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JAN 22 2001

Judge
THOMAS F. HOGAN

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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IN RE:
VITAMINS ANTITRUST LITIGATION

MDL No. 1285

THIS DOCUMENT APPLIES TO:

Misc. No. 99-0197 (TFH)

American Home Products Corp. v. F. Hoffmann-La Roche Ltd, et al. 00 Civ. 3117 DLC (S.D.N.Y.)

Archer Daniels Midland Co. v. F. Hoffmann-La Roche Ltd, et al. 00CV2185 (N.D. Ill.)

Barton v. F. Hoffmann-La Roche Ltd, et al. 99-248 (E.D. Ky.)

Bayer Corp. v. F. Hoffmann-La Roche Ltd, et al. 00 CV 2329 (S.D.N.Y.)

Blue Seal Feeds v. Akzo Nobel, Inc., et al. 99-3226 (S.D. Ill.)

Bristol Myers Squibb Co. v. Rhone-Poulenc SA, et al. 00-0373 (S.D.N.Y.)

Cactus Operating v. Akzo Nobel, Inc., et al. 99-088 (N.D. Tx.)

Cargill Incorporated, et al. v. F. Hoffmann-La Roche Ltd, et al. 99-5167 (N.D. Ill. (E. Div.))

Countrymark Cooperative v. Akzo Nobel, Inc., et al. 99-1941 (S.D. Indiana)

Cox v. F. Hoffmann-La Roche Ltd, et al. 5:99-139 (S.D. MS W. Div.)

Crane v. BASF AG, et al. 99-2365 (D. SC Anderson Div.)

FILED

JAN 29 2001

NANCY MAVER WHITTINGTON, CLERK
U.S. DISTRICT COURT

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Foster Poultry Farms, Inc. v. BASF AG, et al. :
CIV (00-6384) (N.D. Ca.) :

Hill's Pet Nutrition, Inc. v. F. Hoffmann-La Roche :
Ltd, et al. 00-4001-RDR (Kansas) :

Kellogg Company v. BASF AG, et al. :
4:99CV75 (W.D. Mich.) :

Marshall Durbin Farms v. Akzo Nobel, Inc., et al. :
99CV0152 (N.D. Ga.) :

McShares, Inc. v. F. Hoffmann-La Roche Ltd, et al. :
00-2098 (Kansas) :

Meijer, Inc. v. F. Hoffmann-La Roche Ltd, et al. :
1:99-789 (W.D. Mich.) :

Pharmavite Corporation v. F. Hoffmann-La Roche :
Ltd, et al. 00-02764-WJR (C.D. Cal.) :

Procter & Gamble Co. v. BASF AG, et al. :
99-787 (S.D. Ohio) :

Publix Super Markets, Inc. v. F. Hoffmann-La :
Roche Ltd, et al. 8:99-2020 (M.D. Fla) :

Quaker Oats Co. v. BASF AG, et al. :
1:99CV 01972 (DC) :

Seaboard Corporation v. Akzo Nobel, Inc., et al. :
00-5005 (WD Ark.) :

Southern States v. Akzo Nobel, Inc., et al. :
99-70 (W.D. Va.) :

The Turkey Store Company v. Akzo Nobel, Inc., :
et al. 00-CV-298 (D. Minn) :

Tyson Foods, Inc. et al. v. Akzo Nobel, Inc., et al. :
99-5134 (W.D. Arkansas) :

Uckele Animal Health Distributing Company, Inc. :
v. BASF Corp., et al. 00-70652 (E.D. Mich) :

Vita-Watchers v. Hoffmann-La Roche Inc., et al. :
 99-1075 (S.D. C.A.) :
 :
 Livengood Feeds, Inc. et. al. v. Merck KGaA et. al. :
 Misc. No. 99-0197 (TFH), MDL 1285 (D.C. D.C.) :
 :
 Animal Science Products, Inc., et al. v. Chinook :
 Group, Ltd. Misc. No. 99-0197 (TFH) MDL 1285 :
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[Proposed]

STIPULATION AND ORDER REGARDING PERSONAL JURISDICTION
AND RE-FILING OF ACTIONS

WHEREAS pursuant to the June 7, 1999 order of the Judicial Panel on Multidistrict Litigation, numerous cases have been transferred to the United States District Court for the District of Columbia (the “D.C. Court”) for consolidated and coordinated pretrial proceedings pursuant to 28 U.S.C. § 1407;

WHEREAS the above-captioned actions (the “Actions”) were either filed in the D.C. Court (the “Original D.C. Actions”) or filed in federal courts throughout the country and transferred to the D.C. Court for consolidated and coordinated pre-trial proceedings (the “Non-D.C. Actions”);

