

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

IN RE: CHANTIX (VARENICLINE)  
PRODUCTS LIABILITY  
LITIGATION

Master File No.: 2:09-CV-2039-IPJ  
MDL No. 2092

This Document Relates To:

ALL CASES

**PFIZER INC.'S MOTION FOR SUMMARY JUDGMENT  
AS TO (1) THE ADEQUACY OF THE JULY 1, 2009 LABEL,  
AND (2) THE RUNNING OF STATUTES OF LIMITATIONS  
BASED ON THE JULY 1, 2009 LABEL**

Pfizer Inc. ("Pfizer") hereby moves for summary judgment as to the adequacy of the Chantix label that was implemented on July 1, 2009 and contained a boxed warning concerning neuropsychiatric adverse events. The Court should rule as a general matter of law that Pfizer is entitled to summary judgment in (1) all cases in which Plaintiffs were prescribed Chantix after July 1, 2009; and (2) all cases in which a one-year limitations statute applies and that were filed after July 1, 2010; all cases in which a two-year limitations statute applies and that were filed after July 1, 2011; and all cases in which a three-year limitations statute applies and that have not been filed on or before July 1, 2012.

This motion is based on the attached, supporting memorandum, the exhibits submitted herewith, the hearing on this motion, the record in this case, and such other matters as the Court properly may consider.

As set forth in Pfizer's supporting memorandum, Pfizer is entitled to summary judgment because: (1) the July 1, 2009 Chantix label is adequate as a matter of law, and (2) label updates, including the addition of a boxed warning on July 1, 2009, and widespread, well-documented publicity, alerted or reasonably should have alerted prescribers and patients to reports of neuropsychiatric events in Chantix users by July 1, 2009, at the latest, placing all potential plaintiffs on actual or constructive notice sufficient to trigger any statutes of limitations.

At this point, Pfizer does not seek the entry of final judgment in any particular case in this MDL that falls within the above parameters; if the Court grants this motion, Pfizer will seek entry of judgment in such cases at an appropriate later time.

### **CONCLUSION**

For the foregoing reasons and the reasons set forth in its supporting Memorandum, Pfizer respectfully requests that the Court enter a general summary judgment ruling that:

(1) the July 1, 2009 boxed warning is adequate as a matter of law to warn of reports of neuropsychiatric events in patients taking Chantix;

(2) Pfizer is entitled to summary judgment in all cases in which plaintiffs alleging neuropsychiatric injuries were prescribed Chantix after July 1, 2009;<sup>1</sup> and

(3) Pfizer is entitled to summary judgment in all cases alleging neuropsychiatric injuries in which (a) a one-year limitations statute applies and that were filed after July 1, 2010, (b) a two-year limitations statute applies and that were filed after July 1, 2011, and (c) a three-year limitations statute applies and that have not been filed on or before July 1, 2012.

Dated: May 18, 2012

Respectfully submitted,

/s/ Andrew B. Johnson  
Andrew B. Johnson  
Attorney for Pfizer Inc. and  
Defendant's Liaison Counsel

OF COUNSEL

F.M. ("Tripp") Haston, III  
Bradley Arant Boult Cummings LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, AL 35206  
Phone: (205) 521-8303  
Email: [thaston@babbc.com](mailto:thaston@babbc.com)

---

<sup>1</sup> If Pfizer seeks entry of judgment based on this ruling in any particular case, and the Plaintiff has admissible evidence that he or she believes should not result in the granting of summary judgment notwithstanding the ruling, the Plaintiff will be free to make those arguments at that time.

Joseph G. Petrosinelli  
Williams & Connolly LLP  
725 Twelfth Street, N.W.  
Washington, D.C. 20005  
Phone: (202) 434-5000  
Email: [jpetrosinelli@wc.com](mailto:jpetrosinelli@wc.com)

Loren H. Brown  
DLA Piper LLP (US)  
1251 Avenue of the Americas  
New York, NY 10020-1104  
Phone: (212) 835-6000  
Email: [loren.brown@dlapiper.com](mailto:loren.brown@dlapiper.com)

*Lead Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 18, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to the attorneys of record.

s/ Andrew B. Johnson  
\_\_\_\_\_  
OF COUNSEL