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TO: CATEGORY ONE CLASS MEMBER CLAIMANTS
RE: JOINT MOTION FOR INTERIM DISTRIBUTION

This Memorandum is being sent to all Category One Diet Drug Class Members who have filed a Category One Proof of Claim Form with the 7th Amendment Fund Administrator and who are not represented by their own private counsel. It is being sent in an effort to address many questions that have been asked in response to the recent delivery of the Joint Motion for Judicial Authorization to Make an Interim Distribution and associated documents and CD-Rom to you. This Memorandum will attempt to discuss the most common questions that have been asked and to provide you with guidance as to additional steps you may take to confirm that your Category One Claim is being processed.

1. Who is the 7th Amendment Fund Administrator and what is the difference between the Fund Administrator and the AHP Settlement Trust?

The 7th Amendment Fund Administrator is a different entity than the AHP Settlement Trust, and that had been appointed by the Court presiding over the Diet Drug Class Action Settlement to process Category One Claims. The AHP Settlement Trust originally was responsible to process such claims, but when the Seventh Amendment to the Nationwide Class Action Settlement Agreement was made, the responsibility for processing certain types of claims was transferred to the Fund Administrator, and a Class Member who has a Category One Claim

must communicate with the Fund Administrator about their Claim and process it in accordance with the Fund Administrator's requirements. The address, phone number and e-mail address for the Fund Administrator is noted above.

2. What is a Category One Class Member?

A Category One Class Member is in simple terms, a Class Member of the Nationwide Class Action Diet Drug Settlement, who at one time submitted to the AHP Settlement Trust ("Trust") a Claim for benefits that included a Claim for certain types of Matrix Benefits that was made by the filing of a GREEN FORM with the Trust. The types of Matrix Benefits claims that are covered by Category One are Claims where the Class Member has alleged that he/she suffered from certain levels of heart valve regurgitation, but that had not had heart valve surgery for the condition. The Seventh Amendment to the Settlement Agreement transferred the responsibility for the processing of Category One Claims from the Trust to a different processing entity, known as the Fund Administrator. There are approximately 39,000 Category One Class Members whose claims are to be processed by the Fund Administrator. Prior processing of a claim with the Trust will NOT be a substitute for your responsibility to process your claim with the Fund Administrator. Your claim is therefore now under the jurisdiction of the Fund Administrator and you MUST process your claim with the Fund Administrator according to its requirements.

3. How do I process a Category One Claim with the Fund Administrator?

The Fund Administrator sent to you a Category One Proof of Claim Form. The distribution of that Claim Form occurred generally in 2005. You were required to complete that Claim Form, which unlike the GREEN FORM you submitted to the Trust, did not require the cooperation of any doctor. However, you were required to provide to the Fund Administrator

proof of your diet drug use, and the copy of the Echocardiogram tape or disk that your Claim relied on. Even if you had previously provided the proof of diet drug use and/or Echocardiogram tape or disk to the Trust, you still had the responsibility to provide those materials to the Fund Administrator. If you no longer have copies of those materials after having sent them to the Trust, or it would be more convenient to you to simply have the Trust forward copies of the materials to the Fund Administrator for you, you can indicate that you have made that request in your Claim Form and the Fund Administrator will follow up on your request. But if you fail to make arrangements with the Trust for the provision of those materials, or for the Fund Administrator to obtain from the Trust the materials you previously provided to the Trust for you, your Claim will be deficient and will ultimately be DENIED for your failure to provide the required information and materials.

4. After submission of all of the required materials, what happens next?

Once you have submitted your Proof of Claim Form, and the Fund Administrator has received your Echocardiogram tape or disk and proof of diet drug use, the Fund Administrator will then have your Echocardiogram evaluated by one of the Participating Physicians to determine what medical conditions are demonstrated on the Echocardiogram tape or disk. You will then be sent by the Fund Administrator a letter that will advise you of the results of that Initial Medical Review of your Echocardiogram. Assuming that your Echocardiogram is capable of being interpreted, or in other words, is of sufficient quality that it can be reviewed, the determination letter sent to you will report on whether the Echocardiogram demonstrates conditions that entitle you to a Matrix-type benefit, or that your condition is FDA Positive without a complicating factor, or that you are entitled to the Minimum Payment because you do not suffer from at least FDA Positive conditions or worse.

