

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: CLOZAPINE)
ANTITRUST LITIGATION) CASE NO. MDL 874
)
) THIS DOCUMENT RELATES
) TO: ALL CASES
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) Hon. Harry D. Leinenweber

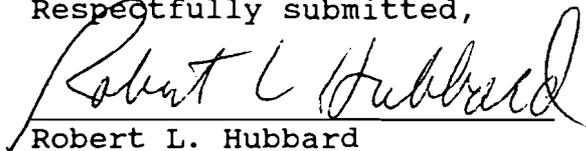
NOTICE OF MOTION

To: Attached Service List

PLEASE TAKE NOTICE that on June 3, 1991 at 9:30 a.m. or as soon thereafter as counsel may be heard, the States shall appear by conference call before the Honorable Harry D. Leinenweber, and present the States' Memorandum in Support of Amended Order No. 2 and Protective Order, a copy of which is attached hereto.

Dated: May 23, 1991
New York, New York

Respectfully submitted,



Robert L. Hubbard
Assistant Attorney General
Administrative Liaison Counsel
for the States
120 Broadway, Suite 2601
New York, New York 10271
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6:rlh\not5-23.ny1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: CLOZAPINE)
ANTITRUST LITIGATION) CASE NO. MDL-874
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_____)
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) Hon. Harry D. Leinenweber

STATES' MEMORANDUM IN SUPPORT OF
AMENDED ORDER NO. 2
AND PROTECTIVE ORDER

Plaintiff States¹ submit this memorandum in support of the States' request to amend Order No. 2 and to enter a protective order. In support of those requests, Plaintiff States say as follows:

AMENDED ORDER NO. 2

1. The States propose and counsel for Sandoz and Caremark consent to entry of proposed Amended Order No. 2, which is attached as Exhibit A. (Exhibit A also includes a comparison of Order No. 2 with proposed Amended Order No. 2, which highlights additions and strikes deletions.) Proposed Amended Order No. 2 more accurately describes the Plaintiff States' organization and authority; the eight state Case Management Committee will coordinate the activities of the thirty-three state plaintiffs.

¹ The Plaintiff States are Alabama, Arizona, California, Colorado, Connecticut, Delaware, Florida, Idaho, Iowa, Kansas, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin and the District of Columbia.

The other requested changes are intended to clarify the record, by identifying the Chair and other members of the Case Management Committee and by setting forth the parties' agreement on service and filing issues.

STATES' MOTION FOR A PROTECTIVE ORDER

2. The States recognize that discovery material in this action may include material entitled to protection under Rule 26(c) of the Federal Rules of Civil Procedure, such as trade secret information or confidential patient information. Thus, both before and after the May 3, 1991, status conference, the States sought an agreement with the defendants on a protective order. The States and the defendants have been unable to reach agreement. Therefore, the States now request this Court to enter the protective order in the form attached as Exhibit B.

3. The States understand that Caremark and Sandoz object only to paragraphs 2(a) and 3 of the proposed order. Paragraph 2(a) addresses the issue of which individuals may be given access to confidential documents. The proposed order explicitly provides that confidential information may be shared with State employees solely for purposes of the litigation and only on the condition that those employees agree in writing to be bound by the protective order.

4. Counsel for the States consult regularly with employees of State mental health and Medicaid agencies on questions of fact. To prepare adequately for trial and to respond to factual and legal arguments made by defendants, counsel for the States may need to

give confidential information to these other State employees. The States believe that concerns about improper use of this information are addressed adequately by requiring anyone gaining access to agree in writing to be bound by the terms of the protective order and the limitation in paragraph 2(b) that the information may only be used for the purposes of the litigation.

5. As to paragraph 3, the States and the defendants agree that the proponent of a "confidential" designation bears the burden of persuasion. The dispute centers on which party has the burden of bringing a dispute to the Court. The States' proposed order provides that after being notified of a party's opposition to a "confidential" designation, the proponent of the designation must move the Court within fifteen days to protect the information or lose the benefits of the confidential designation.

6. The proponent of the designation should make the motion. The proponent designates what information is "confidential" and bears the burden of proving that the designation is appropriate. Because the proponent may abuse the "confidential" designation, the proponent should bear the burden of moving the Court to resolve disputes over designation.

7. The defendants have made extensive use of the "confidential" stamp. For example, defendant Caremark recently produced to the States twelve boxes of documents with each page designated as "confidential." Many of the documents are not "confidential" within the meaning of Rule 26(c) and, in fact, have already been made public. Caremark cannot and should not defend

the designation of these documents as "confidential" and therefore should bear the burden of moving the Court to protect these documents. If Caremark is obliged to make the motion, Caremark might abandon its frivolous position without Court intervention. Requiring the States to make this motion would be inefficient and judicially uneconomical.

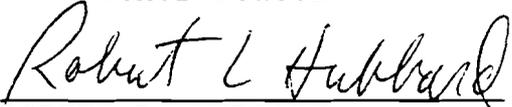
WHEREFORE, Plaintiff States respectfully requests that this Court enter Amended Order No. 2 and the Protective Order.

Dated: New York, New York
May 23, 1991

Respectfully submitted,

ROBERT ABRAMS
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of New York
Attorney for Plaintiff New York
State and on behalf of the
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By:


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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: CLOZAPINE ANTITRUST LITIGATION) CASE NO. MDL-874
)
) THIS DOCUMENT RELATES
) TO: ALL CASES
AMENDED ORDER NO. 2

Initial status hearing having been held and concluded on May 3, 1991, and on motion by the States dated May 23, 1991, **IT IS HEREBY ORDERED:**

1. The letter submitted to the court by Laurel A. Price for the State of New Jersey, dated April 25, 1991, and the letter submitted by Michael Sennett of Bell, Boyd & Lloyd, dated May 1, 1991, are stricken.

