

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

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IN RE: NEW YORK DIET DRUG LITIGATION

Index No. 700000/98

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THIS DOCUMENT APPLIES TO ALL DIET DRUG  
CASES VENUED IN NEW YORK COUNTY

**STIPULATED  
AMENDMENT TO  
CASE MANAGEMENT  
ORDER NO. 11**

*July*  
~~June~~ 8, 1999

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Pursuant to Case Management Order No. 1 ("CMO No. 1") approved in these coordinated cases on May 28, 1998, this Court, *inter alia*, established steering committees, and joint subcommittees, of plaintiffs' and defendants' counsel to coordinate pre-trial discovery in these cases. On May 3, 1999 this Court signed CMO No. 11 creating a procedure for clustering cases for discovery purposes and protocols for depositions. The Plaintiffs' and Defendants' Discovery Subcommittees have reached agreement regarding an amendment to the procedure for clustering. This Order, amends CMO No. 11 by replacing paragraphs I.2(b) and I.2(c) with the revised paragraphs contained herein. All other paragraphs and provisions of CMO No. 11 remain unchanged and in full force and effect. This Order applies to all diet drug cases which are presently or hereafter assigned to the undersigned.

**I. Clustering of Diet Drug Cases for Discovery**

New York Diet Drug cases will be clustered for the purposes of discovery as follows:

**2. Selecting Cases For A Cluster**

(b) Subject to the provisions of paragraph 2(a) above with respect to the cases receiving expedited treatment pursuant to CMO No. 10, Plaintiffs' and Defendants' Discovery

Subcommittees shall each be entitled to choose, from the list of cases eligible for clustering, ten of the cases composing a particular cluster. In selecting cases for a cluster from the list of eligible cases, the respective subcommittees shall consider the law firms which commenced the eligible cases to attempt to ensure that clustering of cases is done fairly as among plaintiffs' counsel.

(c) The first cluster shall be made on or before June 15, 1999. A second cluster shall be made on or before August 1, 1999. Thereafter, additional cases shall be clustered on or before the 15th day of the months of September, November, January, March, May and July, until all eligible diet drug cases have been clustered. Clusters shall be identified by cluster date (the "Cluster Date") consisting of the month and year of their designation date.

Dated:

~~June 8~~  
July 8, 1999

New York, New York

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**SO ORDERED.**

  
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Helen E. Freedman, J.S.C.