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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: INCRETIN MIMENTICS
PRODUCTS LIABILITY LITIGATION

Case No. 3:13-md-02452-AJB-MDD

**PLAINTIFFS' NOTICE OF
THIRD PARTY DEPOSITION**

This Document Relates to All Cases

Hon. Anthony J. Battaglia

**PLAINTIFFS' NOTICE OF INTENTION TO TAKE THE
ORAL/VIDEOTAPED DEPOSITION OF THIRD PARTY WITNESS**

PURSUANT TO FED. R. CIV. P. 30(b)(1) AND 45

TO ALL PARTIES HEREIN AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, pursuant to Federal Rules of Civil Procedure 30(b)(1) and 45, the Plaintiff Steering Committee for the In Re: Incretin Mimetics Product Liability Litigation hereby notices the deposition of **JAY SKYLER, M.D., Diabetes Research Institute Foundation**, 200 S. Park Road, Suite 100 Hollywood, FL 33021. This deposition may be videotaped and Plaintiff provides

1 notice to the other parties to this action that the deposition may be used at the time
2 of trial. The taking of this deposition may be adjourned from day to day until
3 completed, and may occur over several days as may be necessary.
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5 **DATE OF DEPOSITION: January 30, 2014**

6 **TIME OF DEPOSITION: 9:30 a.m.**

7
8 **LOCATION OF DEPOSITION: Babbitt, Johnson, Osborne & Le**
9 **Clainche, P.A.**
10 **1641 Worthington Road**
11 **West Palm Beach, Florida**

12 **INSTRUCTIONS**

- 13 1. In responding to this Subpoena for the Production of Documents, you are
14 required to produce all documents known or reasonably available to you,
15 regardless of whether such documents are in your possession, custody or
16 control of your agents, consignees, representatives or investigators, or your
17 attorneys or their agents, employees, representatives, or investigators.
18
- 19 2. All documents produced in response to this subpoena shall be either:
- 20 a. Produced in the order and in the manner that they are kept in the
21 usual course of business; or
22
- 23 b. Organized and labeled to correspond with the categories in the
24 subpoena.
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- 26 3. Documents attached to each other should not be separated.
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1 4. All documents that exist in electronic form are to be produced in electronic
2 form and in their native form or other searchable form, not in an electronic
3 form that is merely a picture of a document, such as a TIFF file or a PDF
4 file.
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6 5. In the event that any Document called for by this Subpoena for Production
7 of Documents is being withheld under claim of privilege, work product, or
8 for any other reason, please set forth the following information:
9

10 a. The general subject matter of the document and a description of the
11 file or other location where it was found;
12

13 b. The title, heading or other location where it was found;

14 c. The date appearing on the document (if no date appears thereon, then
15 the approximate date on which the document was prepared);
16

17 d. The general nature or description of the document (i.e., whether it is
18 a letter, memorandum, invoice, etc.), including the number of pages,
19 attachments and appendices of which it consists;
20

21 e. The identity of each person who prepared, authored or signed the
22 document;
23

24 f. The identity of each person to whom the document (or copy or blind
25 copy thereof) was addressed and/or sent;
26

27 6. In the event that any Document called for by this Subpoena for the
28 Production of Documents has been destroyed, discarded, otherwise

1 disposed of, or no longer exists, that Document is to be identified as
2 completely as possible, including, without limitation, the following
3 information: author(s), addressee(s), indicated or blind copy recipient(s),
4 date, subject matter, date of disposal, reason for disposal, person
5 authorizing disposal of the Document, and identify its last known location
6 and the reason it is no longer in existence.
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- 8
- 9 7. In the event that any information is redacted from a Document produced
10 pursuant to this Subpoena for the Production of Documents, that
11 information is to be identified, and the basis upon which such information
12 is redacted is to be fully stated.
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15 **DEFINITIONS**

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- 17 A. “DOCUMENTS” includes all types of documents, data, and tangible
18 things that are discoverable under the Federal Rules of Civil
19 Procedure, regardless of their form, including, but not limited to all
20 documents and electronically stored information in your possession,
21 custody or control- including writings, drafts, drawings, graphs,
22 charts, photographs, sound recordings, films, images,
23 correspondence, e-mails, notes, publications, DVDs, CDs, and other
24 data or data compilations – stored in any medium from which
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1 information can be obtained either directly or indirectly or, if
2 necessary, translated into a reasonably usable form.

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4 B. A "DOCUMENT" is deemed to be in the actual or constructive
5 possession, custody or control of a deponent if it is in a deponent's
6 physical custody or if it is in the physical custody of any person that
7 a deponent oversees, supervises or directs and the deponent (a) owns
8 such document in whole or in part; (b) has a right by control,
9 contract, statute, industry or academic custom (or otherwise), to use,
10 inspect, examine, or copy such document; (c) has an understanding,
11 express or implied that he may use, inspect, examine or copy such
12 document in any terms; or (d) has, as a practical matter, been able to
13 use, inspect, examine, or copy such document when he has seen fit to
14 do so as Deputy Director for Clinical Research and Academic
15 Programs, Diabetes Research Institute Foundation, University of
16 Miami.