2. **Organization.** The state plaintiffs have agreed that the State cases assigned to this court on April 9, 1991, together with the State cases assigned to this court on April 29, 1991, will be coordinated in these proceedings by an eight state Case Management committee. James Spencer, Special Assistant Attorney General for the State of Minnesota, serves as Chair of that committee. Assistant Attorney General for the State of New York, Robert L. Hubbard, has been designated as Administrative Liaison counsel for the States. Perry Goldberg and Howard Sedran are designated as Co-Administrative Liaison Counsel for the private plaintiffs.

3. **Service of Documents.** This Court's presumption is that service by first class mail in these actions shall be made upon all parties, including all 33 States. A party may choose to serve by hand, overnight delivery, or telecopy if such service is made upon:

For California: Thomas Greene
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(916) 324-5205 (telecopy)

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(203) 523-5536 (telecopy)

For Massachusetts: Pasqua Scibelli
Assistant Attorney General
Commonwealth of Massachusetts
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For Minnesota: James Spencer
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For New Jersey: Laurel A. Price
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(609) 292-1533 (telecopy)

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Assistant Attorney General
Antitrust Bureau
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(212) 964-5143 (telecopy)

For Virginia: Milton A. Marquis
Assistant Attorney General
Antitrust and Consumer
Litigation Section
101 North Eight Street

Richmond, Virginia 23219
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(804) 786-1991 (telecopy)

For Washington:

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Assistant Attorney General
for State of Washington
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(206) 464-7663
(206) 587-5636 (telecopy)

For Sandoz:

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Gray, Plant, Mooty, Mooty & Bennett, P.A.
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Minneapolis, MN 55402
(612) 343-2800
(612) 333-0066 (telecopy)

For Caremark:

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Chicago, IL 60602
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(312) 372-2098 (telecopy)

For Newell:

Howard Sedran
Levin, Fishbein, Sedran & Berman
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Philadelphia, PA 19106
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(215) 592-4663 (telecopy)

For Dauer:

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Specks & Goldberg
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Chicago, IL 60606
(312) 715-4000
(312) 715-4800 (telecopy)

All other parties may be served by first class mail the following day. Service by telecopy shall be supplemented with service by first class mail the following day.

4. **Filing of Documents.** All amended complaints on the State cases are to be filed by July 2, 1991. Defendants to answer or otherwise plead by August 1, 1991. By previous order, plaintiff Newell is to amend his complaint by June 3, 1991. Defendants'

response is due by July 3, 1991.

5. **Class Certification.** Dauer and Newell are to file motions for class certification, with supporting documents, by June 3, 1991. Defendants' and the States' responses, if any, due July 18, 1991. Reply briefs due by August 1, 1991.

6. **Discovery.** Without limiting plaintiffs' right to take discovery, defendants shall have until June 3, 1991 to produce documents, answer interrogatories and requests to admit contained in States' Joint First Discovery Requests dated February 25, 1991. Defendants may commence discovery immediately on the issue of class certification. Depositions on the merits are stayed until July 19, 1991.

7. Parties are to submit confidentiality orders by May 17, 1991.

8. Actions filed by additional States in the Northern District of Illinois shall be deemed to have been filed in the Southern District of New York and transferred by order of the MDL Panel to the Northern District of Illinois.

IT IS SO ORDERED.

HARRY D. LEINENWEBER, JUDGE
United States District court

DATED:
6:rlh\order#2.amd

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: CLOZAPINE ANTITRUST LITIGATION) CASE NO. MDL-874

)
) THIS DOCUMENT RELATES
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3. **Service of Documents.** ~~Service of all documents is to be made to each member of the Case Management committee by Federal Express. Other counsel are to be served by next day regular U.S.~~

~~Mail. Service on defendants by plaintiffs is to be made by Federal Express. This Court's presumption is that service by first class mail in these actions shall be made upon all parties, including all 33 States. A party may choose to serve by hand, overnight delivery, or telecopy if such service is made upon:~~

~~For California: Thomas Greene
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For Dauer: Perry Goldberg
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10 S. Wacker Drive, Suite 3500
Chicago, IL 60606
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5. **Class Certification.** Dauer and Newell are to file motions for class certification, with supporting documents, by June 3, 1991. Defendants' and the States' responses, if any, due July 18, 1991. Reply briefs due by August 1, 1991.

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8. Actions filed by additional States in the Northern District of Illinois shall be deemed to have been filed in the Southern District of New York and transferred by order of the MDL Panel to the Northern District of Illinois.

IT IS SO ORDERED.

/s/
HARRY D. LEINENWEBER, JUDGE
United States District court

DATED: May 8, 1991
6:rlh\order#2.rdl

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: CLOZAPINE ANTITRUST LITIGATION) CASE NO. MDL-874
)
) THIS DOCUMENT RELATES
) TO: ALL CASES

PROTECTIVE ORDER

On motion by the States dated May 23, 1991, **IT IS HEREBY ORDERED:**

1. Any party to this action and any non-party that is required to respond to discovery may designate that its responses to discovery (including, without limitation, documents produced, deposition testimony, and interrogatory answers) are confidential. In making such designations, the parties and all non-parties shall act conscientiously and in good faith. Confidential material may include patient and customer identification and information, trade secrets, and other confidential research, development, or commercial information within the meaning of Rule 26(c)(7) of the Federal Rules of Civil Procedure.

2. Any and all materials and discovery responses designated as confidential shall be subject to the following restrictions:

(a) They shall not be shown or made available to anyone other than the parties, employees of the parties, and experts retained by the parties, outside counsel for the parties, the support staffs of outside counsel, and any experts retained by outside counsel, all of whom shall agree in writing to be bound by the terms of this Order. For purposes of this Order, the parties

include agencies and subdivisions of the State plaintiffs but do not include anyone represented by the States in their parens patriae authority;

(b) They shall be used only for the purposes of this litigation;

(c) If submitted to the Court in connection with any proceedings herein, they shall be filed under seal; and any memoranda or other papers referring to such confidential material and discovery responses shall be filed under seal.