WHEREAS Lexecon Inc. v. Milberg Weiss Barshad Hynes & Lerach, 523 U.S. 26 (1998) may require that any Actions filed in courts outside the D.C. Court be remanded for trial to the court where filed pursuant to 28 U.S.C. § 1407;

WHEREAS certain defendants including the defendants listed on Exhibit A hereto (the “Stipulating Foreign Defendants”) have contested personal jurisdiction in some or all of the Actions and would, if jurisdiction were found, assert various defenses, including challenges to the venues for trials of remanded actions;

WHEREAS plaintiffs in the Actions as of the date hereof (the “Stipulating Plaintiffs”) received permission from the D.C. Court to take certain jurisdictional discovery of defendants under the Federal Rules of Civil Procedure and are prepared to do so;

WHEREAS the Stipulating Foreign Defendants are prepared, in exchange for a specific agreement with respect to the ultimate venue of the Actions, to withdraw their challenge to the jurisdiction of the D.C. Court over the Stipulating Foreign Defendants in the Actions, provided that the Actions are consolidated in the D.C. Court for all purposes, including trial;

WHEREAS such consolidation in the D.C. Court will serve the interests of justice and the convenience of the parties and the witnesses, and will increase the efficiency of this multidistrict litigation; and

WHEREAS certain defendants that did not interpose challenges to the personal jurisdiction of the D.C. Court over such defendants in the Actions (the “Other Stipulating Defendants,” listed on Exhibit B hereto) together with the Stipulating Foreign Defendants (collectively the “Stipulating Defendants”) are prepared, in exchange for a specific agreement with respect to the ultimate venue of the Actions, to consent to, inter alia, the deemed dismissal and re-filing of the Actions (or actual dismissal and re-filing of the Actions if necessary) against the Stipulating Defendants as set forth in this Stipulation:

IT IS HEREBY STIPULATED AND AGREED among the Stipulating Plaintiffs and the Stipulating Defendants that:

1. For each Non-D.C. Action, Stipulating Plaintiffs hereby stipulate and agree that venue is proper in the D.C. Court and that their claims against the Stipulating Defendants will be tried in the D.C. Court. To this end, the Non-D.C. Actions will be treated as if Stipulating Plaintiffs re-filed those Actions in the District of Columbia and then dismissed the

Stipulating Defendants without prejudice from all Non-D.C. Actions. This Stipulation is not intended to preclude any Stipulating Plaintiff from subsequently moving to amend its Action or Actions nor to preclude any Stipulating Defendant from opposing such motion.

2. Except as expressly provided herein, each Action that is deemed dismissed and re-filed in the D.C. Court against the Stipulating Defendants in compliance with paragraph 1 (a “Deemed Re-filed Action”) shall be treated for all purposes as if it had been transferred to the D.C. Court pursuant to 28 U.S.C. § 1404(a) and shall not be remanded for trial to its originating district.

3. Stipulating Defendants agree that for all purposes, including any applicable statute of limitations, the date on which the Deemed Re-Filed Action was filed originally shall govern the Action, such that no claim shall be deemed time-barred solely as a result of its deemed dismissal and re-filing. Any applicable tolling of statutes of limitations in any Deemed Re-Filed Action shall continue as to the claims in such Actions despite the deemed dismissal and re-filing of such Actions as provided in this order.

4. Each Stipulating Defendant agrees that, upon proper service of the Original D.C. and the Non-D.C. Actions deemed dismissed and re-filed pursuant to this Stipulation it will not contest personal jurisdiction in the D.C. Court in that Action. For example, and without limitation, the Stipulating Defendants agree that, in any Action, for the purposes of (1) analyzing the application of the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters or any other international treaty, convention or foreign law governing the taking of evidence abroad (the “Hague Convention or Other Laws”); and (2) both rendering judgement and determining the validity, enforceability or scope of any judgment

entered in such action, the D.C. Court shall be deemed to have personal jurisdiction over the Stipulating Defendants.

5. In each of the Original D.C. Actions and the Deemed Re-Filed Actions, Stipulating Defendants hereby withdraw or have withdrawn their motions to dismiss for lack of personal jurisdiction and notices of such motions to dismiss (if any). Stipulating Defendants agree that they will not file motions to dismiss on personal jurisdictional grounds in any Original D.C. Action or any Deemed Re-Filed Action.

6. In each of the Actions, Stipulating Plaintiffs hereby withdraw their requests for jurisdictional discovery as to Stipulating Foreign Defendants and those Other Stipulating Defendants upon which requests for jurisdictional discovery were served, without prejudice to Stipulating Plaintiffs' rights to seek discovery from Stipulating Defendants on any other issue including, inter alia, the jurisdictional position of any defendant that is contesting jurisdiction, provided that any such discovery shall be coordinated with merits discovery against the Stipulating Defendants to the extent practicable.

