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THE DELACO COMPANY, INC.

Plaintiff

v.

CENTURY INDEMNITY COMPANY, *et al.*

Defendants

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SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY

CIVIL ACTION

CASE CODE: 267  
AMENDED CASE MANAGEMENT  
ORDER # 3

A CASE MANAGEMENT CONFERENCE having been conducted by the Honorable Marina Corodemus, J.S.C. on January 14, 2004, in the presence of counsel, and it appearing that all pending and future New Jersey state cases involving claims allegedly arising from the ingestion and/or purchase of phenylpropanolamine (“PPA”) have been assigned to the Honorable Marina Corodemus, J.S.C. for case management by Order of the Supreme Court of New Jersey dated September 17, 2001:

**IT IS ON THIS 21st DAY OF January 2004, ORDERED:**

**I. Management Issues**

1. The procedures for this litigation shall be consistent with the Manual for Complex Litigation, Third Edition, to the extent practicable and until the Fourth Edition of the manual becomes available this year. Counsel are expected to familiarize themselves with the Manual for Complex Litigation, and be prepared at the conferences to suggest procedures that will facilitate the just, speedy, and inexpensive resolution of this litigation.
2. All proceedings including future status conferences will be transcribed using Live Note. All Live Note transcriptions shall be provided to the court. The parties are

directed to devise a means for allocating the cost and responsibility for ensuring such transcription. All court reporters provided must be skilled in Live Note and all versions of Live Note used by the parties must be compatible with this court. This court is entitled to an unrevised, as well as, revised and finalized versions of all Live Note transcripts to be provide no later than two (2) days after any proceeding.

- The following designations are established for case management purposes. This alignment is for efficient and effective management, communications, negotiations, and joint applications. Interim Liaison Counsel are as follows:

<u>Group</u>	<u>Liaison Counsel</u>
Plaintiff	Andrew T. Berry, Esq. McCarter & English
Defendants	Tancred V. Schiavoni, Esq. O'Melveny & Myers

- Liaison Counsel shall prepare a proposed Master Answer to the Amended Complaint (submitted January 13, 2004 by Plaintiff) to be presented to the court on January 30, 2004. Supplemental Answers are to be filed no later than February 15, 2004. The submissions shall be posted electronically on VERILAW.
- All pleadings will be captioned with the Case Code 267 and as follows:

THE DELACO COMPANY, INC.	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: MIDDLESEX COUNTY
Plaintiff	:	DOCKET NO. MID-L-8852-03 MT
v.	:	<u>CIVIL ACTION</u>
	:	:
	:	CASE CODE: 267
CENTURY INDEMNITY COMPANY, <i>et al.</i>	:	:
Defendants	:	:
<hr style="width: 50%; margin-left: 0;"/>		:

All pleadings shall be sent to Dolores Taylor, Mass Tort Leader, at the Middlesex County Courthouse, 1 John F. Kennedy Square, Tower Wing 2nd Floor, New Brunswick NJ, 08903.

- Interim Liaison Counsel shall provide the court with updated information regarding any changes to the e-mail directory of counsel of record and affiliated companies on a rolling basis. This information shall also be provided to the law clerks via e-mail for proper posting on the Mass Tort Info Center website. Likewise, Counsel shall give notice of all related cases pending in state and federal court and their current statutes, to the extent known.

7. **Appointment of E-Discovery Committee**—This committee shall address the use of e-discovery protocols for the present action and will comprise of all liaison counsel. The court will entertain names of any persons who wish to serve in this committee.
8. The Technology Committee shall present the proposed order to the court and finalize the establishment of VERILAW as the service for electronic submissions to the court by January 23, 2004.
9. **MDL Coordination**—Interim Liaison Counsel for the Multi-District Litigation (“MDL”) coordination shall be Martin Wendel, Esq. of Curtis, Mallet-Prevost, Colt & Mosle LLP for the plaintiff. The liaison counsel for the defendants is to be determined.
10. **Proposed Discovery Schedule**—Liaison Counsel shall submit a proposed schedule for discovery no later than February 20, 2004. Discovery will not be stayed for mediation.
11. **Mediation**—The Honorable John E. Keefe, Sr. (retired) has been proposed by the parties to serve as Special Master for the mediation of this case. Judge Keefe is currently the mediator of underlying PPA litigation before this court. A Joint Order by the parties is to be submitted by January 20, 2004 regarding the selection of the mediator that must be approved by the Honorable Marina Corodemus, J.S.C. and the Honorable Robert A. Longhi, A.J.S.C.
12. **Motion**—No motion shall be filed without leave of court unless it includes a certificate that the movant has conferred with opposing counsel in a good faith effort to resolve the matter without court action, until a further order is issued by this court on January 14, 2004. Moving parties must coordinate with Liaison Counsel regarding any motions submitted to the court.

## II. **Admission of Counsel**

Attorneys must be admitted to practice and in good standing in the State of New Jersey as governed by New Jersey Court Rule R. 1:21-2; those not admitted *pro hac vice* in this litigation may not participate. Therefore, parties should apply on or before January 23, 2004.