3. Any party may object to another party's designation of particular discovery materials as "confidential" by notifying the proponent of the designation in writing identifying specifically what material is believed to be inappropriately designated. Fifteen days after service of such objections, the designation will be considered to have been stricken unless during that time the proponent of the designation moves the Court for an order determining that a response to discovery be designated "confidential." Upon the filing of such a motion, the proponent of the confidential designation will have the burden of demonstrating the propriety of the designation. Upon the filing of such a motion, the discovery response so designated shall be treated as "confidential" unless and until the Court determines that a "confidential" designation is inappropriate.

4. No party has waived or curtailed its right to seek modification of this Order, as justice shall require, and this Order is without prejudice to the right of any party to seek

modification thereof, as justice shall require.

5. It is not the intent of this Order to prevent any party from offering in evidence any confidential material and discovery responses in conjunction with trial or other proceedings in this action; it is the intent of this Order to provide for appropriate confidentiality for such material and discovery responses at the time of their production in discovery, thereafter during the pendency of this action, and in the event that they are offered in evidence at trial or other proceedings in this action, including any appeals.

6. At the conclusion of this action including any appeals, each party that has received any such confidential material or discovery responses shall destroy the same or return the same to the producing party, at the option of the producing party.

IT IS SO ORDERED.

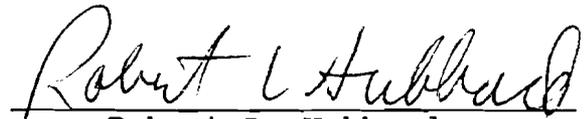
HARRY D. LEINENWEBER, JUDGE
United States District Court

Dated:

6:rlh\order26c.ny1

CERTIFICATE OF SERVICE

This is to certify that, on May 23, 1991, the undersigned served copies of the attached NOTICE OF MOTION AND STATES' MEMORANDUM IN SUPPORT OF AMENDED ORDER NO. 2 AND PROTECTIVE ORDER dated May 23, 1991, by telecopying same to Daniel Shulman, Michael Sennett, Howard Sedran, and Perry Goldberg. In addition, I will cause same to be mailed tomorrow in sealed envelopes, with first-class postage prepaid thereon, in an official depository of the U.S. Postal Service within the State of New York, addressed to the last known addresses of counsel for all parties on attached Service List.


Robert L. Hubbard

Dated: New York, New York
May 23, 1991

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Michael D. Hausfield
Cohn, Milstein, Hausfield,
& Toll
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Gray, Plant, Mooty, Mooty
& Bennett
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33 South 6th Street
Minneapolis, MN 55402

6:rlh\clozapn.srv

PROTO 52BB
MTNDDL

U.S. District Court
Northern District of Illinois (Chicago)

CIVIL DOCKET FOR CASE #: 91-CV-2431

In re: Clozapine Antitrust
Assigned to: Hon. Harry D. Leinenweber
Demand: \$0,000
Lead Docket: None
Dkt# in MDL Panel is MDL 874

Filed: 4/17/91
Jury demand: Defendant
Nature of Suit: 999
Jurisdiction: Federal Question

Cause: 15:1 Antitrust Litigation

CLOZAPINE ANTITRUST LITIGATION
In re

Proceedings include all events.

1:91cv2431 In re: Clozapine Antitrust

PROTO 52BB
MTNDDL

- 4/16/91 2 ORDER NO. I. (aew) [Entry date 04/30/91]
- 4/16/91 3 MINUTE ORDER of 4/16/91 before Honorable Harry D. Leinenweber : Enter Order No. I. Status hearing set for 05/03/91 at 1:30 p.m. Notice mailed 04/25/91. (Temporarily unavailable for docketing). (aew) [Entry date 04/30/91]
- 4/17/91 1 CERTIFIED COPY OF MDL TRANSFER ORDER (MDL 874) together with enclosure letter and Panel's Attorney Service List (Documents 1-1 through 1-3). (aew) [Entry date 04/30/91] [Edit date 05/22/91]
- 4/26/91 4 PRELIMINARY REPORT, joint, by plaintiffs Victor Dauer (90-C-6412 ND IL-ED) and Richard Newell (90-Civ-7724 SD NY) pursuant to Order No. I entered 04/16/91. (aew) [Entry date 04/30/91]
- 4/30/91 6 PRELIMINARY REPORT by defendant Caremark Inc. regarding S.D. of N.Y. cases 90 Civ. 7724, 8055, 8060, 8062-8065, 8067, 8069, 8071, 8073-8077, 8079-8082, 8084, 8086-8087, 8089, 8092, 91 Civ. 0244, 0921, 1043, 1165, 1219-1220, 1392, 1673, 1813-1814 (Exhibits). (aew) [Entry date 05/02/91]
- 5/1/91 -- MAILED 05/01/91: Letter to the Clerk of the USDC for the Southern District of N.Y. to the attention of Dorothy Guranich requesting transmittal of 24 case records pending in that Court together with 24 certified copies of the MDL Transfer Order by certified mail no. P 849 153 437. (cc: Judicial Panel on Multidistrict Litigation). (aew)
- 5/1/91 5 CERTIFICATE of mailing certified mail no. P 849 153 437. (aew) [Entry date 05/02/91]
- 5/1/91 7 STATUS REPORT statement of defendant Sandoz Pharmaceuticals Corporation. (aew) [Entry date 05/02/91]
- 5/1/91 8 MOTION by defendant Caremark Inc. to withdraw motion to dismiss. (aew) [Entry date 05/02/91]
- 5/1/91 9 NOTICE of motion to withdraw motion to dismiss [8-1] (aew) [Entry date 05/02/91]
- 5/1/91 10 MINUTE ORDER of 5/1/91 before Honorable Harry D. Leinenweber : The agreed motion to withdraw Caremark Inc.'s motion to dismiss [8-1] is granted. Notice mailed 05/02/91. (aew) [Entry date 05/02/91]
- 5/3/91 11 MINUTE ORDER of 5/3/91 before Honorable Harry D. Leinenweber : Parties granted leave to file appearances. Status hearing held. Notice not mailed. (aew) [Entry date 05/13/91]

Proceedings include all events.

