

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

IN RE: INCRETIN MIMETICS
PRODUCTS LIABILITY
LITIGATION

Case No. 13-md-2452-AJB-MDD

As to all related and member cases

**CASE MANAGEMENT ORDER
LIMITATIONS GOVERNING
WRITTEN DISCOVERY**

This Order relates to the number of Interrogatories and Requests for Production that Plaintiffs may serve on Defendants relating to non-case specific discovery. This Order does not address the number of case-specific Interrogatories and Requests for Production that an individual Plaintiff may serve on Defendants. Those limits will be governed by the Federal Rules of Civil Procedure, unless otherwise agreed to by the parties and/or ordered by this Court in a future Order. This Order results from a negotiated agreement between the parties, and is intended to streamline written discovery in an effort to promote a “just, speedy, and inexpensive determination” of this action, as required by the Federal Rules of Civil Procedure.

1 This Order relates only to the number of Interrogatories and Requests for
2 Production that Plaintiffs may serve in this MDL. It does not address any other aspect
3 of discovery.

4 A. Previously-Served Interrogatories and Requests for Production.

5 1. Prior to the formation of this MDL, Plaintiffs served Interrogatories and
6 Requests for Production on Defendants.

7 2. Plaintiffs are voluntarily withdrawing those prior Interrogatories and
8 Requests for Production and supplanting them with the Interrogatories and Requests
9 for Production served in this MDL.

10 3. To the extent that Interrogatories and Requests for Production served in
11 this MDL are duplicative of the requests that have now been withdrawn, Defendants
12 may refer to their prior responses to the extent they are responsive to the new requests.

13 B. Interrogatories.

14 1. Plaintiffs maintain that to-date they have served 54 Interrogatories in this
15 MDL on each Defendant. Many of those Interrogatories contain sub-parts.
16 Defendants contend that Plaintiffs have served more than 54 Interrogatories because
17 they contend that certain sub-parts should be counted as separate Interrogatories under
18 Fed. R. Civ. P. 33(a)(1). However, for purposes of reaching an agreement, and while
19 reserving their rights to challenge Plaintiffs' count of future Interrogatories containing
20 sub-parts, Defendants agree to count the Interrogatories that Plaintiffs have served to-
21 date as 54. Defendants retain their right to object to the Interrogatories on all other
22 grounds, as appropriate.

23 2. In any dispute regarding the counting of subparts of future
24 Interrogatories, Defendants reserve their right to challenge Plaintiffs' count of future
25 Interrogatories served if Defendants believe the sub-parts are discrete and therefore
26 should be counted separately. Plaintiffs may argue that subparts should not be
27 counted as separate Interrogatories, but Plaintiffs will not cite the counting of the

1 Interrogatories and subparts served to-date as precedent for how future interrogatories
2 and subparts should be counted.

3 3. Plaintiffs will not serve more than 75 Interrogatories, except for good
4 cause shown. The parties will meet-and-confer in advance of Plaintiffs serving more
5 than 75 Interrogatories to determine if good cause exists. If Defendants do not believe
6 good cause exists, they reserve their right to object to responding to additional
7 Interrogatories on that basis.

8 4. The issue of how to count additional Interrogatories will not be put
9 before the Court piecemeal, but will be presented to the Court for resolution in the
10 form of a joint motion only if one or more Defendants contend a limit has been
11 exceeded without a showing of good cause and any Defendant objects on that basis.

12 C. Request for Production.

13 1. To-date, Plaintiffs have served between 178 and 174 Requests for
14 Production in this MDL on each Defendant.

15 2. Plaintiffs may serve up to 200 Requests for Production on each
16 Defendant.

17 3. Plaintiffs will not serve more than 200 Requests for Production, except
18 for good cause shown. The parties will meet-and-confer in advance of Plaintiffs
19 serving more than 200 Requests for Production to determine if good cause exists. If
20 Defendants do not believe good cause exists, they reserve their right to object to
21 additional Requests for Production on that basis.

22 //

23
24
25
26
27
28

1 4. The issue of how to count additional Requests for Production will not be
2 put before the Court piecemeal, but will be presented to the Court for resolution in the
3 form of a joint motion only if one or more Defendants contend a limit has been
4 exceeded without a showing of good cause and any Defendant objects on that basis.
5
6

7 IT IS SO ORDERED.

8
9 DATED: February 27, 2014



Honorable Mitchell D. Dembin
United States Magistrate Judge

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28