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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: INCRETIN MIMETICS ) MDL Case No.13md2452 AJB (MDD)  
PRODUCTS LIABILITY )  
LITIGATION ) As to all related and member cases  
 )  
 ) ORDER GOVERNING FILING OF  
 ) MASTER CONSOLIDATED  
 ) COMPLAINT, SHORT FORM  
 ) COMPLAINT, AND MASTER  
 ) CONSOLIDATED ANSWER(S)  
 )  
 ) (Doc. No. 202)

This order relates to the filing of the Master Consolidated Complaint, the Short Form Complaint for plaintiffs who have not already filed an individual complaint in this action, and the corresponding Master Answer(s) to be filed by the Defendants Amylin Pharmaceuticals, LLC (“Amylin”), Eli Lilly and Company (“Lilly”), Merck Sharp & Dohme (“Merck”) and Novo Nordisk Inc. (“Novo”) (collectively “Defendants”).<sup>1</sup> The purpose of this order is to streamline the filing and answering of individual complaints and to promote a “just, speedy, and inexpensive determination” of this action. Fed. R. Civ. P. 1

**I. Master Consolidated Complaint**

The Master Consolidated Complaint submitted by Plaintiffs’ Lead Counsel is hereby approved and should be separately filed in the MDL. (Doc. No. 202, Ex. A.)

<sup>1</sup> However, any Plaintiff who has already filed a Complaint in this action may file an amended complaint, without leave of Court, adopting the Master Consolidated Complaint and filing an individual Short Form Complaint.

1 Plaintiffs who wish to avail themselves of the Master Consolidated Complaint may do so  
2 without first seeking leave of Court.

3 **II. Master Short Form Complaint**

4 The Master Short Form Complaint submitted by Plaintiffs' Lead Counsel is hereby  
5 approved and should be separately filed in the MDL. (Doc. No. 202, Ex. B.) Plaintiffs  
6 who wish to utilize the Master Short Form Complaint may do so by following the direct  
7 filing procedures set forth in the Court's Direct Filing Order dated November 13, 2013.  
8 (Doc. No. 184.)

9 **III. Additional Defendants or Products**

10 If any plaintiff wishes to name any additional defendants or add additional  
11 products other than those named in the Master Consolidated Complaint, the plaintiff may  
12 not utilize the Master Consolidated Complaint. Rather, that plaintiff must file an  
13 individual complaint pending further order of this Court as to whether use of a Master  
14 Complaint in those cases will be permissible. Defendants reserve the right to contest the  
15 inclusion of any additional defendant(s) or additional product(s) in this proceeding. Any  
16 complaint naming a defendant or a product not listed in the Master Consolidated Com-  
17 plaint is beyond the scope of this Order.

18 **IV. Master Answers**

19 Pursuant to the Court's November 25, 2013 Order, Defendants, individually or  
20 jointly, must submit a Master Consolidated Answer(s) to the Master Consolidated  
21 Complaint. (Doc. No. 200.) Upon approval of the Court, Defendants must separately file  
22 the Master Answer(s) in the MDL.

23 **V. Future Amendments/Challenges and Defendants' Reserved Rights to**  
24 **Dispositive Motions**

25 The parties will meet and confer with respect to the timing and procedure for filing  
26 any amendments or challenges to the Master Consolidated Complaint, Short Form  
27 Complaint, and/or Master Answer(s). Defendants reserve their rights and do not other-  
28 wise waive their ability to later challenge or move to dismiss certain counts alleged in the

1 Master Consolidated Complaint (at the appropriate time in any individual plaintiff's  
2 action), including cases that may be selected for inclusion in a discovery pool or Bell-  
3 wether trial pool. Any proposed Order submitted to this Court for a process of selecting  
4 cases for inclusion in a discovery or Bellwether trial pool must include the proposed  
5 procedure for the filing of dispositive motions applicable to those cases. Furthermore, by  
6 agreeing to the form of the Master Consolidated Complaint and Master Short Form  
7 Complaint, Defendants have not agreed to or admitted the allegations set forth in those  
8 documents, nor have Defendants conceded or waived their right to dispute the legal  
9 validity of the claims alleged therein.

10 **VI. Voluntary Dismissals**

11 After the Master Answer(s) has been filed in the MDL it will be deemed adopted in  
12 every case. As a result, following the filing of the Master Answer(s), any plaintiff who  
13 wishes to voluntarily dismiss any case filed in the MDL, transferred to the MDL, or  
14 removed to the MDL must comply with Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

15  
16 IT IS SO ORDERED.

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18 DATED: December 2, 2013

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21 Hon. Anthony J. Battaglia  
22 U.S. District Judge  
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