

2. Authorizations for Records.

a. As set forth in CMO 5, and except as otherwise set forth below, each Plaintiff shall provide to Pfizer with her signed PFS the Mandatory Disclosures identified in Exhibit B to the PFS, including signed authorizations. Such authorizations shall include: (1) signed authorizations for all third-party custodians (hereinafter, “records custodians”) identified in Plaintiff’s completed PFS or in documents provided with the PFS as part of the Mandatory Disclosures; and (2) signed blank authorizations (that is, authorizations that do not set forth the identity of the custodian of the records) in the form set forth as attachments to the PFS for medical (including pharmacy) and insurance records, which may be duplicated and used only as set forth in paragraph 3.b. In addition, for all cases selected for the Discovery Pool, Plaintiffs shall provide signed blank authorizations in the form set forth as attachments to the PFS for educational and employment records, which may be duplicated and used only as set forth in paragraph 3.b.

b. In the event that Pfizer desires or intends to obtain records from a records custodian for whom Plaintiff did not provide an authorization with her PFS or otherwise, Pfizer or the designated records-collection company shall first give prior written notice to counsel for Plaintiff of its intent to make such request(s). Plaintiff’s counsel shall have seven (7) days from the date of such notice in which to object to use of such authorization and to initiate a meet and confer to discuss the propriety of obtaining the requested records. Counsel for Pfizer and counsel for Plaintiff shall resolve any disputed requests prior to the service of any authorization at issue on a records custodian.

c. If Pfizer wishes to obtain records from a records custodian who will not accept the authorization a Plaintiff has provided, that Plaintiff will cooperate with Pfizer and

provide the necessary authorization(s) within fourteen (14) days of the initial request. This provision is intended to include, but is not limited to, requests for proprietary authorization and for authorizations involving records related to military service, Social Security, Medicare, and other government records.

3. Plaintiffs' Liaison Counsel will notify each new Plaintiff of her obligations under paragraphs 1 and 2 above.

4. **Discovery Pool.**

a. Plaintiffs and Pfizer shall each select cases to be part of a Discovery Pool from which the first cases to be tried shall be selected as set forth below in paragraph 5.

b. Discovery Pool cases will be selected from cases triable by this Court.

The cases triable by this Court are:

- i. South Carolina cases where venue is proper in this District.
- ii. Any of the cases transferred by the JPML to this District where both parties agree to waive their *Lexecon* rights if the case is chosen as a part of the Discovery Pool.
- iii. Any of the cases directly filed in this District where both parties agree that, if the case is chosen as part of the Discovery Pool, they will not seek transfer of the case pursuant to 28 U.S.C. §§ 1404 or 1406.
- iv. Any of the cases directly filed in this District where a motion to transfer a case for trial pursuant to 28 U.S.C. §§ 1404 or 1406 is not made on or before May 30, 2014.
- v. Any of the cases directly filed in this District where the motion to transfer the case for trial is denied.

c. For any directly filed case pending before this Court as of the date of this Order, if any party wishes to seek transfer of the case for trial in the instance that the case is chosen for the Discovery Pool, that party must file a motion to transfer on or before May 30, 2014.¹ Responses to such motions are due on June 6, 2014.

d. On or before June 13, 2014, the PSC must disclose to Pfizer any transferred cases in which Plaintiff(s) are willing to waive *Lexecon* if the case is selected as part of the Discovery Pool. On or before June 13, 2014, Pfizer must disclose to Plaintiff's Lead Counsel any transferred cases in which Pfizer is willing to waive *Lexecon* if the case is selected as part of the Discovery Pool.

e. On June 20, 2014, the PSC shall select seven (7) cases for the Discovery Pool and provide notice to Pfizer of its selections by case name and number.

f. On June 23, 2014, Pfizer shall select seven (7) cases for the Discovery Pool and provide notice to the PSC of its selections by case name and number.

g. If a Discovery Pool case selected by the PSC is dismissed before August 1, 2014, the PSC may select a replacement case.

h. If a Discovery Pool case selected by Pfizer is dismissed before August 1, 2014, the PSC may select a replacement case. If a Discovery Pool case selected by Pfizer is dismissed on or after August 1, 2014, Pfizer may de-designate an additional Discovery Pool case selected by the PSC from consideration as an initial trial selection by the December 12, 2014 deadline identified in paragraph 4.1 below.

