

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

MAR 28 2000

In re: Vitamins Antitrust Litigation

MDL No. 1285

NANCY MAYER-WHITTINGTON, CLERK
U.S. DISTRICT COURT

Misc. No. 99-0197 (TFH)

THIS DOCUMENT RELATES TO:

Publix Super Markets, Inc. v.
F. Hoffman-La Roche, Ltd., et al.,
Case No. 1:99CV2786 (TFH)

[PROPOSED] STIPULATION AND ORDER REGARDING
BRIEFING SCHEDULE FOR RESPONSE TO THE COMPLAINT

Plaintiff in the above-captioned matter ("Plaintiff") has purportedly effected service on defendant Takeda Chemical Industries, Ltd. ("TCI"). On January 24, 2000, Defendants F. Hoffmann-La Roche Ltd. and BASF AG filed motions to dismiss the complaints in certain related cases limited exclusively to the following preliminary legal issue: Whether personal jurisdiction should be measured by local contacts with the transferor forum ("Local Contacts") or national contacts with the United States as a whole ("National Contacts") (hereinafter the "Jurisdiction Issue"). Briefing by defendants F. Hoffmann-La Roche Ltd., BASF AG and Rhone-Poulenc S.A. on the Jurisdiction Issue was completed on March 3, 2000. Oral argument on motions to dismiss the complaint in Cargill, Inc., et al. v. F. Hoffmann-La Roche, Ltd., et al., Case No. 99-CV-5167, that were filed by defendants F. Hoffmann-La Roche Ltd., BASF AG and Rhone-Poulenc S.A. was held on March 16, 2000. The Jurisdiction Issue will also be addressed during the March 16, 2000 oral argument by the parties that had completed briefing that issue. The parties believe that it would be more efficient for the Court and for the

parties if TCI answers, moves against or otherwise responds to the complaint in the above-captioned matter (the “Complaint”) as set forth below.

IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the undersigned parties, that:

TCI’s time to answer, move against, or otherwise respond to the Complaint is extended up to and including a date that follows the Court’s determination of the Jurisdiction Issue, as described below.

TCI agrees to be bound by the Court’s resolution of the Jurisdiction Issue. If the Court rules on the Jurisdiction Issue and finds that the relevant test for personal jurisdiction is “National Contacts,” TCI agrees to file an answer to the Complaint within thirty (30) days of such a ruling by the Court.* If, on the other hand, this Court rules on the Jurisdiction Issue and finds that the relevant test for personal jurisdiction is other than “National Contacts,” the parties will agree upon a briefing schedule to address the question of whether personal jurisdiction exists over TCI in the above-captioned matter under the test, other than “National Contacts,” determined by the Court.

* By agreeing to file an answer to the complaint in the above-captioned case within 30 days of a ruling by the Court that the relevant forum is the United States as a whole, TCI does not waive any rights it may have to appeal such a ruling or any rights it may have to seek a stay of its obligation to answer pending any such appeal.

This stipulation is not intended to waive and does not waive any defenses, including the defenses of lack of jurisdiction and insufficient of service of process or any right of any party to appeal any ruling by this Court.

Dated: New York, New York
March 19, 2000

Respectfully submitted by,

DAAR, FISCHER, KANARIS & VANEK, P.C.

By: 
Joseph M. Vanek
200 S. Wacker Drive, Suite 3350
Chicago, IL 60606
312-474-1400

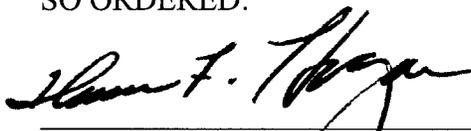
*Counsel for Plaintiff
Publix Super Markets, Inc.*

SQUADRON, ELLENOFF, PLESANT
& SHEINFELD, LLP

By: 
Lawrence Byrne
551 Fifth Avenue
New York, New York 10176
(212) 661-6500

*Counsel for Defendant
Takeda Chemical Industries, Ltd.*

SO ORDERED:


THOMAS F. HOGAN
UNITED STATES DISTRICT JUDGE
3/27/00