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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE: BEXTRA AND CELEBEX  
MARKETING SALES PRACTICES AND  
PRODUCT LIABILITY LITIGATION

CASE NO. M:05-CV-01699-CRB  
MDL No. 1699

This Order Relates to:  
ALL CASES.

**PRETRIAL ORDER NO. 12: FILING OF  
COMPLAINTS WITH MULTIPLE  
PLAINTIFFS**

1. Order Applicable to All Multi-Plaintiff Product Liability Cases in MDL Proceedings. This Order shall apply to any complaint in which more than one individual plaintiff alleges that he or she took Bextra® and/or Celebrex® and suffered personal injury as a result thereof (“multi-plaintiff product liability actions”). The multi-plaintiff product liability actions are distinguished from the “purchase claims,” as that term is defined in paragraph 21 of Pretrial Order No. 2, and do not include complaints in which only one individual alleges taking Bextra® and/or Celebrex® and suffering personal injury as a result thereof but which involve more than one plaintiff (e.g., cases in which a spouse is asserting only a loss of consortium claim or multiple representatives – such as children – are suing on behalf of an estate). The Order shall apply to all multi-plaintiff product liability actions currently pending in MDL No. 1699 and to all such related actions that have been or will be originally filed in, transferred to, or removed to this Court and assigned thereto. This Order is binding on all parties and their counsel in all such cases currently

1 pending or subsequently made part of these proceedings and shall govern each such case in the  
2 proceedings unless it explicitly states that it relates to specific cases.

3       2.     No Joinder for Trial Purposes Absent Motion by Plaintiffs. The filing of any  
4 multi-plaintiff product liability actions shall not result in such plaintiffs' claims being joined for  
5 trial or any other purposes, absent a Court order issued after a duly-noticed motion filed by such  
6 plaintiffs' counsel pursuant to the procedures established in this Court's pretrial orders. In  
7 making any such motion, the burden shall remain on the party seeking joinder to establish that  
8 joinder is appropriate. Further, the filing of any multi-plaintiff product liability actions shall not  
9 be construed as a determination by the Court that such plaintiffs should be permissively or  
10 otherwise joined under the Federal Rules of Civil Procedure, nor shall the filing of such actions  
11 be construed as a waiver of any defendant's contention that such joinder is improper.

12       3.     Severance of Multi-Plaintiff Product Liability Actions Upon Remand or Transfer.  
13 Prior to remand or transfer of any case that is part of these MDL proceedings at any time to  
14 another United States District Court, the claims of each individual plaintiff who alleges that he or  
15 she took Bextra® and/or Celebrex® and suffered personal injury as a result thereof shall be  
16 severed from the claims of any other individual plaintiff who alleges that he or she took Bextra®  
17 and/or Celebrex® and suffered personal injury as a result thereof, without further motion by any  
18 party in the MDL proceedings or in the court to which the claims are remanded or transferred.  
19 Claims made by individuals who are plaintiffs for reasons other than allegedly taking Bextra®  
20 and/or Celebrex® and suffering personal injury as a result thereof (*e.g.*, cases in which a spouse is  
21 asserting only a loss of consortium claim or multiple representatives – such as children – are  
22 suing on behalf of an estate) (“derivative plaintiffs”) shall not be severed from the claims of the  
23 individual who alleges that he or she took Bextra® and/or Celebrex® and suffered personal injury  
24 as a result thereof from which the derivative plaintiffs' claims arise.

25       4.     Venue for Remanded Cases. Absent consent of all parties to a multi-plaintiff  
26 product liability action, the claims of each individual plaintiff who alleges that he or she took  
27 Bextra® and/or Celebrex® and suffered personal injury as a result thereof, as well as the claims  
28 of any derivative plaintiffs related thereto, shall be remanded or transferred to the United States

