DUANE MORRIS LLP
A DELAWARE LIMITED LIABILITY PARTNERSHIP
By: James J. Ferrelli, Esquire
100 American Metro Boulevard, Suite 150
Hamilton, NJ 08619
609.631.2400 (Phone)
609.631.2401 (Fax)
jjferrelli@duanemorris.com
Attorneys for Defendants, Ranbaxy, Inc., Ranbaxy Pharmaceuticals, Inc., and Ranbaxy Laboratories, Inc.

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Carol E. Higbee, P.J.Cv.

In re: ACCUTANE LITIGATION	SUPERIOR COURT OF NEW JERSEY LAW DIVISION ATLANTIC COUNTY Civil Action CASE NO. 271

SUPPLEMENTAL PROTECTIVE ORDER REGARDING DISCLOSURE OF CERTAIN CONFIDENTIAL DOCUMENTS BY GENERIC ISOTRETINOIN DEFENDANTS

THIS MATTER is before the Court pursuant to the Five Day Rule of R. 4:42-1(c) on the parties' request for entry of a Supplemental Protective Order Regarding Discovery ("Order"), to supplement the Amended Protective Order Regarding Disclosure of Confidential Documents by Generic Isotretinoin Defendants entered in this matter on December 4, 2008 ("12/4/08 Protective Order"), in order to address the handling and production of certain Confidential Documents containing particularly sensitive commercial and related information which the Producing Party does not want shared with a competitor who may be a co-defendant in these consolidated cases. All capitalized terms in this Order shall have the same meaning as set forth in the 12/4/08 Protective Order, incorporated herein. The Court finds in these consolidated pharmaceutical products liability actions that this Order strikes an appropriate balance between the parties'

interests in prosecuting and defending these cases, the judicial interest in the efficiency and integrity of the discovery process, and the public interest in access to information.

Accordingly, it is **ORDERED and ADJUDGED** as follows:

1. A Producing Party may designate certain Confidential Documents it produces in this litigation as "Attorneys' Eyes Confidential," with regard to any documents, things and/or information (collectively referred to herein as "Documents") it produces in this litigation if such Producing Party or counsel for such Producing Party believes in good faith that such Documents contain a trade secret or other confidential or proprietary research, development, or commercial information, and should not be disclosed to competitors or potential competitors, such as co-defendant drug companies. Such Documents designated as "Attorneys' Eyes Confidential" shall be treated confidentially in accordance with the terms of the 12/4/08 Protective Order and the supplemental terms set forth in this Order, and all provisions of the 12/4/08 Protective Order shall apply to all such Documents except as may be modified by this Order. All capitalized terms in this Order shall have the same meaning as set forth in the 12/4/08 Protective Order.

2. Absent a further Order of this Court, Attorneys' Eyes Confidential Documents produced in this case shall not be used for any purpose other than the prosecution or defense of these consolidated cases, and shall not be shown, disseminated, or disclosed in any manner to anyone other than the following:

(a) Receiving Party Counsel (including law firm personnel and document processing vendors assisting them in this litigation, provided that, if any such personnel or vendors are not employees of the outside counsel, they first complete and execute the Certification of Compliance, attached to the 12/4/08 Protective Order), it being understood that such Receiving Party Counsel may represent plaintiff or defendants in this litigation;

(b) an expert or consultant retained by a Receiving Party for the purpose of this litigation ("Independent Outside Expert"), provided that the Independent Outside Expert first completes and executes the Certification of Compliance attached to the 12/4/08 Protective Order;

(c) a deposition witness in this action and any counsel for such person, to the extent authorized by paragraph 4 below;

(d) court personnel and court reporters;

(e) other persons only upon written consent of the Producing Party or upon Order of the Court. In addition, Receiving Party Counsel may disclose the Attorneys' Eyes Confidential Documents produced by any particular isotretinoin Defendant under this Order and the 12/4/08 Protective Order to Other Counsel in accordance with and subject to the provisions of paragraphs 3 and 4 of the 12/4/08 Protective Order. However, counsel for the isotretinoin Defendants in these actions who are not the Producing Party of such Attorneys' Eyes Confidential Documents shall not show, provide, or disclose the contents of such Documents to any employee, officer, director or other representative of any isotretinoin Defendant or other parties, but instead shall maintain them as "Attorneys' Eyes Only" documents to be used only by outside counsel of record for the isotretinoin Defendants and their staff in these consolidated cases.

3. To the extent that counsel for co-defendants seek to obtain from Receiving Party Counsel copies of Attorneys' Eyes Confidential Documents produced by another co-defendant, such requests for copies of Attorneys' Eyes Confidential Documents shall be directed to the Producing Party Counsel, and the Receiving Party Counsel shall not produce such Attorneys' Eyes Confidential Documents without further Order of the Court or the signed written permission of the Producing Party or its counsel.

4. (a) Documents designated as "Attorneys' Eyes Confidential" may be disclosed by Receiving Party Counsel to a deposition witness and used in a deposition of such witness without prior notice to the Producing Party only if the witness is either (i) an Independent Outside Expert retained by a party who has executed the Certification of Compliance, attached to the 12/4/08 Protective Order, (ii) an expert witness designated by the Producing Party, (iii) a current employee of the Producing Party, (iv) an author, addressee or recipient of the specific document or a person from whose files the document was produced.

(b) For witnesses other than those persons identified in paragraph 4(a) above, before a Receiving Party may examine such other witness at a deposition concerning materials designated as "Attorneys' Eyes Confidential," at least one week prior to such examination, Receiving Party Counsel shall notify the Producing Party's counsel in writing of its intent to examine such witness concerning such materials, indicating with specificity which "Attorneys' Eyes Confidential" Documents shall be shown to the witness. The Producing Party may object to the proposed examination by giving written notice of such objection to Receiving Party counsel within three (3) calendar days of receipt of this notification. If an objection is made, the proposed examination relating to such Documents shall not take place until the objection is resolved by agreement of the parties or a determination by the Court. The deposition of the witness, however, may proceed on other topics. After the receipt of timely written notice by Receiving Party counsel of that Party's intent to use Documents designated as "Attorneys' Eyes Confidential" at the examination of a witness, the failure of the Producing Party to object within the time set forth above shall be deemed a consent by the Producing Party that the Receiving Party may use such Documents in the examination of the witness. If the objection cannot be

resolved by agreement of the parties, the Producing Party shall have the burden of seeking further relief from the Court.

5. In the event a party intends to submit to the Court any Documents designated as "Attorneys' Eyes Confidential," or include in, refer to, or attach to any pleading or other paper filed with the Court or any Brief submitted to the Court such Documents, the party shall submit and file such documents separately under seal with the Court and advise the Court and counsel for the Producing Party and/or other parties as appropriate of such "under seal" submission and filing. The parties shall confer with each other, and, if necessary, seek the Court's guidance and counsel on any issues concerning the submission and filing of such Documents, including issues pertaining to restriction of public access to any such materials or judicial proceedings to ensure compliance with the terms and purposes of this Order.

Counsel for the Ranbaxy Defendants shall serve a copy of this Order on all parties of record within seven (7) days of receipt thereof.

SO ORDERED.

Carol E Higbee

Hon. Carol Higbee, P.J. Cv.

Dated: June 4 2009

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