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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**IN RE: HYDROXYCUT MARKETING AND  
SALES PRACTICES LITIGATION**  
  
**THIS DOCUMENT RELATES TO:  
ALL ACTIONS**

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) MDL No. 2087  
) 09-md-2087-BTM (AJB)  
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**ORDER RE APPOINTMENT OF THE PERSONAL INJURY  
PLAINTIFFS' STEERING COMMITTEE**

Upon the Amended Proposal submitted by Gayle M. Blatt, serving as Acting Liaison Counsel for Personal Injury Plaintiffs, and it appearing to the Court that the appointment of a Plaintiffs' Steering Committee in the Personal Injury Cases is necessary to the efficient administration of this case it is hereby ORDERED as follows:

**1. APPOINTMENT OF PLAINTIFFS' LIAISON COUNSEL**

A. The Court hereby appoints the following attorney to the position of Plaintiffs'

Liaison Counsel:

Gayle M. Blatt  
Casey Gerry Schenk Francavilla Blatt & Penfield, LLP  
110 Laurel St.  
San Diego, CA 92101  
Ph: (619) 238-1811

B. Plaintiffs' Liaison Counsel is charged with the following administrative functions in addition to those functions required of Plaintiffs' Steering Committee members as set forth in Section 2 below. At a minimum, Plaintiffs' Liaison Counsel shall have the following responsibilities:

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1. To receive and distribute pleadings, orders, and motions on behalf of all personal injury Plaintiffs;
2. To coordinate service and filings;
3. Periodically to review the attorney service list on the Court’s website, promptly communicate necessary revisions to the Clerk and effectuate required revisions in accordance with direction from the Clerk;
4. To coordinate, establish or maintain a document repository, real or virtual, to be available to all participating plaintiffs’ counsel;
5. To maintain complete files with copies of all documents served by or upon her in hard copy or electronic form. Liaison counsel shall make such files available at reasonable hours to Plaintiffs’ counsel of record upon request.
6. To receive orders and notices from the Judicial Panel on Multidistrict Litigation pursuant to Rule 5.2(e) of the Panel’s Rules of Procedure or from the Court on behalf of all personal injury Plaintiffs;
7. To carry out such other duties as the Court may order.

**2. PLAINTIFFS’ STEERING COMMITTEE.**

A. The Court hereby appoints the following counsel to the Plaintiffs’ Steering Committee (“PSC”):

Anne Andrews  
Andrews & Thornton  
2 Corporate Park, Suite 110  
Irvine, California 92606  
Ph: (949) 748-1000

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C. Carter Clay  
Chris Hellums  
Pittman, Dutton, Kirby & Hellums, P.C.  
2001 Park Place North Suite 1100  
Birmingham, Alabama 35203  
Ph: (205) 322-8880

Martin D. Crump  
Davis & Crump  
1712 15th St.  
Gulfport, MS 39501  
Ph: (800) 277-0300

Annesley DeGaris  
Cory, Watson, Crowder & DeGaris, P.C.  
2131 Magnolia Avenue  
Birmingham, AL 35205  
Ph: (800) 852-6299

Joseph Dunn (Co-Lead Counsel)  
1324 N. Broadway  
Santa Ana, CA 92706  
Ph: (714) 560-7251

Richard J. Hood (Co-Lead Counsel)  
Andrus Boudreaux, PLC  
1999 Broadway, Suite 4150  
Denver, CO 80202  
Ph: (303) 376-6360

Ellen Relkin  
Weitz & Luxenberg, P.C.  
700 Broadway  
New York, New York 10003  
Ph: (212) 558-5715

Christopher A. Seeger  
Jeff Grand  
Seeger Weiss LLP  
One William Street  
New York, NY 10004  
Ph: (212) 584-0700

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Fred Thompson, III  
Motley Rice LLC  
28 Bridgeside Blvd.  
Mt. Pleasant, SC 29464  
Ph: (843) 216-9118

Mark Zamora  
Mark Zamora & Associates  
5 Concourse Parkway, Suite 2350  
Atlanta, GA 30328  
Ph: (404) 451-7781

Roger W. Orlando  
The Orlando Firm, P.C.  
315 West Ponce De Leon Ave., Ste. 400  
Decatur, GA 30030  
Ph: (404) 373-1800

B. The Court hereby charges the PSC with the following responsibilities:

**1. General. The PSC shall:**

- a. Determine and present to the Court and opposing parties the position of the personal injury Plaintiffs on all coordinated matters arising during pretrial proceedings;
- b. Coordinate the initiation and conduct of discovery for the common benefit of the personal injury Plaintiffs;
- c. Submit, where needed, additional committees and counsel for designation by the Court; and
- d. Perform other such duties as may be incidental to the proper coordination of Plaintiffs' pretrial activities.