5. What is a Matrix-type benefit?

A Matrix-type benefit will be expressed to you in the form of a Relative Payment Value. The Relative Payment Values can range from a low of 2.00 to a high of 100.00. There are a wide variety of Relative Payment Values in between. These Values depend on how long you took the diet drugs, your age when you were first diagnosed with the injury that qualified you for a Matrix-type benefit based on the date of the Echocardiogram evaluated for your Claim, and the type of injury you suffered. For approximation purposes only, each Relative Payment Value point converts to about \$10,000 in value. Thus, a Category One Class Member who is found to qualify as a Relative Payment Value of 2.00 will be awarded approximately \$20,000 for the Matrix-type benefit case. A Relative Payment Value Category One Class Member will not be entitled to the FDA Positive payment nor the Minimum Payment. Generally speaking, a Matrix-type Claim is one where the Medical Review of your Echocardiogram tape or disk demonstrates that you suffer from certain levels of heart valve regurgitation of your Mitral and/or Aortic valve, and that you also have certain complications as a result of the regurgitation. Most commonly, a Matrix-type Claim is one where the Category One Class Member's Echocardiogram tape or disk shows that the Class Member has Moderate levels of regurgitation of the Mitral heart valve, **and** an enlarged left atrium and/or a reduced ejection fraction. Category One Class Members whose Echocardiogram demonstrate those conditions upon Medical Review by a Participating Physician will typically receive a Relative Payment Value on either the Beta "Low Threshold" Grid, or the Epsilon "Low Threshold" Grid.

6. What is an FDA Positive condition?

An FDA Positive condition means that your Echocardiogram demonstrated that your mitral valve suffers from regurgitation that is at least of moderate severity and/or your aortic

valve suffers from regurgitation that is at least of mild severity, but that your Echocardiogram did not demonstrate other conditions that qualified you for a Relative Payment Value. The benefit for an FDA Positive finding is \$3,000 if you demonstrated diet drug use of 60 days or less, or \$6,000 if you demonstrated diet drug use of 61 days or more. The FDA Positive benefit is one that is still paid by the Trust and not by the Fund Administrator, but cannot be paid until the Fund Administrator certifies to the Trust that the final evaluation of your Echocardiogram demonstrated only a FDA Positive condition. Once that certification is made, and if you have NOT already been paid the FDA Positive benefit by the Trust, the Trust will process that certification and send to you your FDA Positive benefit check. In addition, an FDA Positive Category One Class Member will also be entitled to the MINIMUM PAYMENT as well. A Category One Class Member who is found to be entitled to a Relative Payment Value will NOT be entitled to recover the FDA Positive payment, however, if that FDA Positive payment had been previously paid by the Trust, prior to the Fund Administrator determining that the Category One Class Member qualifies for a Relative Payment Value, the Class Member is not required to refund or repay that prior FDA Positive payment made by the Trust.

7. What is the Minimum Payment?

For Category One Class Members whose Echocardiograms did not demonstrate entitlement to a Relative Payment Value they will be awarded the Minimum Payment of \$2,000. A Category One Class Member who did not provide the Fund Administrator with their Echocardiogram tape or disk, or who did not complete the Category One Proof of Claim Form, can still obtain the Minimum Payment amount if that Class Member provides to the Fund Administrator proof of diet drug use. In addition, the Minimum Payment will be paid to Category One Class Members who are found to be FDA Positive upon the review of their

Echocardiogram tape or disk.