1:91cv2431 In re: Clozapine Antitrust

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5/3/91 12 ATTORNEY APPEARANCE for defendant Sandoz Pharmaceuticals Corporation by Richard G. Braman and Quentin Wittrock. (aew) [Entry date 05/13/91]

5/3/91 13 RULE 39 Affidavit of Richard G. Braman. (aew) [Entry date 05/13/91]

5/3/91 14 RULE 39 Affidavit of Quentin Wittrock. (aew) [Entry date 05/13/91]

5/3/91 15 ATTORNEY APPEARANCE for plaintiff State of California by Thomas Greene. (aew) [Entry date 05/13/91]

5/3/91 16 RULE 39 Affidavit of Thomas Greene (aew) [Entry date 05/13/91]

5/3/91 17 ATTORNEY APPEARANCE for plaintiff State of North Carolina by K.D. Sturgis. (aew) [Entry date 05/14/91]

5/3/91 18 RULE 39 Affidavit of K.D. Sturgis. (aew) [Entry date 05/14/91]

5/3/91 19 ATTORNEY APPEARANCE for plaintiff State of Connecticut by Steven M. Rutstein. (aew) [Entry date 05/14/91]

5/3/91 20 RULE 39 Affidavit of Steven M. Rutstein (aew) [Entry date 05/14/91]

5/3/91 21 ATTORNEY APPEARANCE for plaintiff The State of New York by Robert L. Hubbard. (aew) [Entry date 05/14/91]

5/3/91 22 RULE 39 Affidavit of Robert L. Hubbard (aew) [Entry date 05/14/91]

5/3/91 23 ATTORNEY APPEARANCE for plaintiff Commonwealth of Massachusetts by Pasqua Scibelli. (aew) [Entry date 05/14/91]

5/3/91 24 RULE 39 Affidavit of Pasqua Scibelli. (aew) [Entry date 05/14/91]

5/3/91 25 ATTORNEY APPEARANCE for plaintiff The Commonwealth of Virginia by Milton A. Marquis. (aew) [Entry date 05/14/91]

5/3/91 26 RULE 39 Affidavit of Milton A. Marquis (aew) [Entry date 05/14/91]

5/3/91 27 ATTORNEY APPEARANCE for plaintiff State of Utah by Patrice M. Arent. (aew) [Entry date 05/14/91]

5/3/91 28 RULE 39 Affidavit of Patrice M. Arent (aew) [Entry date 05/14/91]

Proceedings include all events.

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- 5/3/91 29 ATTORNEY APPEARANCE for State of New Jersey by Laurel A. Price. (aew) [Entry date 05/14/91]
- 5/3/91 30 RULE 39 Affidavit of Laurel A. Price (aew) [Entry date 05/14/91]
- 5/3/91 31 LETTER directed to Judge Leinenweber dated 04/25/91 from plaintiff the State of New Jersey regarding defendant Caremark's application staying discovery pending a pretrial conference on 05/03/91. (aew) [Entry date 05/14/91]
- 5/3/91 32 LETTER directed to Judge Leinenweber dated 05/01/91 regarding letter from the State of New Jersey [31-1] and status of case. (aew) [Entry date 05/14/91]
- 5/3/91 36 ATTORNEY APPEARANCE by plaintiff State of Minnesota by James P. Spencer. (aew) [Entry date 05/15/91]
- 5/3/91 37 RULE 39 Affidavit of James P. Spencer. (aew) [Entry date 05/15/91]
- 5/8/91 33 ORDER NO. 2. (aew) [Entry date 05/14/91]
- 5/8/91 34 MINUTE ORDER of 5/8/91 before Honorable Harry D. Leinenweber : Enter Order No. 2: All amended complaints on parens patriae cases, including any new cases, are to be filed by 07/02/91. Defendants to answer or otherwise plead by 08/01/91. By previous order, plaintiff Newell is to amend his complaint by 06/03/91. Defendants' response due by 07/03/91. Dauer and Newell are to file motions for class certification, with supporting documents, by 06/03/91. Defendants' responses due 07/18/91. Reply briefs due by 08/01/91. Confidentiality orders to be submitted by 05/17/91. Status hearing set for 09/04/91 at 1:30 p.m. (For further detail see order attached to the original minute order form). Notice mailed by Judge's staff. (aew) [Entry date 05/14/91]
- 5/10/91 35 RETURN OF SERVICE of certified mail no. P 849 153 437 executed upon the Clerk of the USDC for the Southern District of New York on 05/08/91. (aew) [Entry date 05/14/91]
- 5/17/91 63 AGREED MOTION to file supplemental memoranda of law (rm) [Entry date 07/31/91]
- 5/20/91 40 CERTIFIED COPIES OF CONDITIONAL TRANSFER ORDERS (10) from the MDL Panel together with copy of letter from Panel (MDL 874). (aew) [Entry date 05/23/91]

Proceedings include all events.

