

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In re: Vitamins Antitrust Litigation

Misc. No. 99-197 (TFH)

This Document Relates to:

MDL No. 1285

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

FILED

MAY 22 2002

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

~~STIPULATION [AND PROPOSED ORDER]~~ **TFH**
CONCERNING DISCOVERY FROM
BRISTOL-MYERS SQUIBB COMPANY

WHEREAS the parties have been diligently working to complete their necessary fact, discovery, but have been unable to find mutually convenient dates, prior to the undisputed fact discovery cut-off date of May 21, 2002, to complete three depositions noticed in connection with the above-captioned litigation;

WHEREAS, on May 1, 2002, defendants noticed the depositions of current Bristol-Myers Squibb Company ("BMS") employees Xavier Chen, Paul Whyte and Tim Joyce for May 16, 20 and 21, 2002 in New York, New York, (the "Noticed Depositions"); and

WHEREAS, the witnesses -two of whom must travel from China and New Zealand respectively for their depositions – are unavailable prior to May 21, 2002;

WHEREAS, the Noticed Depositions will not have an impact on expert discovery or the preparation of the parties' expert reports; and

WHEREAS the parties, while mindful of the Court's desire to have fact discovery brought to a timely conclusion, anticipate requiring a short extension beyond the May 21, 2002 in order to effectively complete the Noticed Depositions;

NOW THEREFORE,

It is hereby STIPULATED AND AGREED, by and between undersigned counsel for BMS and Takeda Chemical Industries, Ltd. and Takeda Vitamin & Food USA, Inc., that:

1. BMS shall produce Messrs. Chen, Whyte and Joyce for depositions in New York on a mutually agreeable date and time in May and/or June 2002 unless BMS dismisses its Amended Complaint in its entirety with prejudice.
2. BMS agrees not to resist producing the aforementioned witnesses on the grounds that the May 21, 2002 date has passed.
3. Defendants agree to reimburse BMS for the reasonable travel expenses and costs incurred by Messrs. Chen and Whyte for their depositions.
4. Nothing in this Stipulation shall be construed to affect the close of fact discovery with respect to discovery of other parties to this litigation.

Dated: May 20, 2002

SOLOMON, ZAUDERER, ELLENHORN
FRISCHER & SHARP

By: Robert S. Frenchman
Louis M. Solomon
Colin A. Underwood
Robert S. Frenchman
45 Rockefeller Plaza
New York, New York 10 111
(212) 956-3700
*Counsel for Bristol Myers Squibb
Company*

Respectfully submitted,

WHITE & CASE LLP

By: Lawrence Byrne
Lawrence Byrne
1155 Avenue of the Americas
New York, New York 10036
(212) 819-8200
*Counsel for Defendants Takeda
Chemical Industries, Ltd., Takeda
Vitamin & Food USA, Inc. and, for
purposes of this Stipulation, Liaison
Counsel for Defendants*

SO ORDERED:

Thomas F. Hogan
THOMAS F. HOGAN
UNITED STATES DISTRICT JUDGE

DATED: May 24, 2002

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 20th day of May, 2002, he caused a true and correct copy of STIPULATION [AND PROPOSED ORDER] CONCERNING DISCOVERY FROM BRISTOL-MYERS SQUIBB COMPANY to be served on all counsel of record by electronic service pursuant to the Court's Order **Regarding** Electronic Service, dated May 17, 2000, utilizing the Verilaw electronic service procedure.


Joseph Schmit