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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF LOS ANGELES  
14

15 COORDINATION PROCEEDING SPECIAL  
16 TITLE (Rule 3.550)  
17 **IN RE CYMBALTA DRUG CASES**

JCCP NO. 4825

**DEFENDANT ELI LILLY AND  
COMPANY'S STATUS REPORT AND  
REQUEST TO TERMINATE JCCP 4825**

The Honorable Ann I. Jones

DEPT: 11

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19 **THIS DOCUMENT RELATES TO ALL**  
20 **CASES, INCLUDING:**

21 *Cynthia Fuller v. Eli Lilly and company, et al.,*  
22 BC572895  
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REED SMITH LLP  
A limited liability partnership formed in the State of Delaware

1 Defendant Eli Lilly and Company (“Lilly”) submits the following report regarding the status  
2 of JCCP 4825 and requests this Court to recommend to the California Judicial Council that JCCP  
3 4825 be terminated.

4 **I. INTRODUCTION**

5 The genesis of JCCP 4825 can be traced back to March 20, 2015, when attorneys  
6 representing various California plaintiffs filed a Petition for Coordination (the “Petition”) of five  
7 single-plaintiff California state court Cymbalta cases. These lawsuits challenged the adequacy of  
8 Cymbalta’s extensive, three-paragraph FDA-approved warning about the risk of certain adverse  
9 symptoms that can occur when discontinuing Cymbalta.

10 The Petition came on the heels of the decision of the federal Judicial Panel on Multidistrict  
11 Litigation (“JPML”) in December 2014 to decline to centralize the then-existing 25 federal  
12 Cymbalta cases. *See In Re: Cymbalta (Duloxetine) Products Liab. Litig.*, (MDL 2576), 65 F.  
13 Supp.3d 1393, 1394 (J.P.M.L. Dec. 10, 2014). Over Lilly’s objection, JCCP 4825 was established  
14 by order of the California Judicial Council on June 10, 2015. After the creation of JCCP 4825, the  
15 same Plaintiffs’ lawyers prosecuting these lawsuits made a second attempt to create a federal MDL,  
16 but in October 2015, the JPML again declined the invitation to create a federal MDL. *See In Re:*  
17 *Cymbalta (Duloxetine) Prods. Liab. Litig. (No. II)* (MDL 2662), 138 F. Supp.3d 1375, 1376-77 (Oct.  
18 9, 2015). Ultimately, with no federal MDL, over 90% of Cymbalta plaintiffs (1325 individuals  
19 spread across 44 complaints) brought their claims in the JCCP, even though over 75% of the  
20 plaintiffs in the JCCP resided outside of California.

21 In federal court, three cases involving the claims of four individual plaintiffs were tried to a  
22 jury in August 2015. Lilly prevailed in all four, with three defense verdicts and one directed verdict  
23 at the close of Plaintiff’s evidence. One federal judge in New York found Cymbalta’s warnings  
24 adequate as a matter of law and granted Lilly summary judgment. *See McDowell v. Eli Lilly and*  
25 *Co.*, 58 F.Supp.3d 391 (2014), *reconsideration denied*, *McDowell v. Eli Lilly and Co.*, 2015 U.S.  
26 Dist. LEXIS 23445 (S.D.N.Y. Feb. 26, 2015). Another federal judge in South Carolina granted  
27 Lilly’s motion for summary judgment on proximate cause grounds. *See Carnes v. Eli Lilly and Co.*,  
28 No. 0:13-591-CMC, 2013 U.S. Dist. LEXIS 176201 (D.S.C. Dec. 16, 2013).

1 In May 2016, Lilly filed a motion asking this Court to quash service of summons with  
2 respect to all non-California plaintiffs for lack of personal jurisdiction; or alternatively, to dismiss  
3 their claims on the grounds that California is not a convenient forum. While that motion was  
4 pending, the parties reached a comprehensive settlement to resolve all pending and threatened  
5 claims.

6 After an extended period of settlement administration, Lilly is pleased to report that as of  
7 January 16, 2020, all of the cases and Plaintiffs pending in JCCP 4825 are dismissed. Because no  
8 new complaints have been filed since November 2015, and because there is no reason to believe that  
9 any new cases will be filed in the future, Lilly respectfully submits that JCCP 4825 can and should  
10 be terminated.

11 **II. JCCP 4825 SHOULD BE TERMINATED**

12 In May 2016, after four verdicts in Lilly’s favor, two grants of summary judgment in Lilly’s  
13 favor, the JPML twice declining to create a federal MDL, and with Lilly’s motion to quash service  
14 of summons of some 75% of the inventory of plaintiffs pending, the parties reached an agreement on  
15 a “procedure” to resolve all of the cases pending in JCCP 4825. The parties employed Retired Judge  
16 Carl West to serve as a special master administering the settlement. After nearly four years, the  
17 process has been completed and all of the cases and Plaintiffs pending in JCCP 4825 have finally  
18 been dismissed. The four-year settlement administration process proved to be difficult because a  
19 large number of the plaintiffs with filed cases turned out either to be difficult to locate or otherwise  
20 not have a viable case. *See, e.g., In re Mentor Corp. Obtape Transobturator Sling Products Liability*  
21 *Litigation*, M.D. Ga., 4:08-MD-2004 (“[T]he evolution of the MDL process toward providing an  
22 alternative dispute resolution forum for global settlements has produced incentives for the filing of  
23 cases that otherwise would not be filed if they had to stand on their own merit as a stand-alone  
24 action.”). Notably, of the 1325 plaintiffs with cases pending in JCCP 4825, 41 voluntarily dismissed  
25 their claims without payment and another 372 had their cases dismissed on August 16, 2019 for not  
26 responding at all or otherwise failing to comply with the CMO governing initial discovery of non-  
27 settling plaintiffs. The bottom line here is that Lilly had to devote substantial time and expense just  
28 to weed out the meritless cases permeating the JCCP docket, demonstrating the importance both

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being mindful of the unintended consequences of creating consolidated proceedings and of having procedures in place from the beginning to disincentivize the filing of meritless cases.

**III. CONCLUSION**

Given the completion of the settlement process as described above and the fact that no new cases have been filed in the last 4 years, Lilly submits that it is time to close these proceedings and respectfully requests this Court to petition the Judicial Counsel for an order terminating JCCP 4825.

DATED: January 30, 2020

REED SMITH LLP

By:   
David E. Stanley  
Attorneys for Defendants Eli Lilly and Company  
and McKesson Corporation

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**PROOF OF SERVICE**  
*Coordination Proceeding Special Title (Rule 3.550)*  
*In Re Cymbalta Withdrawal Cases*  
LASC JCCP No. 4825

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is REED SMITH LLP, 355 South Grand Avenue, Suite 2900, Los Angeles, California 90071-1514. On January 30, 2020, I served the following document(s) by the method indicated below:

**DEFENDANT ELI LILLY AND COMPANY'S STATUS REPORT AND REQUEST TO TERMINATE JCCP 4825**

on interested parties in this action through the use of the Website maintained by Case Anywhere. I caused the foregoing document to be transmitted to Case Anywhere for electronic service:

- BY ELECTRONIC SERVICE** by providing the document(s) listed above electronically through the Case Anywhere system pursuant to the instructions on their website. [The document will be deemed served on the date it was uploaded to the website as indicated by the Case Anywhere system.]

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 30, 2020, at Los Angeles, California.

  
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Maria Carranza