¹ This statement does not affect a party's ability to later move for transfer if the case is not selected as party of the Discovery Pool.

i. On June 23, 2014 (or within three (3) days of inclusion in the Discovery Pool for any later-selected replacement case), Pfizer may serve written discovery on all Discovery Pool Plaintiffs. Such discovery may include: (a) up to thirty (30) requests for production; (b) up to twenty-five (25) interrogatories, including discrete subparts; and (c) up to twenty-five (25) requests for admission to Plaintiffs. Plaintiffs shall serve any responses within thirty (30) days after service of the discovery requests.

j. Beginning August 1, 2014, Pfizer may take depositions of up to six (6) fact witnesses in each Discovery Pool case, which may include: Plaintiff, Plaintiff's spouse or immediate family member(s), Plaintiff's healthcare provider(s) who prescribed Lipitor or atorvastatin, and Plaintiff's treating healthcare provider(s). Depositions of Plaintiffs shall be completed by October 24, 2014. In addition, on August 1, 2014, Plaintiffs may begin noticing depositions of up to two (2) sales representatives identified by Pfizer in each Discovery Pool case, with such depositions to be completed by October 24, 2014.

k. The parties are currently working to reach agreement on a proposed Defendant Fact Sheet, which shall be submitted for entry by the Court by May 30, 2014. Pfizer shall serve completed Defendant Fact Sheets in each Discovery Pool case by July 23, 2014, or, in any later-selected replacement case, within thirty (30) days of service of a Plaintiff Fact Sheet or thirty (30) days of selection of the case, whichever is later. The Defendant Fact Sheet shall be provided in place of any case-specific document requests or interrogatories, which shall not be permitted absent agreement or Order of the Court. Plaintiffs will seek additional case-specific discovery only for cases selected for the trial pool, following a meet and confer about the scope of additional discovery for both sides in any trial selected cases.

1. On December 12, 2014, the PSC and Pfizer may each de-designate three (3) Discovery Pool cases from consideration as initial trial selections. Pfizer may also de-designate any additional cases based on any dismissals of Pfizer's Discovery Pool cases by Plaintiffs on or after August 1, 2014.

m. Also on December 12, 2014, the parties shall provide to the Court a list of all remaining Discovery Pool cases, which shall identify whether each case was a PSC or a Pfizer Discovery Pool case.

5. Dismissal of Claims for Failure to Comply with Discovery Obligations.

a. Any Plaintiff who fails to comply with any discovery obligations imposed by CMO 5 or by this Order within the time periods set forth herein — including provision of a PFS or required authorizations and other Mandatory Disclosures — may be subject to having her claims, as well as any derivative claim(s), dismissed if good cause is shown. Good cause shall exist where there is a material deficiency in responding to the required discovery, i.e., one that prejudices Pfizer through a failure to provide necessary information, thereby impeding Pfizer's access to material and relevant evidence.

b. When any Plaintiff has failed to materially comply with her obligations under CMO 5 or this Order within the applicable timelines, Pfizer's counsel shall send a notice of the material deficiency to the Plaintiff's counsel for the individual whose responses are alleged to be defective (the "deficiency letter"). In a non-Discovery Pool case, the deficiency letter shall identify the alleged material deficiency, state that the Plaintiff will have fourteen (14) days to cure the alleged material deficiency, and state that absent the alleged material deficiency being cured within that time (or within any extension of that time as agreed to by the parties), Pfizer may move for dismissal of Plaintiff's claims, including dismissal with prejudice upon an

appropriate showing. In a Discovery Pool case, the deficiency letter shall identify the alleged material deficiency, state that that Plaintiff will have seven (7) days to cure the alleged material deficiency, and state that absent the alleged material deficiency being cured within that time (or within any extension of that time as agreed to by the parties), the case shall be subject to dismissal with prejudice upon an appropriate showing.

SELECTION OF FIRST CASES FOR TRIAL

6. On December 15, 2014, the Court will randomly select one of the remaining Discovery Pool cases for the first trial. If the selected case is one of the PSC's Discovery Pool cases, the Court will randomly select the second case for trial from Pfizer's remaining Discovery Pool cases. If the first random selection for trial is one of Pfizer's Discovery Pool cases, the Court will randomly select the second case for trial from the PSC's remaining Discovery Pool cases.

7. On December 17, 2014, the parties shall submit joint or competing proposals governing additional case-specific discovery for the first two cases selected for trial.

EXPERT REPORTS AND DISCOVERABILITY OF EXPERT MATERIALS

8. The designation of experts whose opinions may be submitted at trial must be accompanied by a report that complies with Federal Rule of Civil Procedure 26(a)(2)(B). The report must be provided contemporaneously with the expert designation. All parties' experts whose opinions may be submitted at trial shall be subject to deposition as directed in Federal Rule of Civil Procedure 26(b)(4)(A) prior to the close of expert discovery.

