

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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IN RE: NEW YORK BEXTRA AND CELEBREX :  
PRODUCT LIABILITY LITIGATION :  
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CASE MANAGEMENT  
ORDER NO. 5

**Appointment Of The Honorable Fern Smith As Special Master**

1. The Honorable Charles R. Breyer, overseeing the Multidistrict Litigation No. 1699 ("MDL"), pending in the United States District Court for the Northern District of California, has appointed the Honorable Fern Smith, United States District Judge (Retired), as a Special Master to assist the MDL in this litigation. In a continuing effort to coordinate discovery and pretrial procedures in the New York Coordinated Proceeding with those in the MDL, the parties have agreed to the appointment of the Honorable Fern Smith as Special Master in the New York Coordinated Proceeding. The Court anticipates that Judge Smith will assist the Court with matters such as discovery, case management, and case resolution procedures and will also consult with the parties and the Court on trial selection issues. The Court also anticipates that Judge Smith will consult with the parties and the Court on other issues on which the parties and the Court wish to utilize her services.

2. Any party that wishes to be heard with respect to such appointment must notify Plaintiffs' Steering Committee (for any counsel representing a plaintiff) or Defendants' Liaison Counsel (for any counsel representing a defendant) by 5:00 p.m. Eastern Standard Time, ~~April~~

5, 2006.

3. The Plaintiffs' Steering Committee and Defendants' Liaison Counsel are directed to meet and confer with each other and, after doing so, meet jointly with Judge Smith, with

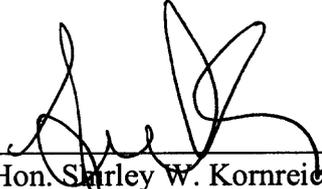
**FILED**  
APR 27 2006  
NEW YORK  
COUNTY CLERK'S OFFICE  
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respect to an order appointing her as Special Master. The parties shall submit a joint proposed order appointing Judge Smith as Special Master by May 12, 2006.

4. The Court requests that Judge Smith notify the Court if she is willing to accept such appointment and, if so, to file an affidavit disclosing whether there is any ground for disqualification pursuant to New York law.

SO ORDERED.

Dated: April 21 2006  
New York, New York

  
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Hon. Shirley W. Kornreich, J.S.C.

**FILED**  
APR 27 2006  
NEW YORK  
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