8. What is the Joint Motion for Interim Distribution?

The Seventh Amendment of the Settlement Agreement provides that the Fund Administrator is not permitted to make any payment from the Supplement Class Settlement Fund that was created by the Seventh Amendment without a Court Order permitting the payment. The Seventh Amendment also provides that once the Fund Administrator had finally reviewed at least 50% of the Category One Claims, it could apply to the Court for permission to commence making payments to the finalized (or “adjudicated”) Category One Class Members. There are approximately 39,000 Category One Class Members, and as of September 30, 2006, approximately 26,000 have had their Category One Claims finalized by the Fund Administrator. Finalization of a Category One Claim means generally that the Category One Class Member had fully completed their Category One Claim, had provided a complete Category One Claim Form, had provided proof of diet drug use, and provided the Echocardiogram tape or disk that had been reviewed by one of the Participating Physicians, and that no further right of review existed on the Claim. The Fund Administrator is applying to the Court for permission to commence payments to the approximately 26,000 Category One Class Members whose Claims are finalized. The Joint Motion for Interim Distribution is the application to the Court to accomplish this.

9. Why is the Motion called an “Interim Distribution?”

Under the terms of the Seventh Amendment, once at least 50% of the Category One Claims are completed, the Fund Administrator is permitted to pay the Minimum Payment amount of \$2,000 to all Category One Class Members whose final determination of their Claim entitles to them to that amount, upon the Court entering an Order approving the payment.

Approximately 23,000 of the 26,000 finalized Category One Class Members will be entitled to the Minimum Payment and upon Court Approval of the Joint Motion, they will be paid that amount. The DDR Claim Number originally assigned to the Class Member by the Trust is listed in Schedule IV on the CD-Rom provided to you for each Category One Class Member whose final determination of their Category One Claim entitles them to the Minimum Payment. There are approximately 5,500 Category One Class Members who were found to be FDA Positive and to the extent they had not already been paid that benefit by the Trust, will be entitled to that payment. These Category One Class Member DDR Claim Numbers are found on Schedule III of the CD-Rom. FDA Positive Category One Class Members will be entitled to both the FDA Positive benefit from the Trust and the Minimum Payment from the Fund Administrator. For those Category One Class Members who were found to be entitled to a Relative Payment Value, the terms of the Seventh Amendment limit the Fund Administrator to paying only up to 40% of the estimated full value of such claim until 100% of all of the Category One Class Member's Claims are fully finalized. The Category One Class Members who are entitled to a Relative Payment Value are listed by their DDR Claim Number on Schedule II of the CD-Rom provided to you. Therefore, the Joint Motion requests permission to make an Interim Distribution, which is another way of stating a partial distribution of the Relative Payment Value amounts while waiting for the remainder of the Category One Class Member Claims to be finalized.

10. Why does the Seventh Amendment prevent the Fund Administrator from paying the Category One Class Members who have been found to be entitled to a Relative Payment Amount their recovery in full prior to the completion of 100% of the Category One Claims?

The Seventh Amendment has this limitation to assure that there will be sufficient funds to pay all Category One Class Members their appropriate recovery and that there will be no shortfall as a result of paying too much too soon to some Category One Class Members prior to the

finalization of the all of the Category One Class Members. The Joint Motion therefore asks for Court permission to pay 40% of the estimated Relative Payment Value to the Category One Class Members who are entitled to a Relative Payment Value recovery, leaving enough of a reserve to pay the approximately 13,000 Claims who have not yet been finalized their entitlement to either a Minimum Payment of a Relative Payment Value, and enough to also pay the balance of the 60% not yet paid to those whose Category One Claim has already been finalized as a Relative Payment Value Claim.

11. What is the time frame for when I can expect to receive payment?

If your DDR Claim Number appears on Schedule II or IV, you will be entitled to a payment from the Fund Administrator. However, no payment from the Supplemental Class Settlement Fund can be made by the Fund Administrator without a Court Order allowing the payment. The Joint Motion seeks such a Court Order. We cannot predict when the Court will enter an Order approving any payments, but we are hopeful the Court will enter an Order sometime in early 2007, and once the Court enters such an Order, the Fund Administrator will endeavor to make the payments of the Minimum Payment Amounts and the 40% of the Relative Payment Value within 30 days of the Court's Order. We hope that will occur sometime in February 2007, though the time is dependent on when the Court enters the Order, and adding approximately 30 days to that date. As for the FDA positive payments, if your DDR Claim Number appears on Schedule III, you have been certified by the Fund Administrator as being FDA Positive, and the payments for such Claimants can be made by the Trust without a Court Order, and the Trust has already been making some such payments and will continue to do so as the Fund Administrator certifies Category One Claims as being entitled to the FDA Positive payment, subject to the Trust not having previously made the payment.