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18 C. "RELATED TO," means regarding, reflecting, concerning, showing,
19 relating to, referring to, describing, evidencing, or constituting.

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21 D. "COMMUNICATION" means any exchange or transfer of
22 information in the form of acts, ideas, inquiries, or otherwise,
23 whether written, oral, electronic or in any other form.
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E. As used in this Notice, the term “YOU” means the answering deponent.

F. As used in this Notice, the term “RESEARCH” means all scientific, medical, historical, clinical, animal, epidemiological, mega analysis, data, regulatory, financial or other studies, investigations, tests, papers, presentations, posters, articles, literature, reports, etc. that the deponent has participated in (as an investigator, author, researcher, director, drafter, coordinator, signatory, etc.) as (i) is reflected on your curriculum vitae attached hereto as Exhibit A and made a part hereof, and/or (ii) you are currently participating in any way.

G. As used in this Notice, the term “FUNDED RESEARCH” means any and all scientific, medical, historical, clinical, animal, epidemiological, regulatory, financial or other studies, investigations, tests, papers, presentations, posters, articles, literature, reports, etc. that the deponent has participated in (as an investigator, author, researcher, director, drafter, coordinator, signatory, etc.) and that were/are funded/paid for/supported in whole or in part (including but not limited to, the provision of payments, product, facilities or other material support) by Amylin Pharmaceuticals, Inc., AstraZeneca Pharmaceuticals, LP, Boehringer Ingelheim Pharmaceuticals, Inc.,

1 Bristol Meyers Squibb Company, Eli Lilly and Company, Merck and
2 Company and/or Novo Nordisk, Inc.

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4 H. As used in this Notice, the term “CONSULTANT
5 ENGAGEMENTS” means any and all positions held, personal
6 services provided, appointments to and/or projects undertaken for
7 Amylin Pharmaceuticals, Inc., AstraZeneca Pharmaceuticals, LP,
8 Boehringer Ingelheim Pharmaceuticals, Inc., Bristol Meyers Squibb
9 Company, Eli Lilly and Company, Merck and Company and/or Novo
10 Nordisk, Inc., including but not limited to, the following activities:
11 research, presentations, speaking engagements, publication,
12 review/analysis of research by others; participation on boards,
13 advisory committees and groups and/or any other activities
14 associated with Amylin Pharmaceuticals, Inc., AstraZeneca
15 Pharmaceuticals, LP, Boehringer Ingelheim Pharmaceuticals, Inc.,
16 Bristol Meyers Squibb Company, Eli Lilly and Company, Merck and
17 Company and/or Novo Nordisk, Inc. that the deponent engaged in.

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22 I. As used in this Notice, the term “ASSOCIATED WITH” means to be
23 employed by, consultant to, agent of, volunteer with, owner of,
24 advisor to, board member of or otherwise affiliated with an entity.

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27 J. As used in this Notice, the term “BUTLER ARTICLE” refers to that
28 certain published scientific paper as follows: Butler PC, Dry D,

1 Elashoff D. *GLP-1–Based Therapy for Diabetes: What You Do Not*
2 *Know Can Hurt You.* **Diabetes Care**, February 2010 33:453-455.

3
4 K. As used in this Notice, the term “BUTLER ARTICLE II” refers to
5 that certain published scientific paper as follows:

6 Butler PC, Elashoff M, Elashoff R, Gale EAM. *A critical analysis of*
7 *the clinical use of incretin-based therapies: are the GLP-1 therapies*
8 *safe?* **Diabetes Care** 2013;36:2118–2125.

9
10 L. As used in this Notice, the term “BUTLER ARTICLE III” refers to
11 that certain published scientific paper as follows: Butler AE,
12 Campbell-Thompson M, Gurlo T, Dawson DW, Atkinson M, Butler
13 PC. *Marked Expansion of Exocrine and Endocrine Pancreas with*
14 *Incretin Therapy in Humans with Increased Exocrine Pancreas*
15 *Dysplasia and the Potential for Glucagon-Producing*
16 *Neuroendocrine Tumors.* **Diabetes** 2013;62:2595–2604.

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19 M. “GLP-1” means glucagon-like peptide 1.

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21 N. “DPP-4” means dipeptidyl peptidase-4.

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23 O. “GLP-1 Based Therapies” means any medication in the drug classes
24 of GLP-1 agonists and DPP-4 inhibitors, including, but not limited
25 to, exenatide (Byetta), extended release exenatide (Bydureon),
26 liraglutide (Victoza), sitagliptin (Januvia), saxagliptin (Onglyza),
27 alogliptin (Trajenta), alogliptin (Nesina) and any other medication
28

1 that combines a GLP-1 agonist or DPP-4 inhibitor with any other
2 medication.

