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SUPERIOR COURT OF CALIFORNIA - COUNTY OF LOS ANGELES

IN RE DIET DRUG LITIGATION)
_____))
THIS DOCUMENT RELATES TO:)
ALL ACTIONS)
_____)

Judicial Council
Coordinated Proceeding No. 4032

**ORDER RE PROCESS FOR MEDIATIONS
IN COORDINATED DIET DRUG
LITIGATION**

The Court instructed the parties to attempt to agree upon a plan for mediating cases that have opted out of the pending national settlement of the diet drug litigation. The parties have informed the Court that they have agreed upon the plan set forth in the attached letter from the Hon. Daniel Weinstein (Ret.). The Court finds that the procedures and timetable set forth in the letter are appropriate, efficient and reasonable. Given the parties agreement, and good cause appearing, IT IS HEREBY ORDERED: Mediations will commence during the week of July 10, 2000 as follows: Mediations will proceed with JAMS in Northern California every other week. In intervening weeks, cases will be mediated with JAMS in Southern California, so that mediations

1 will be held every week between July 10, 2000 and October 2000. In the ~~off~~ weeks in both
2 Northern and Southern California, the JAMS mediation judge involved in the prior week's
3 negotiations will reserve one day to resolve any issues remaining from the prior week. This
4 schedule may be modified as needed during the course of the mediations, depending on the
5 experience gained by the mediators and the parties.

6
7 IT IS FURTHER ORDERED THAT: The mediations will focus on all or most of the
8 cases from one plaintiff's law firm at a time.

9
10 IT IS FURTHER ORDERED THAT: Judge Weinstein will oversee this process statewide
11 and act as the supervising JAMS judge in Northern California. Judge Trotter will supervise the
12 JAMS judges in Southern California. Judge Weinstein will mediate the cases in Northern
13 California with two other judges, and Judge Trotter will appoint two additional judges as
14 mediators for cases in Southern California who are acceptable to counsel for plaintiffs and AHP.

15
16 IT IS FURTHER ORDERED THAT: July 10 and 11, 2000 are tentatively set as sessions
17 to allow the parties to present their generic cases to the JAMS judges from both Northern and
18 Southern California. Plaintiffs will make their presentation on the 10th, and American Home
19 Products Corporation will do so on the 11th, followed by a short reply by the parties as necessary.
20 Ten days prior to commencing these presentations, the parties will simultaneously deliver their
21 case notebooks to each JAMS mediator for reference throughout this process.

22
23 IT IS FURTHER ORDERED THAT: Case specific briefing will proceed as follows:
24 Plaintiffs participating in an upcoming mediation will submit a notebook with a case-specific
25 analysis of, and package settlement demand for, all cases to be mediated during a given week to
26 counsel for American Home Products Corporation and to the mediator involved three weeks prior
to the Monday of the week set aside for mediation. American Home Products Corporation will

1 submit a notebook containing its response on each case to counsel for plaintiffs and to the mediator
2 two weeks prior to the date set for mediation. Plaintiffs may respond, as necessary, one week
3 prior to the mediation. It is anticipated that these case-specific mediation conference statements
4 will focus on those issues that will further the negotiations during mediation, e.g., relevant
5 diagnostic information, exposure to diet drugs, possible alternative causes, etc. Global issues
6 relating to American Home Products Corporation, the literature regarding valvular heart disease,
7 etc. will have been dealt with at the meeting scheduled for July 10 and 11, 2000.

8
9 IT IS FURTHER ORDERED THAT: The mediations will proceed from July to October
10 2000. Firms with large numbers of cases will likely be the first to mediate during mid-July. This
11 is not intended to exclude those firms with a smaller number of cases but only to better test the
12 likely success of the process agreed upon. Time will be made available for the cases being
13 handled by firms with only a few cases, probably during the middle of the process.

14
15 IT IS FURTHER ORDERED THAT: No later than May 10, 2000, the Plaintiffs=Executive
16 Committee will submit to the court and to counsel for American Home Products Corporation a list
17 of all opt-out cases in the California coordinated proceedings and will identify which of those
18 cases fall into the following categories: PPH, valve replacement, severe mitral regurgitation,
19 moderate or worse aortic insufficiency, or death cases in which it is claimed that the conditions
20 causing death were attributable to the plaintiff=s use of diet drugs.

21
22 IT IS FURTHER ORDERED THAT: On or before May 26, 2000 counsel for all plaintiffs
23 will provide updated, verified fact sheets, or verified amendments thereto, updated medical
24 authorizations, and any medical records and medical reports in the possession of plaintiffs or their
25 attorneys, including any echocardiogram reports and tapes if in the attorney=s possession and/or
26 catheterizations reports and tapes if in the attorney=s possession. All parties agreed that
production of these materials will begin as soon as possible after April 26, 2000 -- i.e., on a

1 Arolling@production basis -- so that the parties can begin assessing the value of their cases and
2 conducting discovery at the earliest possible time, and so that mediations may realistically begin
3 in July. Plaintiffs must provide all recent echos, catheterization reports and tapes, and other
4 medical records to counsel for AHP, whether or not helpful to their cases.
5

6 IT IS FURTHER ORDERED THAT: The parties have agreed that pre-mediation
7 depositions will, in most instances, be limited to:
8

- 9 (1) In PPH cases and valve replacement cases, a deposition of the plaintiff and one
10 treating physician;
11
- 12 (2) In cases involving severe mitral regurgitation, moderate or worse aortic
13 insufficiency, or death caused by cardiac complications allegedly due to
14 diet drugs, one treating physician and, when agreed upon by the plaintiff's attorney
15 and/or authorized by the Court, the plaintiff;
16
- 17 (3) When defendants believe that additional deposition discovery is necessary in one
18 of these categories, or when defendants feel that deposition discovery is necessary
19 in a case involving only mild aortic insufficiency or mild or moderate mitral
20 regurgitation, the parties will attempt to resolve the matter among themselves, and
21 if an agreement cannot be reached, the matter will be submitted to the Court for
22 decision on an expedited basis; and
23
- 24 (4) Depositions of plaintiffs will not exceed four hours, and depositions of physicians
25 will not exceed two hours.
26

SO ORDERED

1 DATED: May 5, 2000

/s/

Daniel Solis Pratt
Judge of the Superior Court

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4 **APPROVED AS TO FORM:**

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6 PLAINTIFFS- EXECUTIVE
COMMITTEE

7
8 Mark P. Robinson
ROBINSON CALCAGNE & ROBINSON

9
10
11 AMERICAN HOME PRODUCTS
CORPORATION

12
13 Mark P. Spooner
ARNOLD & PORTER

Stuart M. Gordon
GORDON & REES