfluramine alone	
<input type="checkbox"/> Fenfluramine/Dexfenfluramine combined	
<input type="checkbox"/> Fenfluramine/Phentermine combined	
<input type="checkbox"/> Phentermine alone	

**B. Specific Anorectic Drug Products to Which Plaintiff or Decedent Alleges Exposure:** (check all appropriate boxes )

<p><b>Product trade name:</b></p>	<p><b>Proof of Exposure to the Specific Product:</b></p> <p>(1) Identify source of information by which product identification was made [i.e. "records of (name doctor, facility and/or business);" "product packaging;" "package insert;" and/or "statements from an individual" (provide name, title, address and phone number); etc.], and <b>Attach copies</b> of all documents identified in response to this section.</p> <p><b>AND/OR</b></p> <p>(2) Check the box <input type="checkbox"/> corresponding to "Unable to Identify," indicating that you have contacted your or decedent's physicians, pharmacists, clinics, and retailers, looked for and examined all available packaging, receipts and other documentation available to you, including your or decedent's relevant medical records, and cannot identify a specific product by trade name:</p>	<p><b>Dates of Exposure:</b> (Be as specific as possible. If you discontinued and then resumed taking a drug, so indicate.)</p>
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**DEXFENFLURAMINE**

<input type="checkbox"/> Adifax		
<input type="checkbox"/> Redux		
<input type="checkbox"/> Unable to Identify	<input type="checkbox"/>	

**FENFLURAMINE**

<input type="checkbox"/> Pondcrax		
<input type="checkbox"/> Pondimin		
<input type="checkbox"/> Unable to Identify	<input type="checkbox"/>	

<b>PHENTERMINE</b>		
<input type="checkbox"/> Adipex P		
<input type="checkbox"/> Banobese		
<input type="checkbox"/> Duromine		
<input type="checkbox"/> Fastin		
<input type="checkbox"/> Ionamin		
<input type="checkbox"/> Mirapont		
<input type="checkbox"/> Obenix		
<input type="checkbox"/> Oby-cap		
<input type="checkbox"/> Panbesy		
<input type="checkbox"/> Zantryl		
<input type="checkbox"/> Generic Phentermine (provide descriptive characteristics and manufacturer and/or distributor if known)		
<input type="checkbox"/> Unable to Identify	<input type="checkbox"/>	

I, \_\_\_\_\_, am the attorney of record for the person identified in this Product Identification Due Diligence Statement. I have reviewed this form, as completed, with my client and certify under penalty of perjury of the laws of the State of California that to the best of my knowledge a complete and thorough search has been conducted in good faith for the information called for in this form, and the information contained herein is true, complete and accurate.

Dated: \_\_\_\_\_

(Print name) \_\_\_\_\_

I, \_\_\_\_\_, am the person or personal representative of the decedent identified in this Product Identification Due Diligence Statement. I have reviewed this form, as completed, and certify under penalty of perjury of the laws of the State of California that a complete and thorough search has been conducted in good faith for the information called for in this form, and the information contained herein is true, complete and accurate.

Dated: \_\_\_\_\_

\_\_\_\_\_

(Print name) \_\_\_\_\_

**Service of Process Upon Defendants**

Pursuant to General Order No. 4, the following defendants have agreed to accept service of process if a copy of the Summons and Complaint or Notice Re Adoption of Master Complaint is sent by certified mail, return receipt requested, to the person or address shown below:

<b>DEFENDANT</b>	<b>Summons and Complaint may be served by certified-mail, return receipt, upon:</b>	<b>California Counsel for Defendant</b>
A.H. Robins Company, Inc.; American Home Products Corporation; and Wyeth-Ayerst Laboratories Division of American Home Products Corporation	Julia Feliciano, Esq. WYETH-AYERST LABORATORIES Division 170-1 P.O. Box 8279 Philadelphia, PA 19101	Mark J. Spooner, Esq. Steven H. Bergman, Esq. ARNOLD & PORTER 777 Figueroa Street 44th Floor Los Angeles, CA 90017  Timothy B. Bradford, Esq. David E. Stanley, Esq. CROSBY, HEAFY, ROACH & MAY 700 South Flower Street, Suite 2200 Los Angeles, CA 90017-4209  Stuart Gordon, Esq. James R. Reilly, Esq. GORDON & REES Embarcadero Center West 275 Battery Street, 20th Floor San Francisco, CA 94111
Abana Pharmaceuticals, Inc.	Ed Chod, Esq. and/or Mary Ann Wymore, Esq. GREENSFELDER, HEMKER & GALE, P.C. 2000 Equitable Building 10 South Broadway St. Louis, MO 63102-1774	Jerome M. Varanini, Esq. TRIMBLE, SHERINIAN & VARANINI 1001 G Street, Suite 200 Sacramento, CA 95814