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4 **REQUESTS FOR PRODUCTION OF DOCUMENTS**

5 Pursuant to F.R.C.P. 30(b)(2) and 45(a)(1)(C & D), the deponent is hereby
6 requested and expected to produce any and all of the following DOCUMENTS:

- 7 1. Any and all documents related to GLP-1 Based Therapies, including,
8 but not limited to, research, communications and consulting
9 engagements with respect thereto.
- 10 2. Your current Curriculum Vitae.
- 11 3. Any and all documents related to any analysis of GLP-1 Based
12 Therapies research (whether completed by you or others).
- 13 4. Any and all documents related to the research, drafting and/or
14 publication of the article, *An Analysis of Characteristics of Subjects*
15 *Examined for Incretin Effects on Pancreatic Pathology*. **Diabetes**
16 **Technology & Therapeutics**, Vol. 15, Num. 8, 2013;
17 10.1089/dia.2013.0177, including all interim versions or drafts of the
18 article.
- 19 5. Any and all documents related to your Author Disclosure Statement
20 in the article, *An Analysis of Characteristics of Subjects Examined*
21 *for Incretin Effects on Pancreatic Pathology*. **Diabetes Technology**
22 **& Therapeutics**, Vol. 15, Num. 8, 2013; 10.1089/dia.2013.0177,
23 including all interim versions or drafts of the Author Disclosure
24 Statement.
- 25 6. Any and all documents related to the Butler Article.
- 26 7. Any and all documents related to the Butler Article II.
- 27 8. Any and all documents related to the Butler Article III.
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- 9. Any and all communications related to the Butler Article, including, but not limited to, communications with other researchers/scientists/physicians/colleagues and anyone who (a) was at the time of the communication, and/or (b) currently is associated with, the following entities: Amylin Pharmaceuticals, Inc., AstraZeneca Pharmaceuticals, LP, Boehringer Ingelheim Pharmaceuticals, Inc., Bristol Meyers Squibb Company, Eli Lilly and Company, Merck and Company and/or Novo Nordisk, Inc.
- 10. Any and all communications related to the Butler Article II, including, but not limited to, communications with other researchers/scientists/physicians/colleagues and anyone who (a) was at the time of the communication, and/or (b) currently is associated with, the following entities: Amylin Pharmaceuticals, Inc., AstraZeneca Pharmaceuticals, LP, Boehringer Ingelheim Pharmaceuticals, Inc., Bristol Meyers Squibb Company, Eli Lilly and Company, Merck and Company and/or Novo Nordisk, Inc.
- 11. Any and all communications related to the Butler Article III, including, but not limited to, communications with other researchers/scientists/physicians/colleagues and anyone who (a) was at the time of the communication, and/or (b) currently is associated with, the following entities: Amylin Pharmaceuticals, Inc., AstraZeneca Pharmaceuticals, LP, Boehringer Ingelheim Pharmaceuticals, Inc., Bristol Meyers Squibb Company, Eli Lilly and Company, Merck and Company and/or Novo Nordisk, Inc.
- 12. Any and all documents related to GLP-1, DPP-4, GLP-1 Based Therapies, pancreatic cancer, pancreatic pathology, pancreatic neuroendocrine tumors and pancreatic necrosis, including a potential

1 association GLP-1 and DPP-4 based diabetes medications and
2 pancreatic cancer.

3 13. Any and all manuscripts of any research related to GLP-1, DPP-4,
4 GLP-1 Based Therapies, including interim versions or drafts,
5 submitted for publication by you or on your behalf.

6 14. Any and all communications with the United States Food and Drug
7 Administration related to GLP-1, DPP-4, GLP-1 Based Therapies,
8 including documents and/or research that you identified and/or
9 supplied thereto.

10 15. Any and all communications with the European Medicines Agency
11 related to GLP-1, DPP-4, GLP-1 Based Therapies, including
12 documents and/or research that you identified and/or supplied
13 thereto.

14 16. Any and all of the following documents related to your Funded
15 Research: contracts, invoices, purchase orders, correspondence,
16 accounting statements, honoraria, communications,
17 checks/drafts/instruments, receipts or other evidence of charges,
18 payments and/or material support for such Funded Research.

19 17. Any and all of the following documents related to your Consultant
20 Engagements: contracts, invoices, purchase orders, correspondence,
21 accounting statements, honoraria, communications,
22 checks/drafts/instruments, receipts or other evidence of charges and
23 payments for such Consultant Engagements.

24 18. Any and all documents related to your ownership of, investment
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1 and/or equity interest in, the following companies: Amylin
2 Pharmaceuticals, Inc., AstraZeneca Pharmaceuticals, LP, Boehringer
3 Ingelheim Pharmaceuticals, Inc., Bristol Meyers Squibb Company,
4 Eli Lilly and Company, Merck and Company and/or Novo Nordisk,
5 Inc. during the period January 1, 2008 through the present date.
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8 19. Any and all communications with Amylin Pharmaceuticals, Inc.,
9 AstraZeneca Pharmaceuticals, LP, Boehringer Ingelheim
10 Pharmaceuticals, Inc., Bristol Meyers Squibb Company, Eli Lilly and
11 Company, Merck and Company and/or Novo Nordisk, Inc. or their
12 counsel reflecting or referring to this deposition notice, the deposition
13 and/or the production of documents.
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18 Dated: December 30, 2013

Respectfully submitted:

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22 By: /s/ Neal L. Moskow
23 Neal L. Moskow
24 Plaintiffs' Counsel
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Dated: December 30, 2013

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