

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**IN RE: XARELTO (RIVAROXABAN)
PRODUCTS LIABILITY LITIGATION**

* **MDL NO. 2592**
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* **SECTION L**
*
* **JUDGE ELDON E. FALLON**
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* **MAG. JUDGE NORTH**

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THIS DOCUMENT RELATES TO ALL CASES

CASE MANAGEMENT ORDER NO. 4
(Bellwether Discovery Pool Selection Process and Eligibility Criteria)

This Order shall govern the criteria for and selection of 40 discovery pool plaintiffs as stated in Case Management Order No. 3.

I. Selection Process Requirements

1. **Eligibility for the Discovery Pool.** The parties have agreed upon the eligibility requirements and substantive categories for the discovery pool plaintiffs as set forth in Section II below.

2. **Classification of Alleged Events.** Each case will be classified based on the most serious event alleged by plaintiff in the Plaintiff Fact Sheet (“PFS”). For example, a plaintiff who alleges both a brain bleed and a nosebleed would be classified as a case involving an alleged brain bleed. Similarly, a plaintiff who alleges a gastrointestinal bleed, rectal bleed and nosebleed would be categorized as an alleged gastrointestinal bleed case.

3. **Population of the Discovery Pool using MDL Centrality.**

(a) By December 18, 2015, Brown Greer will identify eligible cases using the categories agreed upon by the parties and the geographic definitions in CMO 3 for the Eastern District of Louisiana, Mississippi and Texas and circulate to the parties arrays identifying same.

(b) By December 23, 2015, the Plaintiffs and Defendants (collectively) must submit their suggested corrections, if any, to the Brown Greer arrays for the Eastern District of Louisiana, Mississippi and Texas. The parties are to meet and confer on the suggested corrections by January 10, 2016. To the extent the parties are unable to agree on the corrections, the matter shall be brought to the attention of the Court and the Court shall enter an order at an appropriate time.

(c) By December 31, 2015, Brown Greer will identify eligible cases using the categories agreed upon by the parties for all states having 20 or more properly venued plaintiffs, excluding Mississippi, Texas, and the Eastern District of Louisiana, and circulate to the parties arrays identifying same.

(d) By January 5, 2016, the parties will simultaneously exchange their respective lists of four states that will be part of the random selection process.

(e) By January 8, 2016, the Plaintiffs and Defendants (collectively) will submit suggested corrections, if any, to the BrownGreer arrays. The parties are to meet and confer on the suggested corrections by January 10, 2016. To the extent the parties are unable to agree on the corrections, the matter shall be brought to the attention of the Court and the Court shall enter an order at an appropriate time.

4. **Party Selections.** By January 11, 2016, the Parties will make their selections from the categories below based on the arrays prepared by BrownGreer. The PSC and

Defendants (collectively) will each select 5 plaintiffs properly venued in the Eastern District of Louisiana, 1 plaintiff properly venued in Mississippi, 1 plaintiff properly venued in Texas and 1 plaintiff properly venued in each of three other states selected by the party under CMO 3. The parties should endeavor to, but are not required to, pick at least one case from each category.

5. Random Selections.

(a) The party picks will be removed from the arrays prepared by BrownGreer, and the arrays will be combined by Brown Greer by January 13, 2016 into a single pool for each state in which random selections will be made: Eastern District of Louisiana, Mississippi and the 8 party selected states (4 each) where the parties selected a plaintiff. There will be a maximum of ten individual pools. So for example, the Eastern District of Louisiana pool would consist of all Eastern District of Louisiana plaintiffs from all six categories.

(b) The random selections will then be made by January 15, 2016: 10 plaintiffs from Louisiana, 2 from Mississippi, and 1 each from the other 8 states.

6. Challenges. Any challenges as permitted under CMO 3 to the random selections will be made by January 20, 2016.

II. Eligibility and Substantive Categories for Discovery Pool Selection

1. **General Requirements of All Selected Cases.** Only those plaintiffs who have met the core requirements for the Plaintiff Fact Sheet (“PFS”) are eligible for selection in the discovery pool. Plaintiffs who had a demonstrable core deficiency as of December 15, 2015 will

not be included in the pool. The PFS must indicate that the plaintiff alleges a bleeding injury and/or death due to the bleeding injury.

2. **Categories.** To be eligible for the discovery pool, plaintiffs must satisfy all of the criteria in one of the categories below:

(a) Plaintiff took Xarelto[®] in order to reduce the risk of stroke and systemic embolism due to nonvalvular atrial fibrillation and alleges a gastrointestinal bleed or death due to a gastrointestinal bleed and was between the ages of 50 and 90 at the date of the alleged event.

(b) Plaintiff took Xarelto[®] to treat deep vein thrombosis (DVT), to treat pulmonary embolism (PE) and/or to reduce the risk of recurrence of DVT or PE and alleges a gastrointestinal bleed or death due to a gastrointestinal bleed and was between the ages of 40 and 80 at the date of the alleged event.

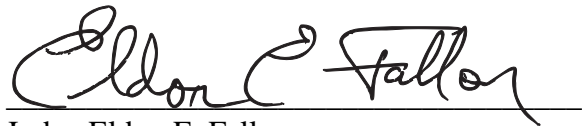
(c) Plaintiff took Xarelto[®] in order to reduce the risk of stroke and systemic embolism due to nonvalvular atrial fibrillation and alleges rectal bleeding or death due to rectal bleeding and was between the ages of 50 and 90 at the date of the alleged event.

(d) Plaintiff took Xarelto[®] to treat deep vein thrombosis (DVT), to treat pulmonary embolism (PE) and/or to reduce the risk of recurrence of DVT or PE and alleges rectal bleeding or death due to rectal bleeding and was between the ages of 40 and 80 at the date of the alleged event.

(e) Plaintiff took Xarelto[®] in order to reduce the risk of stroke and systemic embolism due to nonvalvular atrial fibrillation and alleges a brain bleed/hemorrhagic stroke or death due to a brain bleed/hemorrhagic stroke and was between the ages of 50 and 90 at the date of the alleged event.

(f) Plaintiff took Xarelto[®] to treat deep vein thrombosis (DVT), to treat pulmonary embolism (PE) and/or to reduce the risk of recurrence of DVT or PE and alleges a brain bleed/hemorrhagic stroke or death due to a brain bleed/hemorrhagic stroke and was between the ages of 40 and 80 at the date of the alleged event.

New Orleans, Louisiana, on this 17th day of December 2015.

A handwritten signature in black ink, reading "Eldon E. Fallon". The signature is written in a cursive style with a horizontal line underneath it.

Judge Eldon E. Fallon
United States District Court Judge