

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: XARELTO (RIVAROXABAN) * MDL 2592
PRODUCTS LIABILITY LITIGATION *
 * SECTION L
THIS DOCUMENT RELATES TO *
ALL CASES * JUDGE ELDON E. FALLON
 *
 * MAG. JUDGE NORTH

**JOINT REPORT NO. 2 OF PLAINTIFFS’
AND DEFENDANTS’ LIAISON COUNSEL**

Plaintiffs' Liaison Counsel ("PLC") and Defendants' Liaison Counsel ("DLC") submit
this Joint Report No. 2.

1. **PRE-TRIAL ORDERS**

The Court has issued the following Pre-Trial Orders:

Pre-Trial Order No. 1 (Doc. 2) entered December 17, 2014 – Setting initial
conference

Pre-Trial Order No. 2 (Doc. 38) entered January 16, 2015 – Appointing
Plaintiffs’ Liaison Counsel

Pre-Trial Order No. 3 (Doc. 39) entered January 16, 2015 – Appointing
Defendants’ Liaison Counsel

Pre-Trial Order No. 4 (Doc. 61) entered January 26, 2015 – Requiring Counsel
to provide contact information to Liaison Counsel, and amending PTO No. 1
regarding docketing procedure

Pre-Trial Order No. 4A (Doc. 62) entered January 26, 2015 – Approving and
attaching Counsel Contact Information Form

Pre-Trial Order No. 5 (Doc. 63) entered January 26, 2015 – Clarifying duties of
transferor court under MDL Rule 1.6

Pre-Trial Order No. 5A (Doc. 149) entered February 3, 2015 – Amending PTO No. 5 to allow transferor court to retain original file

Pre-Trial Order No. 6 (Doc. 150) entered February 3, 2015 – Appointing Defendants’ Co-Lead Counsel

Pre-Trial Order No. 7 (Doc. 169) entered February 9, 2015 – Appointing Plaintiffs’ Steering Committee (PSC); Appointing Plaintiffs’ Co-Lead Counsel; Ordering that PLC and Plaintiffs’ Co-Lead Counsel shall comprise PSC Executive Committee; Appointing Chair of the State Liaison Committee, to be *ex-officio* member of PSC; and Listing responsibilities of PSC.

Pre-Trial Order No. 8 (Doc. 183) entered February 13, 2015 – Establishing standards and procedures for counsel seeking reimbursement for common benefit fees and costs.

2. **COUNSEL CONTACT INFORMATION FORM**

All counsel in the MDL are required to complete the Counsel Contact Information Form attached to PTO No. 4A, and forward it to the appropriate Liaison Counsel. This information must be kept current by counsel providing the information, and will be relied upon throughout the litigation.

3. **PLAINTIFFS’ STEERING COMMITTEE**

The appointed members of the Plaintiffs’ Steering Committee will meet with the Court on February 26, 2015. Further, at the conclusion of the February 27, 2015 status conference, the Plaintiffs Steering Committee will be meeting in Judge Fallon’s courtroom with all plaintiffs’ counsel in attendance at the status conference.

4. **FILE & SERVE XPRESS**

PLC, DLC, and Lead Counsel for the parties are currently considering the following options for service:

1. Use of File & Serve Xpress;
2. Relying on CM/ECF Notice to PLC/DLC and then relying on PLC/DLC to distribute service to all other counsel for their respective parties; or
3. A forthcoming proposal by BrownGreer for a service mechanism to be provided in conjunction with the MDL Centrality software.

PLC and DLC will report to the Court on the status of these matters at the February 27, 2015 Status Conference.

5. **DIRECT FILING MASTER COMPLAINT AND ANSWER**

On January 26, 2015, Defendants provided a proposed Direct Filing Order to the PLC for review. The proposed Order has been reviewed and PLC will be providing a response. The parties will have additional discussions about a Master Complaint and Master Answer. PLC and DLC will report to the Court on the status of these matters at the February 27, 2015 Status Conference.

6. **TOLLING AGREEMENT**

PLC has advised DLC that they will be providing DLC with a proposed Tolling Agreement Order. PLC and DLC will report to the Court on the status of this matter at the February 27, 2015 Status Conference.

7. **SERVICE ON FOREIGN BAYER ENTITIES**

Counsel for Bayer and PLC have had initial communications regarding foreign service issues. PLC will be making a proposal regarding these issues, and the parties will meet and confer to discuss the matter further. A number of motions have been filed requesting additional time to effectuate service on foreign defendants. PLC and DLC will report to the Court on the status of these matters at the February 27, 2015 Status Conference.

