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NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

IN THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE: VITAMINS ANTITRUST LITIGATION)
)
THIS DOCUMENT RELATES TO:)
ALL ACTIONS)
_____)

Misc. No. 99-197 (TFH)

MDL No. 1285

PRE-TRIAL ORDER OF DESIGNATION - MEDIATOR

At the October 16, 2002, Status Conference, counsel presented a report reflecting that plaintiffs and defendants had reached agreement on settlement of many of the pending actions consolidated before this Court, but that many other actions remain to be resolved at trial scheduled to commence March 12, 2003, or on remand to their respective transferor Courts. Following inquiry of Liaison Counsel who expressed interest in mediation, and in view of the number of remaining cases and parties, the complexity of the issues being disputed, the great volume of materials and complexity of issues to be presented at trial, the Court, by Memorializing Order of November 8, 2002, ordered that the parties reaffirm their interest as to the possibility of using the mediator identified by the Court, Roberts B. Owen, Esq., for mediation on a case-by-case basis no later than November 15, 2002. In response to the Memorializing Order, counsel for various parties expressed their interest in participating in mediation with Mr. Owen's assistance.

Upon consideration of these responses and other relevant factors, **IT IS HEREBY ORDERED** this 20th day of November, 2002, that:

1. Roberts B. Owen, Esq., (the "Mediator") is designated as Mediator for these consolidated actions to assist the parties in resolving their disputes through mediation. All

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parties interested in utilizing the Mediator's services are encouraged to contact the Mediator promptly to seek his assistance in resolving disputed cases or issues. As soon as practicable, the Mediator shall contact each party that has expressed to the Court its interest in utilizing his services to seek to commence mediation.

2. This Designation Order shall not alter the ready-for-trial date of March 12, 2003, for cases to be tried in the District of Columbia set by the Court's Memorializing Order of September 23, 2002.

3. Following issuance of this Order, the Court shall have no communication with the Mediator that could in any way compromise the Court's availability to serve as the trier of fact should that be necessary for any of the cases to be tried in the District of Columbia.

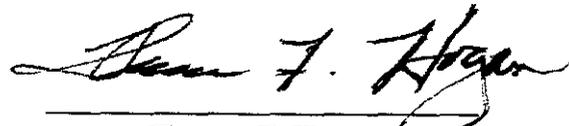
4. All proceedings in any mediation conducted pursuant to this Designation Order, including statements made and documents prepared by any party, attorney or other participant, shall be privileged and shall not be disclosed in any subsequent proceeding or document or construed for any purpose as an admission against interest. The parties shall not subpoena the Mediator or any documents submitted to the Mediator. In no event shall the Mediator voluntarily testify on behalf of a party or other participant in any mediation conducted pursuant to this Order. No party shall be bound by anything said or done at a mediation session unless a settlement is reached.

5. The Mediator may employ other persons to provide legal, clerical, secretarial and other appropriate assistance. Such persons shall be under the supervision and control of the Mediator, who shall take action, where appropriate, to ensure that such persons comply with the Protective Order entered by the Court for these actions on November 3, 1999.

6. Subject to the limitations imposed by the Protective Order entered on November

3, 1999, the Mediator and his assistants shall be authorized to receive and review all information designated "Confidential" or "Confidential Lawyers Only" pursuant to Paragraphs 3 and 4 of that Order.

7. The Mediator and other persons who assist him shall be compensated at their customary hourly rates for their professional services. The Mediator shall bill the parties utilizing his services for time expended (together with reimbursements for reasonable expenses incurred) on a monthly basis. Where one or more plaintiffs and one or more defendants utilize the services of the Mediator, those plaintiffs shall be jointly responsible for paying one-half of the Mediator's fees and expenses for those services and those defendants shall be jointly responsible for paying the other one-half of the Mediator's fees and expenses for those services. In the Court's discretion, final allocation of these amounts shall be subject to taxation as costs at the conclusion of the cases. For the ease of the parties, the Mediator shall send monthly bills to the counsel for the parties utilizing his services. Those counsel shall make the arrangements necessary to ensure that the Mediator is promptly paid for his services.



Thomas F. Hogan
Chief Judge