Camall Company	Tammy Schmall Camall Company 70945 Van Dyke Avenue Romeo, MI 48065	John W. Streeter, Esq. NEGELE & ASSOCIATES Biltmore Tower 500 South Grand Avenue, 22nd Floor Los Angeles, CA 90071-2606
Eon Labs Manufacturing, Inc.	William F. Holt Vice-President Finance and Chief Financial Officer Eon Labs Manufacturing, Inc. 227 - 15 North Conduit Ave. Laurelton, NY 11413	Joseph F. Butler, Esq. McKENNA & CUNEO, LLP 444 South Flower Street Los Angeles, CA 90071
Fisons Corporation	Peter L. Resnick, Esq. McDERMOTT, WILL & EMERY 75 State Street, Suite 1700 Boston, MA 02109-1807	Michael F. Healy, Esq. SEDGWICK, DETERT, MORAN & ARNOLD One Embarcadero Center, 16th Floor San Francisco, CA 94111-3628
Gate Pharmaceuticals, a Division of Teva Pharmaceuticals USA, Inc.	CT Corporation System on behalf of Gate Pharmaceuticals, a Division of Teva Pharmaceuticals, USA, Inc. 1209 Orange Street Wilmington, DE 19801	Robert J. Gibson, Esq. John A. Chatowski, Esq. SNELL & WILMER 1920 Main Street, Suite 120 Irvine, CA 92614-7060  R. Joseph Decker, Esq. Mary Kirk Hillyard, Esq. PRINDLE, DECKER & AMARO 210 Golden Shore, 4th Floor Long Beach, CA 90802
Interneuron Pharmaceuticals, Inc.	Mark S. Butler One Ledgemont Center 99 Hayden Avenue Suite 340 Lexington, MA 02173	Charlotte A. Lowell SKADDEN, ARPS, SLATE, MEAGHER & FLOM, LLP Four Embarcadero Center, Suite 3800 San Francisco, CA 94111-4144
Ion Laboratories, Inc.	Robert L. Hebb Semmes, Bowen & Semmes 250 W. Pratt Street Baltimore, MD 21201	Ann M. Asiano, Esq. BRADLEY, CURLEY & ASIANO 150 Spear Street, 12th Floor San Francisco, CA 94105
Medeva Pharmaceuticals, Inc.	CT Corporation System on behalf of Medeva Pharmaceuticals, Inc. 1633 Broadway New York, NY 10019	Michael F. Healy, Esq. SEDGWICK, DETERT, MORAN & ARNOLD One Embarcadero Center, 16th Floor San Francisco, CA 94111-3628

Rugby Laboratories	Frank C. Woodside, III, Esq. Dinsmore & Shohl 1900 Chemed Center 255 W. 5th Street Cincinnati, OH 45202	Jeffery Carlson, Esq. CARLSON, MESSER & TURNER, LLP 5959 W. Century, Suite 1214 Los Angeles, California 90045
Shire Richwood, Inc.	Kathleen F. Stewart Shire Richwood, Inc. 7900 Tanners Gate Drive Suite 200 Florence, KY 41042	Joseph P. Thomas, Esq. BENESCH, FRIEDLANDER, COPLAN & ARONOFF, LLP 2800 Cincinnati Commerce Center 600 Vine Street Cincinnati, OH 45202-2409  James A. Sarrail Michael Ruggles SARRAIL, LYNCH & HALL 44 Montgomery Street, 34th Floor San Francisco, CA 94104
SmithKline Beecham Corporation	Loren Cooper, Esq. SMITHKLINE BEECHAM CORPORATION One Franklin Plaza P.O. Box 7929 Philadelphia, PA 19101	Charles F. Preuss, Esq. Kenneth P. Conour, Esq. PREUSS, WALKER & SHANAGHER 595 Market Street, 16th Floor San Francisco, CA 94105  Thomas Moore, Esq. Haight, Brown & Bonesteel 1620 26th Street - Suite 4000 North Santa Monica, California 90406
United Research Laboratories	Paul N. Farquharson, Esq. Semmes, Bowen & Semmes 250 W. Pratt Street Baltimore, MD 21201	Alexander B.T. Cobb, Esq. BONNE, BRIDGES, MUELLER, O'KEEFE & NICHOLS Wilshire Serrano Building 3699 Wilshire Boulevard, 10th Floor Los Angeles, CA 90010-2719
Zenith Goldline	Catarina Coloca IVAX Corporation 4400 Biscayne Boulevard Miami, FL 33137	Sheila Salomon, Esq. SARRAIL, LYNCH & HALL 44 Montgomery Street, 34th Floor San Francisco, CA 94104

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Attorneys for Defendant[s]

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

IN RE DIET DRUG LITIGATION )  
\_\_\_\_\_) )  
[PLAINTIFF[S]], )  
 )  
Plaintiff[s], )  
 )  
vs. )  
 )  
[DEFENDANTS] )  
 )  
Defendants. )  
\_\_\_\_\_)

JCCP-4032-[JCCP NO.]  
CASE NO. [CASE NO.]  
**NOTICE OF REQUEST FOR DISMISSAL  
OF ACTION FOR FAILING TO SERVE  
NOTICE OF ADOPTION OF MASTER  
COMPLAINT AND PRODUCT  
IDENTIFICATION DUE DILIGENCE  
STATEMENT**

TO PLAINTIFF[S] AND TO [HIS/HER/THEIR] ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that defendant[s], [DEFENDANT] request[s] that this Court dismiss the within action, without prejudice, for plaintiff's failure to comply with paragraph 5 of Amended General Order No. 4 which provides:

- 5. With respect to all Diet Drug cases filed by September 1, 1998, each plaintiff shall serve on all named defendants a Notice Re: Adoption of Master Complaint and completed Product

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Identification Due Diligence Statement no later than November 1, 1998. With respect to all Diet Drug cases filed subsequent to September 1, 1998, each plaintiff shall serve on all named defendants a Notice Re: Adoption of Master Complaint and completed Product Identification Due Diligence Statement no later than sixty (60) days after the date of filing of the Notice Re: Adoption of Master Complaint. Failure to comply with the provisions of this paragraph shall subject plaintiff's Complaint to dismissal. The Court, without the necessity of a noticed motion or hearing, shall dismiss any such Diet Drug case, without prejudice, fifteen (15) days after counsel for plaintiff has been served with written notice, in the form attached hereto as **Exhibit "C"**.

PLEASE TAKE FURTHER NOTICE that if no opposition is filed to this Request within (15) days, then dismissal of the within action, without prejudice, shall be deemed entered.

DATED:

By \_\_\_\_\_

Attorneys for Defendant[s],  
**[DEFENDANT[S]]**