1. Any attorney seeking admission *pro hac vice* shall make a formal motion for admission returnable before Judge Corodemus. The motion must be made on the applicant’s behalf by a fully licensed member of the New Jersey Bar, utilizing the form of motion available on the Mass Tort Info Center website at [http://www.judiciary.state.nj.us/mass-tort/forms/ppa\\_prohac\\_022502.pdf](http://www.judiciary.state.nj.us/mass-tort/forms/ppa_prohac_022502.pdf)

2. Motions for the admission of counsel *pro hac vice* shall be decided on the papers submitted unless opposition to the motion is filed or the court otherwise directs that oral argument be presented. The admission, if granted, shall be deemed to apply to all cases pending in or in part of Mass Tort Case Code No. 267. No more than four counsel shall be admitted *pro hac vice* on behalf of any party during the same period.
3. The attorney seeking admission *pro hac vice* must warrant the representations set forth below to be true:
  - i. Counsel seeking *pro hac vice* admission has a relationship with the client on whose behalf he or she wish to appear, and the client has requested his or her participation in the litigation as attorney *pro hac vice*.
  - ii. Counsel seeking *pro hac vice* admission does not serve as in-house counsel to the party on whose behalf counsel wished to appear, and further has never personally served as in-house counsel for that party and has not been involved in policy or management decisions made by such party. Counsel seeking *pro hac vice* admission has reviewed Payton v. New Jersey Turnpike Authority, 148 N.J. 524, (1997).
  - iii. Counsel seeking *pro hac vice* admission does not appear to have any basis to be asked to appear as a witness in this litigation by any party.
  - iv. Counsel seeking *pro hac vice* admission has reviewed the New Jersey Rules of Court and agrees to comply with said Rules, including all disciplinary rules.
  - v. Counsel seeking *pro hac vice* admission represents he or she is a member in good standing in the bar of any state and federal courts before which he or she is admitted, that no disciplinary proceedings are pending against him or her in any jurisdiction and no discipline has previously been imposed against him or her in any jurisdiction, and further that he or she has never been disciplined or censured by any court and has never been under suspension or disbarment by any court.

**Conditions of Pro Hac Vice Admission**--The following conditions shall apply to the admission *pro hac vice* of any attorney in these matters:

1. Counsel admitted *pro hac vice* shall abide by the New Jersey Rules of Court, including all disciplinary rules of the Court of the State of New Jersey, Rule 1:20-1 and Rule 1:28-2.
2. All contingency fee arrangements with plaintiffs involving counsel admitted *pro hac vice* shall comply with the requirements of the New Jersey Rules of Court, specifically Rule 1:21-7.

3. Counsel admitted *pro hac vice* shall consent to the appointment of the Clerk of the Supreme Court of New Jersey as an agent upon whom service of process may be made for all actions against his or her firm that may arise out of his or her participation in this matter.
4. *Pro hac vice* counsel must be accompanied by a member of the New Jersey Bar at all proceedings.
5. Motions, trial or any other court proceedings will not be adjourned due to the inability of *proc hac vice* counsel to be in attendance.
6. New Jersey counsel for the party will remain primarily responsible for this litigation and will sign all pleadings filed with the court and ensure compliance with the New Jersey Court Rules and all Case Management Orders.
7. Counsel admitted *pro hac vice* shall not be designated as trial counsel pursuant to Rule 4:25-4.
8. Counsel admitted *pro hac vice* must notify the Court immediately of any matter affecting his or her standing at the Bar of any State in which he or she is admitted or of any other jurisdiction.
9. Counsel admitted *pro hac vice* must within ten (10) days of the entry of the order for admission, pay the fees required by Rule 1:20-1(b) and Rule 1:28-1 and submit affidavits of compliance within fifteen (15) days thereafter. During the pendency of these matters counsel admitted *pro hac vice* shall continue to comply with Rules 1:20-1(b) and 1:28-1 on an annual basis and shall submit affidavits of compliance within thirty (30) days of such compliance. Proof of payment shall be sent to Ms. Dolores Taylor, the Mass Tort Team Leader, at the Middlesex County Courthouse, 1 John F. Kennedy Square, Tower Wing 2nd Floor, New Brunswick NJ, 08903.
10. Any admission *pro hac vice* shall be terminated for failure to make the required annual payment to the Ethics Financial Committee and the New Jersey Lawyer's Fund for Client Protection upon appropriate notification from the Administrative Office of the Court ("AOC") that the annual payment has not been made. Proof of such payment, after filing proof of the initial payment, shall be made no later than February of each year.
11. A copy of the order granting *pro hac vice* admission shall be served on all parties within seven (7) days of its entry.
12. Noncompliance with any of the requirements of *pro hac vice* admission shall constitute ground for removal.

**Next Conference:** All counsel shall appear for a status conference with the court at 10:00 AM on Friday, 20<sup>th</sup> day of February 2004, Courtroom #401, Middlesex County Courthouse, New Brunswick, New Jersey or the parties may participate on line with communications through their respective liaison counsel.

A handwritten signature in black ink, appearing to read 'M. Corodemus', written over a horizontal line.

Hon. Marina Corodemus, J.S.C.  
Supervising Judge, Mass Tort