

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CVS, INC.,
Plaintiff,

v.

C.A. No. 05-171T

BENEFICIAL HOLDINGS, INC.,
BENEFICIAL HEALTH SYSTEMS, INC.,
BENEFICIAL NUTRACEUTICALS, INC.,
INTEGRATED BIOPHARMA, INC., and
CONTEMPORARY MARKETING, INC.,
Defendants.

BIFURCATION ORDER

It appears that the core dispute in this case - the terms of the agreement between CVS and Beneficial, and whether CVS owes money to Beneficial under that contract - could be dispositive of many of the counterclaims, cross-claims, and third party claims in this case.

Therefore, in order to resolve these matters as efficiently and expeditiously as possible, and to avoid confusing the jury, the Court hereby bifurcates the case into at least two stages. Stage I will address the underlying declaratory judgment/contract claim between CVS and Beneficial. In other words, Stage I will address whether the payment terms of the agreement were "Net 31" or "pay-on-scan." If it is determined that the terms were "pay-on-scan" as claimed by CVS, then Stage II shall address the remaining liability counterclaims and cross-claims regarding misrepresentation and reliance/estoppel as well as Integrated's claims against Beneficial and Harvey Carmichael.

Based on the foregoing it appears that the following claims will be litigated in Stage I:

CVS's Complaint

Count I Declaration of Payment Terms and Counter
Count II Reformation of Contract

Beneficial's Counterclaim Against CVS

Count I Declaratory Relief/Judgment
Count II Breach of Contract

Integrated's Counterclaim Against CVS
Count I Breach of Contract
Count II Third Party Beneficiary

IT IS SO ORDERED:

Ernest C Torres
Ernest C. Torres
United States District Judge
Date: February 23 , 2007