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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**IN RE: INCRETIN-BASED
THERAPIES PRODUCTS
LIABILITY LITIGATION**

**CASE NO. 13md2452-AJB (MDD)
ORDER REGARDING
DISCOVERY DISPUTES
IDENTIFIED IN JOINT
SUBMISSION FILED
NOVEMBER 18, 2013
(ECF NO. 186)**

On November 18, 2013, the parties filed a Joint Submission Identifying Discovery Matters On Which The Parties Are In Dispute. (ECF No. 186). In the submission, the parties request guidance regarding the procedure to be followed in bringing these matters before the Court. There appear to be seven (7) distinct discovery disputes that the parties claim are at impasse. Some appear related and can be consolidated. Unless the parties resolve their differences, the Court will expect, as provided below, five joint motions regarding the discovery disputes. As the disputes are now ripe, the joint motions must be filed within thirty (30) days, absent further order of the Court. Copies of correspondence between the parties shall not be filed, attached or appended. After reviewing the motions, the Court may decide to schedule an informal conference, schedule the matter for hearing or issue a ruling based upon the submissions.

1 1. Deposition Protocol Disputes

2 There are two disputes regarding depositions. There is a
3 dispute regarding the “general deposition protocol” and a dispute
4 regarding depositions pursuant to Fed.R.Civ.P. 30(b)(6), including the
5 use of depositions taken in the related *Byetta Cases* litigation in state
6 court (JCCP No. 4574). The Court believes that these disputes can be
7 handled together. The parties are to file a joint motion identifying the
8 areas in which they are in dispute. The joint motion may include a
9 statement of their positions in no more than ten (10) pages per side.
10 Proposed orders reflecting the competing proposals must be submitted in
11 an editable format (Word or WordPerfect) to
12 efile_dembin@casd.uscourts.gov.

13 2. Fact Sheet Disputes

14 There are two disputes regarding fact sheets. First, following
15 negotiations between the parties and some guidance from this Court, this
16 Court granted a joint motion of the parties approving the use of the
17 Plaintiff Fact Sheet in all of the related cases. *See Moses Scott v. Merck,*
18 *et al.*, 12cv2549, ECF No. 33. There is now a dispute over whether the
19 Plaintiff Fact Sheet should be modified. The other dispute pertains to a
20 proposed Defendant Fact Sheet.

21 The Court believes that these disputes can be handled together.
22 The parties are to file a joint motion identifying the areas in which they
23 are in dispute and may include a statement of their positions of no more
24 than ten (10) pages per side. The party seeking modification must
25 submit a proposed new Plaintiff Fact Sheet in an editable format (Word
26 or WordPerfect) to efile_dembin@casd.uscourts.gov. The competing
27 proposals regarding the Defendant Fact Sheet also must be submitted to
28 the Court as above.

1 3. Protective Order Dispute

2 The Court has entered a stipulated protective order applicable
3 to all member and related cases in the *Moses Scott* case. See ECF No. 32,
4 12cv2549. There appears to be a dispute regarding modification of that
5 Order. The parties are to file a joint motion identifying the areas of
6 dispute and may file a statement of their positions of no more than five
7 (5) pages per side. Proposed orders reflecting the competing proposals
8 must be submitted in an editable format (Word or WordPerfect) to
9 efile_dembin@casd.uscourts.gov.

10 4. ESI

11 The Court has endorsed an ESI Protocol between Plaintiffs
12 and Defendants Merck and Novo Nordisk. (ECF No. 188). There
13 appears to be a dispute regarding ESI between Plaintiffs and Defendants
14 Lilly and Amylin. The parties are to file a joint motion identifying the
15 areas of dispute and may file a statement of their positions of no more
16 than five (5) pages per side. Proposed orders reflecting the competing
17 proposals must be submitted in an editable format (Word or
18 WordPerfect) to efile_dembin@casd.uscourts.gov.

19 5. Insurance Coverage re: Defendant Amylin

20 There appears to be a dispute over disclosures by Defendant
21 Amylin regarding insurance coverage, specifically amounts remaining.
22 The parties may file a joint motion regarding this dispute and include
23 position statements of no more than five (5) pages per side including any
24 relevant case law.

25 IT IS SO ORDERED.

26 DATED: November 19, 2013

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Hon. Mitchell D. Dembin
U.S. Magistrate Judge