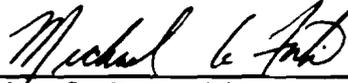


Dated this 23rd day of April, 1991.

Respectfully submitted,



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schizophrenia drug, clozapine.

2. On January 28, 1991, pursuant to Federal Rule of Civil Procedure 12(b)(6), Caremark moved before the United States District Court for the Southern District of New York to dismiss Newell's complaint for failing to state a claim upon which relief can be granted. Caremark filed its supporting memorandum on that same date.

3. On March 26, 1991, Newell filed a memorandum in opposition to Caremark's motion to dismiss ("Response"). In his Response, Newell stated an intention to replead or delete certain allegations of his complaint.

4. On April 9, 1991, the Judicial Panel on Multidistrict Litigation transferred the Newell action and 23 related actions filed by the Attorneys General of various states ("States' Actions") to this Court for coordinated pretrial proceedings with Dauer v. Sandoz Pharmaceuticals, Inc., et al., No. 90 C 6412, which already was pending before this Court.

5. According to the agreed briefing schedule, Caremark was to file its Reply Memorandum on or before April 16, 1991. However, because Newell has informed Caremark that he intends to amend his complaint, Caremark hereby seeks leave to withdraw its motion to dismiss so that the Court is not required to address a dispositive motion that may become moot.

6. The parties have agreed that Caremark may seek leave to withdraw its motion to dismiss, and Newell may file an amended complaint on or before June 3, 1991. The parties also have agreed that if Newell does not file an amended complaint in this Court on or before June 3, 1991, Caremark may seek leave to refile its motion

to dismiss.

7. This agreed motion to withdraw is limited solely to the Newell action and does not relate to or affect Caremark's pending motion to dismiss the States' Actions. Caremark's motion to dismiss the States' Actions, which applies to the 23 actions that already have been transferred and 10 "tag-along" actions filed by the Attorneys General of 10 additional states, has been fully briefed and is now pending before this Court.

WHEREFORE, defendant Caremark Inc. prays for an order of this Court granting it leave to withdraw without prejudice its pending motion to dismiss and leave to refile its motion to dismiss if Newell does not file an amended complaint on or before June 3, 1991.

Dated this 23rd day of April, 1991.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Michael A. Forti, hereby certify that I served copies of the foregoing Agreed Motion To Withdraw Caremark Inc.'s Motion To Dismiss to the following on the attached Service List by U.S. Mail, first class postage prepaid, this 23rd day of April, 1991.



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MAY 07 1991
ANTITRUST BUREAU

Case Number: 1:91-cv-02431

Title: Clozapine Antitrust v.

Assigned Judge: Honorable Harry D. Leinenweber

MINUTE ORDER of 5/1/91 before Honorable Harry D.
Leinenweber : The agreed motion to withdraw Caremark Inc.'s
motion to dismiss [8-1] is granted. Notice mailed 05/02/91.

This order was entered on the docket by the Clerk May 2, 1991

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the
Federal Rules of Civil Procedure. It was generated by
the automated docketing system being introduced to handle
the civil dockets of this District. If a minute order or
other document is enclosed, please refer to it for
additional information.