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The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IN RE: PHENYLPROPANOLAMINE  
(PPA) PRODUCTS LIABILITY  
LITIGATION,

MDL NO. 1407

CASE MANAGEMENT ORDER  
NO. 18B REQUIREMENT OF  
ALTERNATIVE DISPUTE  
RESOLUTION

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This document relates to all  
actions.

**This case management order replaces and supercedes Case Management Order ("CMO") No. 18A.**

**I. REQUIREMENT OF ALTERNATIVE DISPUTE RESOLUTION**

Within seven (7) days following inclusion of a case on a Suggestion of Remand Order by this transferee court, the parties must decide whether to mediate. Immediately following the seven (7) day period, the parties shall inform the Court of their decision whether or not to mediate by way of a brief joint submission titled "Election Regarding Alternative Dispute Resolution."

1 **II. MEDIATION**

2       Should the parties elect to mediate, the mediation shall take  
3 place no later than one month after inclusion of the case on a  
4 Suggestion of Remand Order.

5 **III. SELECTION OF MEDIATORS**

6       The parties shall meet and confer in an attempt to agree upon  
7 a panel of regional mediators, which will include mediators from  
8 the following areas: California, Texas, Western Louisiana, Eastern  
9 Louisiana, the Northeast, the Southeast, and the remainder of the  
10 country. The parties can agree to additional mediators if deemed  
11 necessary. To the extent that the parties cannot agree on certain  
12 mediators, Plaintiffs' Steering Committee and Defendants' Steering  
13 Committee shall provide a list of nominees to Special Master  
14 Francis McGovern, who will assist the parties in reaching resolu-  
15 tion. Each mediation session shall be conducted by one mutually  
16 agreed upon mediator selected from the panel of regional mediators.  
17 The cost of the mediation will be split equally among the mediating  
18 plaintiff(s) and the mediating defendant(s) collectively. The  
19 mediator selected shall be located within the same region as the  
20 transferor court, unless the parties mutually agree otherwise.  
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23 **IV. "MEET AND CONFER"**

24       Should either of the parties decline to mediate the case, the  
25 parties must participate in, and are responsible for arranging, a  
26

1 "meet and confer" with Special Master Francis McGovern.<sup>1</sup> The "meet  
2 and confer" shall take place no later than 21 days after the case  
3 is included on a Suggestion of Remand Order. Nothing in this Order  
4 will prevent the parties from agreeing to mediate any additional  
5 cases or groups of cases.

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7 DATED this 23<sup>rd</sup> day of June, 2004.

8 s/ Barbara Jacobs Rothstein  
9 HONORABLE BARBARA JACOBS ROTHSTEIN  
10 UNITED STATES DISTRICT JUDGE

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<sup>1</sup>The role of Special Master McGovern is hereby expanded to include the duties contemplated by this Case Management Order.