

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

-----X  
IN RE: NEW YORK DIET DRUG LITIGATION

Index No. 700000/98

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

**ORDER WITH  
NOTICE OF ENTRY**

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PLEASE TAKE NOTICE that the attached Case Management Order No. 6 of  
which the within is a true copy was signed by the Honorable Helen E. Freedman on December  
15, 1998.

Dated: New York, New York  
December 15, 1998

SIMPSON THACHER & BARTLETT

By: 

Thomas C. Rice

Office and Post Office Address  
425 Lexington Avenue  
New York, New York 10017-3954  
(212) 455-2000

Defendants' Liaison Counsel

To: All Counsel of Record on the Master Service List in effect as of December 1, 1998.

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CASE MANAGEMENT  
ORDER NO. 6  
December 5, 1998

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**I. Compliance with Plaintiffs' Initial Disclosure**

Pursuant to Case Management Order No. 2 entered in these coordinated cases on July 9, 1998, this Court, established a Uniform Demand for Verified Bill of Particulars in Individual Cases and a uniform set of interrogatories, document requests and request for authorizations entitled Plaintiff's Initial Discovery (the "PID"). This Order contains provisions to be followed in the event plaintiffs fail to comply with CMO No. 2 and applies to all diet drug cases which are presently or hereafter assigned to the undersigned.

**A. Compliance with Disclosure of Plaintiffs**

1. No sooner than twenty (20) days after the date on which a PID and Bill of Particulars are due, a defendant may serve a notice on counsel for those plaintiffs who they believe have failed to comply with CMO No. 2 either by failing to provide a PID and/or Bill of Particulars or by providing a PID or Bill of Particulars that is incomplete, including, without limitation, a PID that fails to provide the information required in Section V of the PID (entitled

"DIET DRUG USE") that identifies which defendant(s) product(s) has been ingested by the plaintiff.

2. Within twenty (20) days of receipt of such notice, plaintiff shall serve a completed PID or Bill of Particulars or, in the case of an incomplete PID or Bill of Particulars, a supplemental PID or Bill of Particulars on all parties entitled to service of the original PID and Bill of Particulars.

3. In the event that plaintiff fails to serve a responsive PID or Bill of Particulars pursuant to paragraph 1 of this Order, within the twenty-day period, a defendant may serve an additional notice on counsel for plaintiff informing plaintiff's counsel of ~~their~~ the continuing breach of this Order and CMO No. 2 and further advise that if this breach is not corrected, an application may be made to the Court for the imposition of sanctions including, but not limited to, dismissal of the non-compliant plaintiff's complaint.

4. No sooner than 20 days after the service of notice pursuant to paragraph 3 of this Order, a defendant may make an application to the Court for the imposition of such sanctions.

**II. Other Matters**

1. Defendants' Liaison Counsel is hereby directed to serve a copy of this Order with notice of entry on all counsel who have appeared in these actions.

SO ORDERED.

Dated: December 5, 1998  
New York, New York

  
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Helen E. Freedman, J.S.C.