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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: BEXTRA AND CELEBREX
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. 15:
AMENDMENT OF PRETRIAL ORDER
NO. 4 WITH RESPECT TO
DESIGNATION OF EXAMINERS AT
DEPOSITIONS OF PFIZER WITNESSES**

1. Order Applicable to All Cases in MDL Proceedings. This Order shall apply to all cases currently pending in MDL No. 1699 and to all related actions that have been or will be originally filed in, transferred to, or removed to this Court and assigned thereto (collectively, “the MDL proceedings”). This Order is binding on all parties and their counsel in all cases currently pending or subsequently made part of these proceedings and shall govern each case in the proceedings unless it explicitly states that it relates to specific cases.

2. Amendment to Pretrial Order No. 4, Paragraph 30. Pursuant to paragraph 30 of Pretrial Order No. 4, the Plaintiffs’ Steering Committee (“PSC”) for the MDL (“the MDL PSC”) was permitted to designate up to two attorneys to examine a deponent who was currently or formerly affiliated with the Pfizer Entities (“the Pfizer depositions”). Paragraph 30 is hereby amended to read as follows:

1 30. Number of Examiners.

2 a. Designation of Examiners for Plaintiffs. The MDL PSC may
3 designate no more than two attorneys to examine a deponent. Counsel for plaintiffs who have
4 claims relating to Bextra® and/or Celebrex® pending in any State Court (collectively, “the State
5 Court plaintiffs’ counsel”) may designate one examiner from each State in which litigation is
6 pending. The MDL PSC shall meet and confer with the State Court plaintiffs’ counsel with
7 respect to such designations.

8 b. Sharing of Time. The examining attorneys designated by the MDL
9 PSC and the State Court plaintiffs’ counsel shall share time at such depositions, which shall be
10 limited to two seven-hour days pursuant to Pretrial Order No. 4, paragraph 25(c). The two-day
11 limitation and sharing of time is intended to ensure that the State Court plaintiffs’ counsel have an
12 appropriate amount of time to pursue their particular interests. Accordingly, the MDL PSC and
13 the State Court plaintiffs’ counsel shall meet and confer with respect to the division of time so as
14 to ensure that the interests of the State Court plaintiffs’ counsel are adequately addressed.

15 c. Coordination with Other Counsel and Avoidance of Duplication
16 Where Practicable. The Plaintiffs’ attorney(s) designated to conduct the examination by the
17 MDL PSC and the State Court plaintiffs’ counsel shall coordinate where practicable with each
18 other so as to conduct as thorough and non-duplicative an examination as is practicable. Any
19 Plaintiffs’ counsel in any related federal or state action who is not so designated may suggest
20 matters for inquiry in any deposition noticed in these actions by providing to the MDL PSC, the
21 State Court plaintiffs’ counsel, and their designee(s) a written list and brief explanation of such
22 matters. The examiner(s) designated by the State Court plaintiffs’ counsel may cover the same
23 topics or issues covered by the examiner designed by the MDL PSC, but the MDL PSC and the
24 State Court plaintiffs’ counsel shall coordinate the conduct of depositions to avoid duplication.

25 d. Designation of Examiners for Defendants. Defendants’ Liaison
26 Counsel may select up to two attorneys to examine a deponent, one of whom shall be counsel for
27 a physician or other health care provider Defendant (unless no such counsel wishes to be so
28 designated). Any Defendants’ counsel in any related federal or state action who is not so

1 designated may suggest matters for inquiry in any deposition noticed in these actions by
2 providing to Defendants' Liaison Counsel and her designee(s) a written list and brief explanation
3 of such matters.

4 e. Notice of Designees. Each side must identify its designated
5 examiner(s) at the beginning of each deposition.

6 f. Use of Depositions in MDL and State Court Proceedings. Any
7 examination conducted by any examiner may be used in the MDL proceedings, consistent with
8 the law, rules of procedure and evidence, and orders of this Court. Any depositions taken in these
9 MDL proceedings may be used in any State Court action, in accordance with that State's law,
10 rules of procedure and evidence.

11 3. Amendment to Pretrial Order No. 4, Paragraph 31. Pursuant to paragraph 31 of
12 Pretrial Order No. 4, questioning at depositions is conducted in the following sequence: (1) the
13 examiner(s) designated by the Liaison Counsel noticing the deposition, in the order designated by
14 Liaison Counsel; (2) the examiner(s) designated by the opposing Liaison Counsel, in the order
15 designated by Liaison Counsel; (3) individual counsel for the deponent, if any; and (4) any re-
16 cross and/or redirect by such counsel, in the same order. Paragraph 31 is hereby amended to read
17 as follows:

18 31. Sequence of Examination. Questioning at the depositions will be
19 conducted in the following sequence for depositions noticed by the MDL PSC and/or the State
20 Court plaintiffs' counsel, unless the MDL PSC and the State Court plaintiffs' counsel agree to a
21 different sequence for their examinations for a particular deposition: (1) the examiner designated
22 by the MDL PSC (if any, or an additional examiner designated by the State Court plaintiffs'
23 counsel where the MDL PSC does not designate an examiner); (2) the examiner(s) designated by
24 the State Court plaintiffs' counsel (if any, or an additional examiner designated by the MDL PSC
25 where the State Court plaintiffs' counsel do not designate an examiner); (3) the examiner(s)
26 designated by Defendants' Liaison Counsel, in the order designated by Defendants' Liaison
27 Counsel; (4) individual counsel for the deponent, if any; and (5) any re-cross and/or redirect by
28 such counsel, in the same order. Questioning at the depositions will be conducted in the

1 following sequence for depositions noticed by Defendants' Liaison Counsel: (1) the examiner(s)
2 designated by Defendants' Liaison Counsel, in the order designated by Defendants' Liaison
3 Counsel; (2) the examiner designated by the MDL PSC (if any, or an additional examiner
4 designated by the State Court plaintiffs' counsel where the MDL PSC does not designate an
5 examiner); (3) the examiner(s) designated by the State Court plaintiffs' counsel (if any, or an
6 additional examiner designated by the MDL PSC where the State Court plaintiffs' counsel do not
7 designate an examiner); (4) individual counsel for the deponent, if any; and (5) any re-cross
8 and/or redirect by such counsel, in the same order.

9 4. No Effect on Jurisdiction of State Courts or MDL Court. Nothing in this Order
10 shall be construed to enlarge, diminish, or alter the respective jurisdictions of this Court or the
11 State Courts.

12 5. No Other Amendment to Pretrial Order No. 4. This Order shall not be construed
13 to amend any other provision of Pretrial Order No. 4.

14 **IT IS SO ORDERED.**

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16 Dated: July 5, 2006

17 /s/
HONORABLE CHARLES R. BREYER
18 UNITED STATES DISTRICT JUDGE
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