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- 5/21/91 38 AGREED MOTION by defendant Caremark Inc. and attorney generals of various states, commonwealths and the District of Columbia to file supplemental memoranda of law regarding Caremark's motion to dismiss the States' actions; notice of motion. (aew) [Entry date 05/22/91]
- 5/21/91 39 MINUTE ORDER of 5/21/91 before Honorable Harry D. Leinenweber : Defendant Caremark Inc's agreed motion to file supplemental memoranda of law [38-1] is granted. Notice mailed 05/22/91. (aew) [Entry date 05/22/91]
- 5/23/91 -- MAILED enclosure letter together with 10 certified copies of MDL Conditional Transfer Order to the Clerk of the USDC for the Southern District of New York by certified mail no. P 688 448 828. (aew)
- 5/23/91 -- MAILED copy of enclosure letter directed to the Clerk of the USDC for the Southern District of New York requesting the transmittal of 10 of their cases pursuant to MDL Conditional Transfer Order. (aew)
- 5/24/91 41 RECEIPT Acknowledgment of mailing certified mail no P 688 448 828. (hp) [Entry date 05/29/91]
- 5/24/91 51 MEMORANDUM by plaintiff States' in support of amended order no. 2 and protective order (Exhibits); Notice of motion. (Temporarily unavailable for docketing). (hp) [Entry date 07/12/91]
- 5/29/91 42 RESPONSE by plaintiffs Dauer and Newell to States' memorandum in support of amended order No.2 and protective order. (hp) [Entry date 05/30/91]
- 5/29/91 43 LETTER from Gray, Plant, Mooty, etc. in Minneapolis, Minn. dated 05/17/91 directed to Judge Leinenweber regarding anticipated stipulation to complete an agreed confidentiality order as referenced in the Court's Order No. 2. (aew) [Entry date 06/03/91]
- 5/31/91 44 MOTION by plaintiffs Victor Dauer (90 C 6412) and Richard Newell (91 C 2992) for an extension of time in which to file their motion for class certification and their memorandum in support of motion for class certification; notice of (Exhibits). (aew) [Entry date 06/03/91] [Edit date 06/03/91]
- 5/31/91 45 MINUTE ORDER of 5/31/91 before Honorable Harry D. Leinenweber : Plaintiff's motion for an extension of time to 07/03/91 in which to file their motion for class certification with supporting brief [44-1] is granted. Defendants' response due by 08/16/91. Reply briefs due by 08/30/91. Notice mailed 06/03/91. (aew) [Entry date 06/03/91]

Proceedings include all events.

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- 6/3/91 46 SUPPLEMENTAL MEMORANDUM by defendant Caremark Inc in support of its motion to dismiss (Exhibits). (aew)
- 6/3/91 47 FIRST AMENDED COMPLAINT with jury demand by representative plaintiff Richard Newell and the class. (aew)
[Entry date 06/05/91]
- 6/3/91 64 SUPPLEMENTAL MEMORANDUM by defendant Caremark Inc. in support of its motion to dismiss (Exhibit 1-3). (rm)
[Entry date 07/31/91]
- 6/4/91 48 RECEIPT of return of certified no. P 688 448 828 (hp)
[Entry date 06/06/91]
- 6/14/91 49 MOTION by plaintiff State of Minnesota and on behalf of the other States for enlargement of page limit for States' memorandum opposing Caremark's motion to dismiss ; notice of motion. (hp) [Entry date 06/18/91]
- 6/14/91 50 MINUTE ORDER of 6/14/91 before Honorable Harry D. Leinenweber : The motion for enlargement of page limit for States' memorandum opposing Caremark's motion to dismiss is granted. [49-1] Notice mailed 06/18/91. (hp)
[Entry date 06/18/91]
- 6/17/91 65 JOINT SECOND REQUEST by States for production of documents (Attachment); Notice of filing; (rm) [Entry date 07/31/91]
- 6/18/91 52 MOTION by plaintiffs Dauer and Newell for an order requiring pretrial proceedings to be held in open court ; notice of motion. (Temporarily unavailable for docketing). (hp) [Entry date 07/12/91]
- 6/18/91 53 MINUTE ORDER of 6/18/91 before Honorable Harry D. Leinenweber : Plaintiffs' motion for an order requiring pretrial proceedings to be held in open court is continued to 06/19/91 at 1:30 p.m. [52-1] Notice not required, advised in open court. (hp) [Entry date 07/12/91]
- 6/26/91 54 SUBSTITUTE MEMORANDUM by plaintiff States' of points and authorities opposing Caremark Inc.'s motion to dismiss (Attachment). (Temporarily unavailable for docketing). (hp)
[Entry date 07/12/91]
- 6/26/91 66 SUBSTITUTE MEMORANDUM by plaintiff States of points and authorities opposing Caremark Inc.'s motion to dismiss. (rm)
[Entry date 07/31/91]
- 6/26/91 67 MOTION by plaintiffs to strike letter of 06/17/91 (Exhibit) (rm) [Entry date 07/31/91]

Proceedings include all events.

1:91cv2431 In re: Clozapine Antitrust

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MTNDDL

- 7/1/91 55 MINUTE ORDER of 7/1/91 before Honorable Harry D. Leinenweber : Class plaintiffs' motion for an order determining that certain documents have been inappropriately designated as "Confidential" is entered and continued generally. Discovery conference held. Notice not required, advised in open court. (hp) [Entry date 07/12/91]
- 7/3/91 56 ANSWER by defendant Caremark Inc. to plaintiff Richard Newell's FIRST AMENDED COMPLAINT. (Temporarily unavailable for docketing). (hp) [Entry date 07/12/91]
- 7/5/91 57 ANSWER by defendant Sandoz Pharmaceuticals Corporation to plaintiff Richard Newell's FIRST AMENDED COMPLAINT. (Temporarily unavailable for docketing). (hp) [Entry date 07/12/91]
- 7/5/91 68 ANSWER TO FIRST AMENDED COMPLAINT by Sandoz Pharmaceuticals Corporation. (rm) [Entry date 07/31/91]
- 7/8/91 58 SUPPLEMENTAL REPLY by defendant Caremark Inc. memorandum in support of its motion to dismiss (Exhibits). (Temporarily unavailable for docketing). (hp) [Entry date 07/12/91]
- 7/11/91 59 MOTION by class plaintiffs Dauer and Newell for an order determining that certain documents have been inappropriately designated as "confidential" (Exhibits); notice of motion. (hp) [Entry date 07/12/91] [Edit date 07/12/91]
- 7/18/91 60 STIPULATED PROTECTIVE ORDER (hp) [Entry date 07/19/91]
- 7/18/91 61 MINUTE ORDER of 7/18/91 before Honorable Harry D. Leinenweber : Enter stipulated protective order (For further detail see order attached to the original minute order form.) Notice mailed 07/19/91 (hp) [Entry date 07/19/91]
- 7/29/91 62 LETTER to Clerk of Court dated July 24, 1991 from Assistant Attorney General Hubbard. (pg) [Entry date 07/31/91]
- 8/12/91 69 NOTICE OF REQUEST by the State of Connecticut and on behalf of the other states for decision and oral argument of defendant's motion to dismiss (Attachment);. (hp) [Entry date 08/14/91]

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Name of Assigned Judge or Magistrate	Harry D. Leinenweber	Sitting Judge/Mag. If Other Than Assigned Judge/Mag.	
Case Number	90 C 6412 (MDL 874)	Date	May 21, 1991
Case Title	In Re: Clozapine Antitrust Litigation		

MOTION: [In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3d-party plaintiff, and (b) state briefly the nature of the motion being presented]

Defendant Caremark Inc.'s Agreed Motion
To File Supplemental Memoranda Of Law

DOCKET ENTRY: (The balance of this form is reserved for notations by court staff.)