7. Stipulating Defendants do not consent to the personal jurisdiction of the D.C. Court except as relates to the Original D.C. Actions and the Deemed Re-Filed Actions, and nothing in this Stipulation is intended to constitute or effect a waiver or serve as an estoppel of their jurisdictional arguments in any other action.

8. Except as expressly provided in this Stipulation, Stipulating Defendants' agreements set forth herein shall be without prejudice to, and shall not constitute a waiver of, any rights or defenses, including but not limited to Stipulating Defendants' rights (a) to oppose personal jurisdiction in any action in any court other than the D.C. Court; (b) to oppose personal jurisdiction in the D.C. Court in any action other than the Actions; (c) to oppose personal

jurisdiction in any Action if Stipulating Defendants invoke paragraph 15 of this stipulation and Stipulating Plaintiffs fail to comply with that paragraph; (d) to challenge the sufficiency of service of process in any action; (e) to oppose jurisdiction or venue with respect to any claim not asserted, or any claim by any plaintiff not named, in the Actions as of the date hereof; (f) to oppose the amendment of the complaint in any Action on any ground; and (g) to maintain that any discovery in any action, including merits discovery, must be obtained pursuant to the Hague Convention or Other Laws. The parties agree that this Stipulation does not affect, one way or the other, their respective rights or positions with regard to the merits of any request to seek an immediate appeal of any adverse ruling as to the above issues.

9. The Stipulating Defendants and Stipulating Plaintiffs agree that any objection on the ground that merits discovery in any Action must be taken in accordance with the Hague Convention or Other Laws shall be briefed on an expedited basis in light of the briefing on the procedures governing jurisdictional discovery that has already been presented to and ruled upon by the D.C. Court and the Special Master. The Stipulating Defendants and Stipulating Plaintiffs further agree that, in light of that briefing and those rulings, they will not file additional affidavits or other evidence regarding the effectiveness or ineffectiveness of procedures under the Hague Convention and Other Laws nor on sovereign interests that may be implicated by those laws. Within five (5) business days after electronic service of Stipulating Plaintiffs' consolidated merits discovery requests, Stipulating Plaintiffs and Stipulating Defendants shall meet and confer to discuss such objections raised by Stipulating Defendants to said merits discovery. Should the parties be unable to resolve Stipulating Defendants' objections, the Stipulating Defendants, within 10 Calendar Days of the meet and confer, shall serve a consolidated motion for protective order and opening brief in support of their objections; within

10 Calendar Days of electronic service of the opening brief, Stipulating Plaintiffs shall serve a consolidated brief in opposition; within 5 Calendar Days of electronic service of the opposition brief, Stipulating Defendants shall serve their consolidated reply to Stipulating Plaintiffs' opposition; and within 5 Calendar Days of electronic service of the consolidated reply brief, Stipulating Plaintiffs may serve a consolidated surreply brief. The parties further agree that they shall jointly request an expedited ruling with respect to, any such consolidated motion or objections by Stipulating Defendants. Stipulating Defendants further agree that, if their motion that discovery be conducted under the Hague Convention or Other Laws is denied, they will not thereafter raise the argument that discovery be conducted under the Hague Convention or Other Laws in response to any requests for discovery (including interrogatory answers, depositions or documents) by Stipulating Plaintiffs and any subsequent objections shall be raised as provided for in the Federal Rules of Civil Procedure, except that if (1) the Stipulating Defendants believe that the subsequent request so exceeds the scope of those prior requests that were the subject of the decision on the non-applicability of the Hague Convention or Other Laws as to call into doubt the proper application of that decision to the subsequent requests; and (2) the Special Master agrees with Stipulating Defendants, after reviewing position papers served by the parties within 15 Calendar Days of Stipulating Defendants' notice that they believe the first condition set out above has been met then, the parties will work with the Special Master to modify the merits discovery at issue in such a manner that it can be conducted under the Federal Rules of Civil Procedure in accordance with previous rulings. The parties agree to ask the Special Master for an expedited ruling with respect to item (2) herein.

10. Except as expressly provided in this Stipulation, Stipulating Defendants' agreements herein shall in no way be construed as an admission of any of the allegations or

contentions of the pleadings, they shall not constitute nor be deemed an admission of jurisdiction or of relevant jurisdictional facts or jurisdictional contacts in any jurisdiction, and they do not represent an agreement or recognition that any court has general or specific jurisdiction to hear claims of a general or related nature to the allegations in the Actions and Deemed Re-Filed Actions.

11. Notwithstanding paragraph 1 of this Stipulation, with respect to any state law claims in the Actions, this Court shall interpret and apply state law as if the Actions were not deemed dismissed and re-filed.

12. Notwithstanding paragraph 1 this Stipulation, this Court shall interpret and apply federal law as if the Actions were not deemed dismissed and re-filed.

