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RECEIVED
ORIGINAL FILED OCT 22 2009
OCT 22 2009 BY: _____
DEPT. 309

9 *Attorneys for Plaintiffs and the Class*

**LOS ANGELES
SUPERIOR COURT**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL CIVIL WEST**

10 SUSANNAH K. ALEXANDER and)
11 DR. SHERREL HOWARD,)
12 Individually and on behalf of all others)
13 similarly situated)

14 Plaintiffs,

15 vs

16 SOLVAY PHARMACEUTICALS,)
17 INC.)

18 Defendants.)

Case No.: BC 300364
[Consolidated with BC325120]

[Assigned for All Purposes to the Honorable Anthony J. Mohr]

CLASS ACTION

**~~PROPOSED~~ ORDER GRANTING
QUALIFIED PROTECTIVE ORDER
REGARDING PROTECTION OF HEALTH
INFORMATION**

DEPT.: 309

Complaint Filed: August 7, 2003
Trial Date: January 5, 2010

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28 tw:6168/proposed order re ex parte app

1 **~~PROPOSED~~ ORDER GRANTING QUALIFIED
PROTECTIVE ORDER RE PROTECTION OF
HEALTH INFO**

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On October ____, 2009, on Plaintiffs’ Ex Parte Application for Entry of Qualified Protective Order, and the Court having entered an order preliminarily approving a proposed settlement that, among other things, seeks the cooperation of third party payors (“TPPs”) through producing to the Claims Administrator HIPAA compliant information identifying insured consumer co-payors, and the Court otherwise being fully informed and good cause appearing therefore,

IT IS HEREBY ORDERED:

1. This Qualified Protective Order shall apply to all “protected health information” and “individually identifiable health information,” as defined by 45 C.F.R. §160.103, or information that is otherwise protected from disclosure by the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and/or other applicable state law.

2. All protected health information provided to the Claims Administrator, including but not limited to names, addresses, personal identification or social security numbers, and any Estratest payment information, shall be used for the sole purpose of providing notice and/or administering the settlement of this litigation and shall be held confidential and shall not be released to any other person or entity except for a qualified business associate of the Claims Administrator (such as a mail house) that is necessary to administer the settlement and, in compliance with 45 C.F.R. §164.502(e), provides satisfactory written assurance that such information will be appropriately safeguarded.

3. All third party payors (“TPPs”) that provide requested personal information to the Claims Administrator fall within the safe harbor of HIPAA for court-ordered production of personal health information, 45 C.F.R. § 164.512(e)(1), and shall have no liability under HIPAA or any other federal or state statute, regulation, or other requirement, for supplying patient or member information to the Claims Administrator. Further, TPPs that provide such information shall not be deemed to be guarantors of the completeness or accuracy of the data they provide. TPPs shall not be liable to any party, class member, or any other person or entity for any claim

1 related to the completeness and/or accuracy of any HIPAA data provided, or for any other liability
2 of any kind in providing HIPAA data to the Claims Administrator.

3 4. The Claims Administrator likewise shall not be deemed to be a guarantor of the
4 completeness and/or accuracy of the data provided to it and shall have the right to rely in good
5 faith upon the information provided by any TPP in providing notice and/or administering the
6 settlement.

7 5. The Claims Administrator and any business associates shall maintain the
8 information received in connection with this settlement until otherwise ordered by the Court.
9 When ordered by the Court, the Claims Administrator shall destroy any and all originals and
10 copies of the information obtained, including electronic and hard copies, and shall insure that any
11 business associates do the same.

12
13 **IT IS SO ORDERED.**

14
15 DATED: 10-22-2009

16 
The Honorable Judge of the Superior Court
JOHN SHEPARD WILEY JR.

17 Prepared by:

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20
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3 ~~PROPOSED~~ ORDER GRANTING QUALIFIED
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