(1) Judgment is entered as follows: (2) [Other docket entry:]

Defendant Caremark Inc's agreed motion to file supplemental memoranda of law is granted.

(3) Filed motion of (use listing in "MOTION" box above).

(4) Brief in support of motion due _____

(5) Answer brief to motion due _____ Reply to answer brief due _____

(6) Hearing on _____ set for _____ at _____

(7) Ruling _____ set for _____ at _____

(8) Status hearing held continued to set for reset for _____ at _____

(9) Pretrial conference held continued to set for reset for _____ at _____

(10) Trial set for reset for _____ at _____

(11) Bench trial Jury trial Hearing held and continued to _____ at _____

(12) This case is dismissed without with prejudice and without costs by agreement pursuant to FRCP 4(j) (failure to serve) General Rule 21 (want of prosecution) FRCP 41(a)(1) FRCP 41(a)(2)

(13) (For further detail see order on the reverse of order attached to the original minute order form.)

No notices required. Notices mailed by judge's staff. Notified counsel by telephone. Docketing to mail notices. Mail AO 450 form. Copy to judge/magistrate.	RECEIVED FROM DOCKETING MAY 21 7:14:15	36	number of notices	Document # 39
		MAY 22 1991	date docketed	
		aw	docketing dpty. initials	
		MAY 22 1991	date mid. notices	
courtroom deputy's initials 	Date/time received in central Clerk's Office	aw	mailing dpty. initials	

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS

Name of Assigned Judge or Magistrate Judge	Harry D. Leinenweber	Sitting Judge if Other Than Assigned Judge	
Case Number	91 C 2431 (MDL 874)	Date	June 14, 1991
Case Title	In Re: Clozapine Antitrust Litigation		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd-party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

Plaintiff States motion for enlargement of page limit

DOCKET ENTRY:

(1)	<input checked="" type="checkbox"/>	Filed motion of [use listing in "MOTION" box above]
(2)	<input type="checkbox"/>	Brief in support of motion due _____
(3)	<input type="checkbox"/>	Answer brief to motion due _____ Reply to answer brief due _____
(4)	<input type="checkbox"/>	<input type="checkbox"/> Ruling on _____ set for _____ at _____ <input type="checkbox"/> Hearing
(5)	<input type="checkbox"/>	Status hearing <input type="checkbox"/> held <input type="checkbox"/> continued to <input type="checkbox"/> set for <input type="checkbox"/> re-set for _____ at _____
(6)	<input type="checkbox"/>	Pretrial conf. <input type="checkbox"/> held <input type="checkbox"/> continued to <input type="checkbox"/> set for <input type="checkbox"/> re-set for _____ at _____
(7)	<input type="checkbox"/>	Trial <input type="checkbox"/> Set for <input type="checkbox"/> re-set for _____ at _____
(8)	<input type="checkbox"/>	<input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Hearing held and continued to _____ at _____
(9)	<input type="checkbox"/>	This case is dismissed <input type="checkbox"/> without <input type="checkbox"/> with prejudice and without costs <input type="checkbox"/> by agreement <input type="checkbox"/> pursuant to <input type="checkbox"/> FRCP 4(j) (failure to serve) <input type="checkbox"/> General Rule 21 (want of prosecution) <input type="checkbox"/> FRCP 41(a)(1) <input type="checkbox"/> FRCP 41(a)(2)
(10)	<input checked="" type="checkbox"/>	[Other docket entry] The motion for enlargement of page limit for States' memorandum opposing Caremark's motion to dismiss is granted.
(11)	<input type="checkbox"/>	[For further detail see <input type="checkbox"/> order on the reverse of <input type="checkbox"/> order attached to _____ the original minute order form.]

<input type="checkbox"/>	No notices required, advised in open court.		36	number of notices
<input type="checkbox"/>	No notices required.		JUN 18 1991	date docketed
<input type="checkbox"/>	Notices mailed by judge's staff.		918	docketing dpty. initials
<input checked="" type="checkbox"/>	Notified counsel by telephone.		JUN 18 1991	date mailed notice
<input type="checkbox"/>	Docketing to mail notices.			mailing dpty. initials
<input type="checkbox"/>	Mail AO 450 form.			
<input type="checkbox"/>	Copy to judge/magistrate Judge.			
<input checked="" type="checkbox"/>	courtroom deputy's Initials	Date/time received in central Clerk's Office		Document #

Document #
50

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS

Name of Assigned Judge or Magistrate Judge	Harry D. Leinenweber	Sitting Judge if Other Than Assigned Judge	
Case Number	MDL 874 (91 C 2431)	Date	June 18, 1991
Case Title	In Re: Clozapine Antitrust Litigation		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd-party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

Plaintiffs' motion for an order requiring pretrial proceedings to be held in open court.

