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The plaintiffs are represented by Thomas V. Girardi of Girardi Keese and Crane in Los Angeles.

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 Order Ref# DRU-0312-13

## Lipokinetix

### Lipokinetix Manufacturer Settles Liver Failure Case for \$3.4 Million Prior to Trial

SAN LUIS OBISPO, Calif. — A woman who required a liver transplant allegedly as a result of using the dietary supplement Lipokinetix, settled her claims with the manufacturer for \$3.4 million. *Amalia Higuera v. Syntrax Innovations, Inc.* No. 02-408787 (Calif. Super. Ct., San Luis Obispo Cty.).

The parties agreed to settle the dispute Oct. 23 just weeks before the case was scheduled to go to trial, according to plaintiff's attorney Thomas J. Brandi of San Francisco's Brandi Law Firm.

Plaintiff Amalia Higuera was 24 years old at the time she purchased Lipokinetix in August 2000 after seeing advertisements for the product in fitness magazines. She claimed that she used supplement from August 2000 until October 2000, but stopped after she experienced changes in her stool, urine and skin color, and began to feel ill. A doctor diagnosed her with jaundice and eventually fulminant hepatitis.

On Oct. 27, 2000, Higuera was admitted to the hospital, but her condition did not improve. She underwent a liver transplant and was discharged from the hospital Nov. 19, 2000.

Higuera filed suit June 5, 2002, in San Francisco County Superior Court against Lipokinetix-manufacturer Syntrax Innovations, Inc., the retail store where she purchased the product, and a number of unnamed defendants. On Nov. 8, 2002, the case was transferred to the Superior Court of San Luis Obsipo County, and consolidated for pretrial discovery with four other Lipokinetix-related injury cases.

The plaintiff asserted that Lipokinetix was defectively designed and that Syntrax failed to adequately warn consumer of the dangers associated with using the supplement.

"Defendants, and each of them, knew of the serious potential dangers posed to plaintiff and other users of Lipokinetix and knew that these products were not adequately tested and were deleterious to persons using the product," the complaint stated.

"Notwithstanding this knowledge, the defendants either intentionally or with conscious disregard of the safety of the foreseeable users of its product and of the plaintiff, misled plaintiff regarding the danger posed to her health and welfare from its product in order to advance their own pecuniary interests by selling products, avoiding suits, and avoiding a recall, sold these products to the plaintiff and others, and failed to advise the plaintiff and the public in general of the dangerous characteristics of its products," Higuera asserted.

In Nov. 2001, the FDA issued a letter informing consumers to stop using Lipokinetix due to its ability to cause liver damage. However, Higuera stated in her complaint that she did not become aware of the association between her injuries and Lipokinetix until February 2002.

Thomas J. Brandi and Terence D. Edwards of the Brandi Law Firm in San Francisco represented Higuera.

Scott L. Hengesbach of Murchinson & Cummings in Los Angeles was counsel for Syntrax Innovations, Inc.

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## Baycol

### Physicians Who Failed to Diagnose Symptoms of Baycol Injuries Not Fraudulently Joined

MINNEAPOLIS — A federal judge remanded a Baycol products liability case, finding that two prescribing physicians, who allegedly failed to diagnose the symptoms of the plaintiffs' drug-induced injuries, were not fraudulently joined. *In re: Baycol Products Liability Litigation*, MDL No. 1431 (D. Minn.).

In an order docketed Dec. 12, U.S. District Judge Michael J. Davis ruled that based on the allegations in the plaintiffs' complaint, they could pursue their state law negligence claims against the physicians.

Plaintiffs Francis Bobo and Clyde Norris sued Bayer Corp., the manufacturer of Baycol, and GlaxoSmithKline (GSK), the company that helped promote the cholesterol-lowering drug, for injuries allegedly caused by their ingestion of the drug. The plaintiffs claimed that the companies sold Baycol in a negligent manner, failed to adequately test the drug, and failed to sufficiently warn of the drug's risks. In addition, the plaintiffs contended that Baycol was unreasonably dangerous and that the companies made false statements to physicians and consumers regarding the safety of the drug. *Francis Bobo and Clyde Norris v. Bayer, et al.*, No. 03-3146 (D. Minn.).

The plaintiffs' prescribing physicians also were named as defendants in the case based on their alleged failure to advise of Baycol's risks, failure to prescribe a safer alternative when more effective drugs were available, and failure to diagnose "the condition that