8. **“MDL CENTRALITY”/PROFILE/DISCLOSURE FORMS**

On February 11, 2015, Orran Brown of BrownGreer visited the New Jersey offices of Drinker Biddle & Reath LLP (Offices of Co-Lead Counsel for Defendants), to discuss the use of the MDL Centrality software. Mr. Brown also has had discussions with PLC regarding the use of MDL Centrality, and plans to meet with the Plaintiffs Steering Committee in advance of the Status Conference to discuss the use of the software. PLC and DLC will report to the Court on the status of these matters, as well as the need for and content of profile/disclosure forms, at the February 27, 2015 Status Conference.

9. **MASTER DISCOVERY**

PLC has advised that it will be providing DLC with a draft of Plaintiffs’ Master Request for Production, so that defendants have an opportunity to review same before it is made final. PLC will be prepared to meet and confer with DLC at the appropriate time regarding this discovery request.

10. **PRESERVATION ORDER**

On January 7, 2015, defendants provided PLC with a proposed Preservation Order. The proposed Preservation Order has been reviewed. On January 29, 2015, PLC requested certain information relevant to a Document Production/ESI Protocol. Thereafter, on February 9, 2015, DLC responded and further addressed preservation topics. The parties have agreed to meet and confer in order to address a proposed Order. PLC and DLC will report to the Court on the status of these matters at the February 27, 2015 Status Conference.

11. **PRIVILEGE LOG**

PLC has advised that it will be providing DLC with a proposed Pretrial Order setting forth a protocol for the treatment of privileged and work product materials. PLC and DLC will report to the Court on the status of these matters at the February 27, 2015 Status Conference.

12. **DOCUMENT PRODUCTION PROTOCOL**

On January 7, 2015, defendants provided PLC with a proposed Document Production Order. On January 29, 2015, PLC requested certain information relevant to a Document Production/ESI Protocol. Thereafter, on February 9, 2015, DLC responded and further addressed preservation topics. The parties have agreed to meet and confer to negotiate further and address a proposed Order. PLC and DLC will report to the Court on the status of these matters at the February 27, 2015 Status Conference.

13. **PROTECTIVE ORDER**

On January 7, 2015, defendants provided PLC with a proposed Protective Order. The proposed Protective Order has been reviewed and PLC will be providing a response to the

proposed Protective Order. PLC and DLC will report to the Court on these matters at the February 27, 2015 Status Conference.

14. **STATE/FEDERAL COORDINATION**

In accordance with Pre-Trial Order 7, PLC and DLC will have further communications regarding the State Liaison Committee as well as the status of the coordination of MDL and state court actions. PLC and DLC will report to the Court on these matters at the February 27, 2015 Status Conference.

15. **NEXT STATUS CONFERENCE**

The Court will advise as to the date of the next status conference.

Dated: February 24, 2015

Respectfully Submitted,

/s/ Leonard A. Davis
Leonard A. Davis (Bar No. 14190)
ldavis@hhklawfirm.com
HERMAN, HERMAN & KATZ, LLC
820 O'Keefe Avenue
New Orleans, LA 70113
PH: (504) 581-4892
FAX: (504) 561-6024

Co-Plaintiffs' Liaison Counsel

/s/ Gerald E. Meunier
Gerald E. Meunier (Bar No. 9471)
gmeunier@gainsben.com
**GAINSBURGH BENJAMIN DAVID MEUNIER
& WARSHAUER, LLC**
2800 Energy Centre, 1100 Poydras Street
New Orleans, LA 70163-2800
PH: (504) 522-2304
FAX: (504) 528-9973

Co-Plaintiffs' Liaison Counsel

/s/ James B. Irwin
James B. Irwin (Bar No. 7172)
jirwin@irwinllc.com
IRWIN FRITCHIE URQUHART & MOORE LLC
400 Poydras Street, Suite 2700
New Orleans, LA 70130
PH: (504) 310-2100
FAX: (504) 310-2120
Defendants' Liaison Counsel

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 24, 2015, the foregoing pleading was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to Liaison Counsel for Plaintiffs and Defendants by operation of the court's electronic filing system. Liaison Counsel for each party shall be responsible for the transmittal of a copy of this pleading to the attorneys or parties within their respective liaison group, in accordance with Pre-Trial Order 4.

/s/ James B. Irwin

James B. Irwin

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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PROPOSED AGENDA FOR
FEBRUARY 27, 2015 STATUS CONFERENCE

- 1. Pre-Trial Orders
- 2. Counsel Contact Information Form
- 3. Plaintiffs’ Steering Committee
- 4. File & Serve Xpress
- 5. Direct Filing and Master Complaint and Answer
- 6. Tolling Agreement
- 7. Service on Foreign Bayer Entities
- 8. “MDL Centrality”/Profile/Disclosure Forms
- 9. Master Discovery
- 10. Preservation Order
- 11. Privilege Log
- 12. Document Production Protocol
- 13. Protective Order
- 14. State/Federal Coordination
- 15. Next Status Conference