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**2. Discovery. The PSC shall:**

- a. Initiate, coordinate, and conduct all pretrial discovery on behalf of personal injury plaintiffs in all actions which are consolidated with the instant Multidistrict Litigation;
- b. Develop and propose to the Court schedules for the commencement, execution, and completion of all discovery on behalf of all personal injury plaintiffs;
- c. Cause to be issued in the name of all personal injury plaintiffs the necessary discovery requests, motions, and subpoenas pertaining to any witnesses and documents needed to properly prepare for the trial of relevant issues. Similar requests, notices, and subpoenas may be caused to be issued by the PSC upon written request by an individual attorney in order to assist him/her in the preparation of the pretrial stages of his/her client's particular claims;
- d. Conduct all discovery in a coordinated and consolidated manner on behalf of and for the benefit of all plaintiffs, in a fashion in keeping with practice guidelines to be established in subsequent discovery plans or orders of this Court.

**3. Hearings and Meetings. The PSC shall:**

- a. Call meetings of plaintiffs' counsel for any appropriate purpose, including coordinating responses to questions of other parties or of the Court;
- b. Initiate proposals, suggestions, schedules, or joint briefs, and any other appropriate matter(s) pertaining to pretrial proceedings;

- 1 c. Examine witnesses and introduce evidence at hearings on behalf of  
2 plaintiffs;  
3 d. Act as spokesperson for all personal injury plaintiffs at pretrial proceedings  
4 and in response to any inquiries by the Court, subject to the right of any  
5 plaintiff's counsel to present non-repetitive, individual or different positions.  
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7 **4. Miscellaneous. In addition, the PSC shall:**

- 8 a. Submit and argue any verbal or written motions presented to the Court or  
9 Magistrate Judge on behalf of the PSC as well as oppose, when  
10 necessary, any motions submitted by the defendants or other parties that  
11 involve matters within the sphere of the responsibilities of the PSC;  
12 b. Negotiate and enter into stipulations with defendants regarding this  
13 litigation. All such stipulations entered into by the PSC, except for purely  
14 administrative details such as scheduling, shall be submitted to the Court  
15 for approval and will not be binding unless and until the Court has ratified  
16 the stipulation. Any attorney not in agreement with a non-administrative  
17 stipulation may file with the Court a written objection thereto within ten (10)  
18 business days after he or she knows or reasonably should have become  
19 aware of the stipulation. Failure timely to object shall be deemed a waiver,  
20 and the stipulation shall bind the dilatory party;  
21 c. Explore, develop and pursue all settlement options pertaining to any claim  
22 or portion thereof of any case filed in this litigation;  
23 d. Maintain adequate files of all pretrial matters and have them available,  
24 under reasonable terms and conditions, for examination by plaintiffs or  
25 their attorneys;  
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- e. Prepare periodic status reports summarizing the PSC's work and progress. These reports shall be submitted to the Plaintiffs' Liaison Counsel, who will promptly distribute copies to the other plaintiffs' attorneys;
- f. Perform any task necessary and proper for the PSC to accomplish its responsibilities as defined or authorized by the Court's orders;
- g. Perform such other functions as may be expressly authorized by further orders of this Court;

**5. Reimbursement.**

Plaintiffs' Liaison Counsel, Executive Committee and PSC members shall be entitled to seek reimbursement for fees and costs expended in the performance of their duties at the time and in a manner approved by the Court.

IT IS SO ORDERED.

Dated: March 11, 2010 \_\_\_\_\_

  
HONORABLE BARRY TED MOSKOWITZ  
UNITED STATES DISTRICT COURT  
JUDGE