

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

IN RE: NEW YORK BEXTRA AND CELEBREX
PRODUCT LIABILITY LITIGATION

Index No. 762000/06

CASE MANAGEMENT
ORDER NO. 15

THIS DOCUMENT APPLIES TO ALL CASES

Equipment and Techniques for Videotaped Depositions

1. **Order Applicable to All Product Liability Plaintiffs In The New York Coordinated Bextra and Celebrex Proceeding.** This Order shall apply to all plaintiffs who allegedly suffered personal injury from taking Bextra and/or Celebrex in cases currently pending in the Supreme Court of the State of New York, County of New York, and to all related product liability actions that have been or will be originally filed in, transferred to, this Court and assigned thereto (collectively, "the Coordinated Proceeding"). This Order is binding on all parties and their counsel in all product liability cases currently pending or subsequently made a part of this proceeding and shall govern each case in the proceeding unless it explicitly states that it relates only to specific cases.

2. **Scope of Order.** Pursuant to paragraph 31(b) of Case Management Order No. 8, the parties have met and conferred regarding the equipment and techniques to be used to videotape depositions of witnesses in the Coordinated Proceeding, and in particular have reviewed the sample order in the *Manual for Complex Litigation, Fourth*, § 40.29, paragraph 9(b)(1)(i) to (v). This Order shall govern any and all depositions in the Coordinated Proceeding.

3. **Video Operator.** The operator(s) of the videotape recording equipment shall be subject to the provisions of CPLR 3113(a) and 22 NYCRR 202.15. At the commencement of the deposition the operator(s) shall swear or affirm to record the proceedings fairly and accurately.

4. **Attendance.** Each witness, attorney, and other person attending the deposition shall be identified on camera at the commencement of the deposition. Thereafter, only the deponent

(and any demonstrative materials and exhibits used during the deposition, which may be taped via split screen) will be videotaped.

5. Standards. The deposition will be conducted in a manner to replicate, to the extent feasible, the presentation of evidence at a trial. Unless physically incapacitated, the deponent shall be seated at a table or in a witness box except when reviewing or presenting demonstrative materials for which a change in position is needed, or by agreement between the parties. To the extent practicable, the deposition will be conducted in a neutral setting, against a solid background, with only such lighting as is required for accurate video recording. Lighting, camera angle, lens setting, and field of view will be changed only as necessary to record accurately the natural body movements of the deponent or to portray exhibits and materials used during the deposition. Sound levels will be altered only as necessary to record satisfactorily the voices of counsel and the deponent. Eating and smoking by deponents or counsel during the deposition will not be permitted.

6. Interruptions. Videotape recording will be suspended during all “off the record” discussions.

7. Index. The videotape operator shall use a counter on the recording equipment and after completion of the deposition shall prepare a log, cross-referenced to counter numbers, that identifies the positions on the tape at which examination by different counsel begins and ends, objections are made and examination resumes at which exhibits are identified, and any interruption of continuous tape recording occurs, whether for recesses, “off the record” discussions, mechanical failure, or otherwise.

8. Use of Depositions at Trial. Prior to any trial, the parties shall meet and confer with respect to the use of any videotaped deposition testimony or exhibits (including exhibits displayed through trial software such as Trial Director, Summation, or Concordance).

9. No Amendment to Other Case Management Orders. This Order shall not be construed to amend any other provision of the Case Management Orders entered by this Court.

SO ORDERED.

Dated:

May 17, 2007


SHIRLEY WERNER KORNREICH
Hon. Shirley W. Kornreich, J.S.C. **J.S.C.**

FILED
MAY 21 2007
NEW YORK
COUNTY CLERKS OFFICE