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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 FOLLOWING MAY 28, 2014
) CASE MANAGEMENT
) CONFERENCE

On May 28, 2014, the Court held a Case Management Conference to address remaining issues following the March 4, 2014 Case Management Conference as well as issues raised by the Parties in their Joint Agenda. The following is a summary of the proceedings.

1. The parties are continuing to meet and confer regarding a data end-point with respect to Defendant Eli Lilly. Specifically, the parties will continue discussions as to the date for eight of the designated custodians. The parties agree that the data end- point for the two Lilly custodians with direct involvement in clinical trials will be February 28, 2014. Moreover, Defendant Eli Lilly has agreed to provide Plaintiffs’ counsel a list of fourteen countries where Eli Lilly has involvement with regards to the drug Byetta. The parties will update the Court regarding these efforts at the next case management conference on July 1, 2014.

- 1 2. Defendants have agreed to certify complete production of “FDA files” as
2 defined and outlined by the Court’s March 25, 2014 Order. (Doc. No. 377.)
3 All supplements will be provided by June 1. Counsel for Defendants have
4 represented that “EMA files” will be made available by June 16, 2014, with
5 the exception of Defendant Eli Lilly who will produce the files on June 16,
6 2014 or soon thereafter, at a date they will shortly designate for plaintiffs.
- 7 3. All custodian files must be produced on or before June 16, 2014. The
8 Parties will inform the Court as to completion of this at the July 1, 2014
9 status conference.
- 10 4. Plaintiffs notified the Court that around 50% of Defendants’ responses
11 made to Plaintiff’s interrogatories state that the information will be provided
12 at a future date. The Court instructed that Defendants must specify a
13 tentative date as to when the information will be made available to Plain-
14 tiffs.
- 15 5. With regards to the Court’s May 14, 2014 Order denying the motion to file
16 documents under seal, the Parties have informed the Court that the Order is
17 unworkable. There is a dispute between the Parties as to if sealing is
18 warranted for many of the documents designated as Confidential. Accord-
19 ingly, Defendants must file their motion to seal setting forth the legal
20 standard and analysis by May 29, 2014. Plaintiffs will file their response by
21 June 5, 2014. The Court will continue to hold the currently lodged docum-
22 ents under seal.
- 23 6. The Court advised the Parties to amend the current Protective Order by
24 including a clause on advance notice of a parties intention to file documents
25 marked as “confidential” by any other party.
- 26 7. The Parties are continuing to work on drafting deposition and privilege
27 protocols. The Court will intervene if the Parties are unable to resolve all
28 disputes. A standardized format for privilege logs will be advantageous.

1 The Parties will inform the Court on efforts made at the July 1, 2014 status
2 conference.

3 8. The Parties are in the process of drafting a proposed Decedent Estate Order
4 allowing the Court to appoint interim estate representatives for purposes of
5 this litigation.

6 9. There are currently fifty-five cases in which the alleged injury is thyroid
7 cancer. These cases are not included within the MDL. Counsel will confer
8 on a plan of coordination of all thyroid cases in this district.

9 10. The Court advised counsel that all meet and confer proceedings need to be
10 in person or by telephone. While letters and emails can be useful to set
11 agenda's and confirm agreements, they do not in and of themselves satisfy
12 the meet and confer requirements of this court, its local rules or Fed. R. Civ.
13 P. 26.

14 The next Case Management Conference is scheduled for **July 1, 2014 at 9:00 am.**
15 At approximately 9:00 am, the Court will meet and confer with members of Plaintiffs'
16 Lead and Liaison Counsel and Defendants' Steering Committee in chambers. This
17 informal meeting will be followed by an on the record session beginning at approxi-
18 mately 10:00 am in Courtroom 3B. The parties may appear in person or telephonically
19 for the July 1, 2014 conference. Any call-in instructions, topics for discussion, and a list
20 of the individuals who will be appearing telephonically must be submitted to the Court
21 via e-file no later than **June 27, 2014.**

22 Oral arguments on Defendants' pending motion for summary judgment will
23 commence shortly thereafter.

24 IT IS SO ORDERED.

25
26 DATED: June 2, 2014

27 
28 Hon. Anthony J. Battaglia
U.S. District Judge