

ATTACHMENT 2

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July 1, 2004

VIA FACSIMILE (415) 591-7510

Thomas Pulliam, Jr., Esq.
Drinker, Biddle & Reath
50 Fremont Street, 20th floor
San Francisco, CA 94105

Re: California cause no. C-03-01116-JF(HRL);
Kerry Langstaff, et al. v. McNeil Consumer & Specialty Pharmaceuticals, et al.

Dear Tom:

Confirming our phone conversation of today, I have the following reply to your further letter of July 1 seeking an extension of the defendants' expert deadline.

We cannot agree to it, because:

1. You were offered an extension of the expert deadlines only, but rejected the offer unless we would agree to extend all deadlines, including the trial date. We rejected this as we have before, and Judge Fogel has also rejected it in his earlier order.
2. You say that the descriptive language in our disclosure is not authorized, but cite no cases to support this position. Ironically, as I told you, I have never had anybody complain that we said too much in our disclosures--it's always that we didn't say enough!
3. There is nothing in the law that requires each expert to state exactly how they relied on a particular medical article. Most of them have cited specific articles in their reports, some of which are listed on Att. 3, and some of which are not. However, they have all reviewed or at least scanned the medical literature cited in Att. 3, and have relied and will rely on it generally to support their opinions and your people can get copies of it and rebut what they choose to. However, to complain that it is too long, and your experts will have to waste time in reviewing

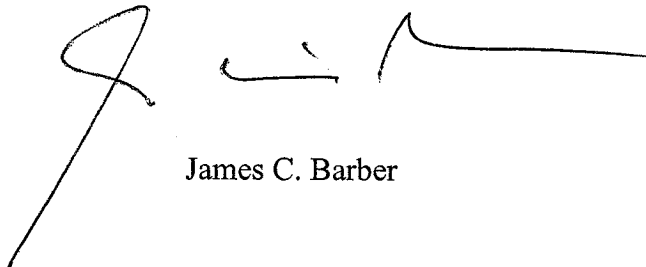
it, is not an adequate excuse for an extension of your expert designation deadline.

4. The same is true of the documents listed. They are all your clients' documents, with rare exception, and most of them were part of the New Drug Applications tendered by defendants. Some of the experts relied on some, and some on others, and where they relied specifically on them, they so state in their reports. However, we have the right to say that they relied on all of them generally, and we have done so; and you have cited no cases to the contrary.

5. Finally, as to duplication of opinions by the experts, we have the right to name backup experts on all issues, and that's what we have done. You are probably correct that the court will not allow too much, if any, duplication of their opinions. However, each of them approach the causation and warning issues from the perspective of their disciplines, and their rationales for their positions are all different. Therefore, I anticipate that almost all of them will be allowed to testify on the issues discussed in their reports, but it is premature for defendants to try to limit us at this stage to one expert per issue!

As I said in our phone conversation, it would be fundamentally unfair for the defendants to have 30 additional days to designate experts, when you have rejected that proposal previously. Further, it would likely delay the trial date, because it would only give us 30 days to complete all expert discovery (from August 18 to September 20), so we would have to extend the expert discovery deadline and the Daubert deadlines, and probably the trial date. This we cannot agree to do.

Sincerely yours,



James C. Barber

JCB/srs

cc: Kerry & Brad Langstaff
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