12. My package of materials did not include a check. Why Not?

Even if you have been found already to be entitled to a payment and your DDR Claim Number therefore appears on one of the Schedules, NO checks were included with the package of materials sent to you. This is because the Fund Administrator can not send any check to any Category One Class Member until the Court enters an Order permitting the Fund Administrator to issue a check. The form letters included as Exhibits to the Joint Motion are the styles of letters the Fund Administrator will use when it has Court permission to mail checks. Those Exhibits were not intended to state that a check was enclosed in your package, even if you are entitled to a payment at this time.

13. What if my DDR Claim Number is Not listed on Schedule II, III or IV?

This means that your Category One Claim had not been finalized by September 30, 2006, the cut off date for the Joint Motion for Interim Distribution. This could therefore mean that you have failed to process your Claim and it is in default and you are at risk of losing benefits by your failure to take action required of you. It could also mean that your Claim has been processed, but the finalization of the processing did not occur by September 30, 2006 and that you would therefore be included in a supplemental Motion for Distribution. It is anticipated that a supplemental Interim Distribution Motion will be filed for those Category One Class Members whose Claims become finalized by December 31, 2006, and that if a Category One Class Member Claim is not finalized by that date, to then be included in a later Distribution Motion to be filed. Your Category One Claim will not be considered finalized until you receive a determination letter from the Fund Administrator that provides you with the evaluation of your Echocardiogram, and then you either accept that determination, or the time to request a Second Review has passed without you seeking a Second Review. There are certain other methods by

which a Category One Claim will be considered finalized but if you have not received a determination letter advising you of the results of the review of your Echocardiogram, then your Claim would not be finalized, and would either still be in processing, or you are in default and you should have received a deficiency notice letter informing you of your deficiency that needs to be cured. If you fail to cure any deficiency, then your Claim may become finalized without an opportunity for your Claim to be medically reviewed by a Participating Physician for whether you may be entitled to a Relative Payment Value or the FDA Positive Benefit. And, under certain circumstances, you could also lose your right to the Minimum Payment if you do not at least provide your proof of diet drug use.

14. I am not able to get the CD-ROM to work.

The disk enclosed with your package is a CD-ROM and not a DVD. You must play it in a computer's CD-ROM drive and not a computer's DVD drive nor in a DVD player for your television. If you are not able to get the CD-ROM to work in a computer CD-ROM drive, you can contact the Fund Administrator to obtain a replacement disk.

15. My DDR Claim Number is not on the CD-ROM. How can I find out the status of my Claim?

You can first attempt to determine the status of your Category One Claim by logging onto the Fund Administrator's website and using your User Name and Password to access your Claim and review its status. Your User Name and Password were contained in a letter sent to you with the Category One Proof of Claim by the Fund Administrator. The Fund Administrator's website is: www.7thAmendmentDietDrugs.com . Once you log onto that website, follow these instructions:

- a. Click on "login" at the top of the page;
- b. Enter your User Name and Password on the next page, and click on

“login”.

At this point, you will be able to see the status of your 7th Amendment Category One Proof of Claim. But if you do not know your User Name and Password, or have other questions, you must contact the Fund Administrator.

16. How do I contact the Fund Administrator?

Please refer to the top of the first page of this Memorandum for the Fund Administrator’s address, phone number, facsimile number, and e-mail address. In addition, the website for the Fund Administrator is: www.7thAmendmentDietDrugs.com which also has a link you can use to contact the Fund Administrator. If you contact the Fund Administrator through its website, click on “Contact” to ensure that your e-mail will be directed to the proper person to provide you with a prompt response.