DOCKET ENTRY:

(1)	<input checked="" type="checkbox"/>	Filed motion of [use listing in "MOTION" box above]
(2)	<input type="checkbox"/>	Brief in support of motion due _____
(3)	<input type="checkbox"/>	Answer brief to motion due _____ Reply to answer brief due _____
(4)	<input type="checkbox"/>	<input type="checkbox"/> Ruling on _____ set for _____ at _____ <input type="checkbox"/> Hearing
(5)	<input type="checkbox"/>	Status hearing <input type="checkbox"/> held <input type="checkbox"/> continued to <input type="checkbox"/> set for <input type="checkbox"/> re-set for _____ at _____
(6)	<input type="checkbox"/>	Pretrial conf. <input type="checkbox"/> held <input type="checkbox"/> continued to <input type="checkbox"/> set for <input type="checkbox"/> re-set for _____ at _____
(7)	<input type="checkbox"/>	Trial <input type="checkbox"/> Set for <input type="checkbox"/> re-set for _____ at _____
(8)	<input type="checkbox"/>	<input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Hearing held and continued to _____ at _____
(9)	<input type="checkbox"/>	This case is dismissed <input type="checkbox"/> without <input type="checkbox"/> with prejudice and without costs <input type="checkbox"/> by agreement <input type="checkbox"/> pursuant to <input type="checkbox"/> FRCP 4(j) (failure to serve) <input type="checkbox"/> General Rule 21 (want of prosecution) <input type="checkbox"/> FRCP 41(a)(1) <input type="checkbox"/> FRCP 41(a)(2)
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Plaintiffs' motion for an order requiring pretrial proceedings to be held in open court is continued to June 19, 1991 at 1:30P.M.
(11)	<input type="checkbox"/>	[For further detail see <input type="checkbox"/> order on the reverse of <input type="checkbox"/> order attached to _____ the original minute order form.]

<input checked="" type="checkbox"/>	No notices required, advised in open court.	ED-5 RECEIVED FOR DOCKETING 91 JUN 18 PM 4:28 JUL 2 1991 [Signature]	number of notices	Document # 53
<input type="checkbox"/>	No notices required.		date docketed	
<input type="checkbox"/>	Notices mailed by judge's staff.		docketing dpty. initials	
<input type="checkbox"/>	Notified counsel by telephone.		date mailed notice	
<input type="checkbox"/>	Docketing to mail notices.		mailing dpty. initials	
<input type="checkbox"/>	Mail AO 450 form.			
<input type="checkbox"/>	Copy to judge/magistrate Judge.			
<input type="checkbox"/>	courtroom deputy's initials	Date/time received in central Clerk's Office		

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS

Name of Assigned Judge or Magistrate Judge	Harry D. Le... weber	Sitting Judge if Other Than Assigned Judge	
Case Number	MDL 874 (91 c 2431)	Date	JULY 1, 1991
Case Title	IN RE; CLOZAPINE ANTITRUST LITIGATION		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd-party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

Class Plaintiffs' Motion for an Order determining that Certain Documents have been inappropriately designated as "Confidential"

DOCKET ENTRY:

(1) Filed motion of [use listing in "MOTION" box above]

(2) Brief in support of motion due _____

(3) Answer brief to motion due _____ Reply to answer brief due _____

(4) Ruling on _____ set for _____ at _____
 Hearing

(5) Status hearing held continued to set for re-set for _____ at _____

(6) Pretrial conf. held continued to set for re-set for _____ at _____

(7) Trial Set for re-set for _____ at _____

(8) Bench Trial Jury Trial Hearing held and continued to _____ at _____

(9) This case is dismissed without with prejudice and without costs by agreement pursuant to
 FRCP 4(j) (failure to serve) General Rule 21 (want of prosecution) FRCP 41(a)(1) FRCP 41(a)(2)

(10) [Other docket entry]
 Class Plaintiffs' motion for an order determining that certain documents have been inappropriately designated as "Confidential" is entered and continued generally. Discovery conference held.

(11) [For further detail see order on the reverse of order attached to _____ the original minute order form.]

<input checked="" type="checkbox"/> No notices required, advised in open court.	ED-5 RECEIVED FOR DOCKETING 91 JUL -1 PM 2:44 JUL 12 1991 [Signature]	number of notices	Document # 55
<input type="checkbox"/> No notices required.		date docketed	
<input type="checkbox"/> Notices mailed by judge's staff.		docketing dpty. initials	
<input type="checkbox"/> Notified counsel by telephone.		date mailed notice	
<input type="checkbox"/> Docketing to mail notices.		mailing dpty. initials	
<input type="checkbox"/> Mail AO 450 form.			
<input type="checkbox"/> Copy to judge/magistrate Judge.			
<input type="checkbox"/> [Signature] courtroom deputy's initials	Date/time received in central Clerk's Office		

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS

Name of Assigned Judge or Magistrate Judge	Harry D. Leinenweber	Sitting Judge if Other Than Assigned Judge	
Case Number	91 C 2431 (MDL 874)	Date	July 18, 1991
Case Title	In Re: Clozapine Antitrust Litigation		

MOTION: [In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd-party plaintiff, and (b) state briefly the nature of the motion being presented.]

Sent for Microfilming
 JUL 19 1991
 JUL 22 1991
 on _____

DOCKET ENTRY:

(1)	<input type="checkbox"/>	Filed motion of [use listing in "MOTION" box above]
(2)	<input type="checkbox"/>	Brief in support of motion due _____
(3)	<input type="checkbox"/>	Answer brief to motion due _____ Reply to answer brief due _____
(4)	<input type="checkbox"/>	<input type="checkbox"/> Ruling on _____ set for _____ at _____ <input type="checkbox"/> Hearing
(5)	<input type="checkbox"/>	Status hearing <input type="checkbox"/> held <input type="checkbox"/> continued to <input type="checkbox"/> set for <input type="checkbox"/> re-set for _____ at _____
(6)	<input type="checkbox"/>	Pretrial conf. <input type="checkbox"/> held <input type="checkbox"/> continued to <input type="checkbox"/> set for <input type="checkbox"/> re-set for _____ at _____
(7)	<input type="checkbox"/>	Trial <input type="checkbox"/> Set for <input type="checkbox"/> re-set for _____ at _____
(8)	<input type="checkbox"/>	<input type="checkbox"/> Bench Trial <input type="checkbox"/> Jury Trial <input type="checkbox"/> Hearing held and continued to _____ at _____
(9)	<input type="checkbox"/>	This case is dismissed <input type="checkbox"/> without <input type="checkbox"/> with prejudice and without costs <input type="checkbox"/> by agreement <input type="checkbox"/> pursuant to <input type="checkbox"/> FRCP 4(j) (failure to serve) <input type="checkbox"/> General Rule 21 (want of prosecution) <input type="checkbox"/> FRCP 41(a)(1) <input type="checkbox"/> FRCP 41(a)(2)
(10)	<input checked="" type="checkbox"/>	[Other docket entry] Enter Stipulated Protective Order.
(11)	<input checked="" type="checkbox"/>	[For further detail see <input type="checkbox"/> order on the reverse of <input checked="" type="checkbox"/> order attached to _____ the original minute order form.]

