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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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| IN RE: INCRETIN MIMETICS PRODUCTS LIABILITY LITIGATION | } | MDL Case No.13md2452 AJB (MDD) As to all related and member cases ORDER REGARDING PROCEDURES FOR DIRECT FILING OF COMPLAINTS |
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On November 12, 2013, the parties filed a joint motion regarding the direct filing of new complaints in the MDL. This motion was filed in compliance with the Court’s October 18, 2013 scheduling order. Accordingly, after a review of the joint motion, the Court hereby ORDERS the following:

1. In order to eliminate any delay associated with the transfer of cases to this Court (of cases filed in or removed to other federal district courts), and to promote judicial efficiency, any plaintiff who alleges that Byetta, Janumet, Januvia and/or Victoza (“Incretin-based Therapies”) was the cause of pancreatic cancer, and whose case would be subject to transfer to this MDL, the “MDL Proceedings”) may file his or her case directly in the MDL Proceedings in the Southern District of California, Case No. 13md2452.
2. Any complaint filed directly in the MDL Proceedings shall identify: (i) the residence of plaintiff at the time of filing; and (ii) the residence of the

1 plaintiff, or of the product user if the plaintiff is acting in a representative
2 capacity, at the time of the alleged injury by such Incretin-based Therapies.

3 3. The direct filing of actions in the MDL Proceedings is solely for the purpose
4 of coordinated discovery and related pretrial proceedings as provided for in
5 28 U.S.C. § 1407.

6 4. Defendants have stipulated and agreed that they will not assert improper
7 venue objections pursuant to Fed. R. Civ. P. 12(b) as to any cases directly
8 filed in the MDL Proceedings pertaining to the Incretin-based Therapies.
9 This includes cases that emanate from districts outside the Southern District
10 of California and that would appropriately be included in these MDL
11 Proceedings.

12 5. Upon the completion of all pretrial proceedings applicable to a case directly
13 filed in the MDL Proceedings, and subject to any agreement that may be
14 reached concerning a waiver of the requirements for transfer pursuant to
15 *Lexecon Inc. v. Milberg Weiss*, 523 U.S. 26 (1998), this Court will transfer
16 such cases to a federal district court of proper venue as defined by 28 U.S.C.
17 § 1391.¹

18 6. When appropriate, the parties will be directed to meet and confer to attempt
19 to reach agreement on the proper venue for transfer and, if approved, will be
20 so transferred pursuant to subsequent order of this Court. If, however, the
21 parties cannot reach an agreement, this Court will determine the federal
22 district of proper venue to which the case should be transferred after briefing
23 from the parties.

24 7. No provision of this Order precludes the parties from agreeing, at a future
25 date, to try cases directly filed pursuant to this Order in the Southern District
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28 ¹ Transfer of such cases will be made pursuant to the Rules of the Judicial Panel on
Multidistrict Litigation and 28 U.S.C. §1404(a).

1 of California, nor does it require agreement to try cases the Southern District
2 of California.

3 8. The inclusion of any action in *In Re Incretin-Based Therapies Products*
4 *Liability Litigation*, Case No. 13md2452, whether such action was or will be
5 filed originally or directly in the Southern District of California, shall not,
6 standing alone, constitute a determination by this Court that jurisdiction or
7 venue is proper in this District.

8 9. The fact that a case was filed directly in the MDL Proceedings pursuant to
9 this Order will have no impact on choice of law, including the statute of
10 limitations, that would otherwise apply to an individual case had it been filed
11 in another district court and transferred to this Court pursuant to 28 U.S.C §
12 1407.

13 10. The stipulation and joint motion is by defendants Eli Lilly & Company,
14 Amylin Pharmaceuticals, LLC, Merck Sharp & Dohme Corp., and Novo
15 Nordisk Inc., only and does not apply to any other defendant, including any
16 of the defendants' employees, insurers, representatives, or affiliates.

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20 IT IS SO ORDERED.

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22 DATED: November 13, 2013

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24 Hon. Anthony J. Battaglia
25 U.S. District Judge
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