13. Each Stipulating Defendant, to the extent it has not yet answered, shall serve answers in each Action within 60 days of the latest of (a) the entry of this Stipulation and Order; and (b) proper service of the Action on that Stipulating Defendant. Stipulating Defendants agree that once this Stipulation is Ordered by the Court, Stipulating Defendants will not assert lack of an Answer as a basis for refusing to respond to or delaying a response to merits discovery.

14. If any Stipulating Plaintiff continues to maintain a Non-D.C. Action that contains one or more claims arising out of an alleged conspiracy regarding choline chloride (“Choline Claims”) against defendants that are not Stipulating Defendants, then defendants BASF AG and BASF Corporation shall have the option, to be exercised at their discretion, to proceed with the trial of any Choline Claims asserted by such Stipulating Plaintiff against BASF AG or BASF Corporation in either (a) the D.C. Court or (b) the court where such Choline Claims will be tried as to any other defendants. If BASF AG and BASF Corporation elect to proceed

with the trial of any Choline Claim in any court other than the D.C. Court, such election will not affect the venue for trial of any non-Choline Claim against BASF or any claim asserted in any Action against any other Stipulating Defendant, which shall remain in the D.C. Court.

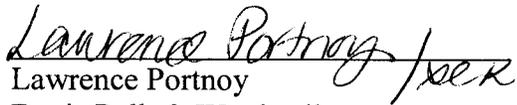
Moreover, Stipulating Defendants agree that the exercise of such option shall not be asserted in any manner by Stipulating Defendants as a basis or justification for severing Stipulating Plaintiffs' claims in the Actions and shall not prejudice Stipulating Plaintiffs' right to seek, or any defendant's right to oppose, trials combining Choline Claims with claims arising out of an alleged conspiracy regarding other vitamins. Notwithstanding the foregoing, if BASF AG and BASF Corporation elect to proceed with the trial of any Choline Claim in any court other than the D.C. Court, the Stipulating Plaintiff(s) in such Actions (i) shall not seek a judgment against BASF AG, BASF Corporation or any related person or entity, other than a judgment arising out of plaintiffs' Choline Claim, as a result of any trial in any court other than the D.C. Court; and (ii) shall not seek a judgment against BASF AG, BASF Corporation or any related person or entity arising out of plaintiffs' Choline Claims as a result of any trial in the D.C. Court. To make an election to proceed with the trial of any Choline Claim in any court other than the D.C. Court, BASF AG and BASF Corporation must notify the appropriate Stipulating Plaintiff of their election no later than 20 days before the date upon which a final pre-trial order governing the trial of the Choline Claims of such Stipulating Plaintiff must be filed either in the D.C. Court or the court where the Non-D.C. Action is pending. In the event that BASF AG and BASF Corporation provide such notification, then the parties hereto shall use their reasonable best efforts to effectuate the transfer of such Choline Claims to the appropriate court for trial, and in the event of such transfer no party shall object to venue or the exercise of personal jurisdiction by the Court where the Non-D.C. Action is pending.

15. In the event that Stipulating Defendants determine in consultation with the Stipulating Plaintiffs that there is a risk that the Actions cannot be tried in the D.C. Court without actually re-filing and dismissing those claims against the Stipulating Defendants, Stipulating Plaintiffs shall, within 60 days of such consultation but in no event less than 5 days prior to the commencement of any trial, voluntarily re-file in D.C. those Actions not originally filed in the D.C. Court and shall dismiss Stipulating Defendants from the original Non-D.C. Actions. In the event the Actions are re-filed pursuant to this paragraph, all provisions of this stipulation shall remain in full force and effect as if the Actions had proceeded as Deemed Re-Filed Actions. Failure to re-file in accordance with this paragraph by any Stipulating Plaintiff shall void the provisions of this Stipulation as to that Stipulating Plaintiff.

16. Nothing in this Stipulation shall affect the actions filed by non-parties to this Stipulation.

17. This Stipulation may be signed in counterparts by Counsel for the Stipulating Parties and the Stipulation shall not be effective as to any party until it is executed by all parties below.

Respectfully Submitted,

 Lawrence Portnoy

Davis Polk & Wardwell

450 Lexington Ave.

New York, NY 10023

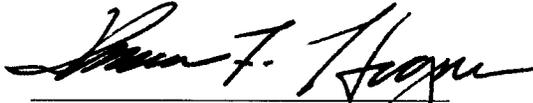
(212) 450-4000

Attorneys for F. Hoffmann-La Roche Ltd

and on behalf of Hoffmann-La Roche Inc.

and Roche Vitamins Inc. for purposes of this stipulation

SO ORDERED:

A handwritten signature in black ink, appearing to read "Thomas F. Hogan". The signature is written in a cursive style with a horizontal line underneath it.

Thomas F. Hogan
United States District Judge

A handwritten date in black ink, "January 26, 2001", written in a cursive style.