<input type="checkbox"/>	No notices required, advised in open court.	ED-5 RECEIVED FOR DOCKETING 91 JUL 19 AM 8:06	<input type="checkbox"/>	number of notices	Document # 61
<input type="checkbox"/>	No notices required.		35	date docketed	
<input type="checkbox"/>	Notices mailed by judge's staff.		JUL 19 1991	docketing dpty. initials	
<input checked="" type="checkbox"/>	Notified counsel by telephone.		JTB	date mailed notice	
<input type="checkbox"/>	Docketing to mail notices.		JUL 19 1991	mailing dpty. initials	
<input type="checkbox"/>	Mail AO 450 form.				
<input type="checkbox"/>	Copy to judge/magistrate Judge.				
<input checked="" type="checkbox"/>	courtroom deputy's Initials	Date/time received in central Clerk's Office			

RECEIVED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JUL 17 1991

Judge Harry D. Leinenweber
U. S. District Court

In re:

Clozapine Antitrust Litigation

THIS RELATES TO CASE NOS.
90-CIV-8060, 8063,
8055, 8079, 8062, 8064,
8065, 8067, 8069, 8071,
8073, 8074, 8092, 8075,
8076, 8077, 8080, 8081,
8082, 8084, 8086, 8087,
8089, and 91-CIV-0244,
0921, 1219, 1392, 1220,
1165, 1043, 1673, 1814,
and 1813

91c 2431

Case No. MDL - 874

Honorable Harry D.
Leinenweber

DOCKETED

JUL 19 1991

STIPULATED PROTECTIVE ORDER

1. Any party to this stipulation and any other person or entity that is required to respond to discovery may designate that its responses to discovery (including, without limitation, documents produced, deposition testimony, and interrogatory answers) are confidential. In making such designations, the parties and all non-parties shall act conscientiously and in good faith. Confidential material may include patient and customer identification and information, and trade secrets or other confidential research, development, or commercial information within the meaning of Rule 26(c)(7) of the Federal Rules of Civil Procedure.

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2. Any and all materials and discovery responses designated as confidential shall be subject to the following restrictions:

(a) They shall not be shown or made available to anyone other than counsel for the parties, the support staffs of counsel, and any experts or consultants retained or otherwise used by counsel, provided such experts and consultants agree in writing to be bound by the terms of this Order and that copies of the written agreements will be provided to counsel for the party which produced the discovery;

(b) They shall be used only for the purposes of this litigation;

(c) If submitted to the Court in connection with any proceedings herein, they shall be filed under seal; and any memoranda or other papers referring to such confidential material and discovery responses shall be filed under seal.

3. Any party may object to another party's designation of particular discovery materials as "confidential" by giving written notice to the maker of the designation. Said written notification shall specify each individual item believed to be inappropriately designated, and shall specify the reasons why each individual item is believed not to be confidential. Said written notification shall also state that the party challenging

the confidential designation will not release the information, if the confidential designation is removed, except for use in this litigation. Twenty-one days after the service of such objections, the designation will be considered stricken unless the maker of the designation moves the Court for an order determining that the designation is proper. Upon the filing of such a motion, the maker of the confidential designation shall have the burden of demonstrating the propriety of the designation. Unless and until the Court determines that a "confidential" designation is inappropriate, the discovery response so designated shall be treated as confidential.

4. By entering into this Stipulation for Protective Order, no party is waiving or curtailing its right to seek modification of this Order, as justice shall require, and this stipulation and protective order are without prejudice to the right of any party to seek modification thereof, as justice shall require.

5. It is not the intent of this Stipulation and Protective Order to prevent any party from offering in evidence any confidential material and discovery responses in conjunction with trial or other proceedings in this action; it is the intent of this Stipulation and Order to provide for appropriate confidentiality for such material and discovery responses at the time of their production in discovery, thereafter during the pendency of this action and in the event that they are offered in evidence at trial or other proceedings in this action.

6. At the conclusion of this action, including any appeals, each party that has received any such confidential material or discovery responses shall destroy the same or return the same to the producing party, at the option of the producing party.

Dated: July 13, 1991

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Dated: July 3, 1991

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Liaison Counsel for All Plaintiff
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IT IS SO ORDERED.

Harry D. Leinenweber

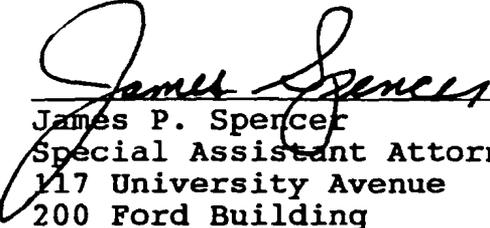
Harry D. Leinenweber, Judge
United States District Court

JUL 18 1991

Dated: _____, 1991

069079.46159.1799v

Dated: June 28, 1991

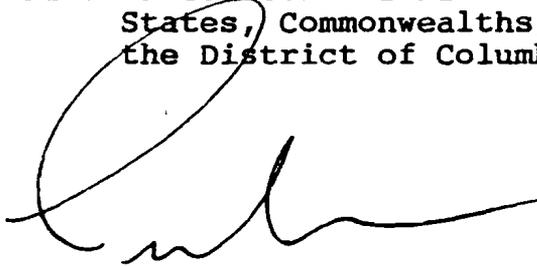

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IT IS SO ORDERED.



Harry D. Leinenweber, Judge
United States District Court

JUL 18 1991

Dated: _____, 1991

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