9. Unless otherwise stipulated or ordered by the Court, each disclosed expert will produce his or her final report pursuant to and consistent with Fed. R. Civ. P. 26(a)(2)(B), together with a copy of all documents that the expert has considered in preparing and/or

rendering the expert's opinion. No other documents relating to expert reports will be produced, provided, however, that nothing in this agreement is intended to bar discovery of documents that are otherwise discoverable from a party or third party outside of the context of expert discovery. Consistent with Fed. R. Civ. P. 26(b)(4), no party will seek discovery of any experts' notes, drafts of expert reports, or communications with counsel, provided, however, that counsel may serve discovery or inquire at a deposition about any facts, data, or assumptions provided to the expert by counsel and upon which such expert is relying in expressing the expert's opinions. Each party also agrees to bear its own expert costs.

SCHEDULE THROUGH FIRST TRIAL

10. The following schedule, which incorporates scheduling provisions and deadlines set forth above and in CMO 5 and additional deadlines as specified below, is hereby adopted:

Date	Action
Friday, May 30, 2014	Motions to transfer for trial pursuant to 28 U.S.C. §§ 1404 or 1406 are due for any directly filed case where a party wishes to seek transfer of the case for trial in the instance that the case is chosen for the Discovery Pool.
Monday, June 2, 2014	Plaintiff Fact Sheets, authorizations, and medical records and other documents required by Plaintiff Fact Sheet due to Pfizer for all cases transferred to or directly filed in the MDL by May 9, 2014.
Friday, June 6, 2014	Responses to motions to transfer for trial pursuant to 28 U.S.C. §§ 1404 or 1406 are due.
Friday, June 13, 2014	Parties must disclose any transferred cases in which they are willing to waive <i>Lexecon</i> if the case is selected as part of the Discovery Pool.
Friday, June 20, 2014	PSC to select seven (7) cases for Discovery Pool. If a PSC selection is dismissed before August 1, 2014, the PSC may select a replacement.

Date	Action
Monday, June 23, 2014	Pfizer to select seven (7) cases for Discovery Pool. If a Pfizer selection is dismissed before August 1, 2014, Pfizer may select a replacement. If a Pfizer selection is dismissed on or after August 1, 2014, Pfizer may de-designate an additional Discovery Pool case from consideration as an initial trial selection by the December 12, 2014 deadline below.
Monday, June 23, 2014	Pfizer may serve written discovery on Discovery Pool Plaintiffs on this date (or three (3) days after inclusion in the Discovery Pool for any later-selected replacement case).
Wednesday, July 23, 2014	<p>Deadline for Discovery Pool Plaintiffs to respond to written discovery (or within thirty (30) days of service of discovery for any later-selected replacement case).</p> <p>Deadline for Pfizer to provide completed Defendant Fact Sheets in Discovery Pool cases (or, in any later-selected replacement case, within thirty (30) days of service of a Plaintiff Fact Sheet or thirty (30) days of selection of the case, whichever is later).</p>
Friday, August 1, 2014	<p>Pfizer may begin taking depositions of up to six (6) fact witnesses in each Discovery Pool case, which may include: Plaintiff, Plaintiff's spouse or immediate family member(s), Plaintiff's prescribing physician(s), and Plaintiff's treating physician(s).</p> <p>In addition, Plaintiffs may begin noticing depositions of up to two (2) sales representatives identified by Pfizer in each Discovery Pool case.</p>
October 24, 2014	Deadline for completing depositions of Plaintiffs and sales representatives in Discovery Pool cases.
Friday, November 7, 2014	Deadline for PSC to serve general causation and liability expert reports. The PSC shall also provide two (2) deposition dates for each expert between December 1, 2014, and January 23, 2015.
Friday, November 21, 2014	Deadline for Pfizer to serve general causation and liability expert reports and to provide two (2) deposition dates for each expert between December 10, 2014, and January 30, 2015. Depositions of both Plaintiffs' and Pfizer's experts will run concurrently except that Plaintiffs' expert in a particular area of expertise will be deposed ten (10) days prior to any Pfizer expert in the same area of expertise.

Date	Action
Friday, December 12, 2014	Deadline for each side to de-designate three (3) Discovery Pool cases from consideration as an initial trial selection. Pfizer may also de-designate any additional cases based on dismissals of Pfizer's Discovery Pool cases by Plaintiffs on or after August 1, 2014.
Monday, December 15, 2014	The Court will randomly select one of the remaining Discovery Pool cases for the first trial. If the selection is a case selected by the PSC for the Discovery Pool, the Court will randomly select the second case for trial from Pfizer's remaining Discovery Pool cases. If the first random selection is a case selected by Pfizer for the Discovery Pool, the Court will randomly select the second case for trial from the PSC's remaining Discovery Pool cases.
Wednesday, December 17, 2014	Deadline for the parties to submit a proposed order governing additional case-specific discovery for the first two cases selected for trial.
Friday, January 16, 2015	Plaintiffs' case-specific expert reports due for first two cases selected for trial, together with two (2) dates for the deposition of each expert to take place between February 2, 2015, and February 27, 2015. Depositions of both Plaintiffs' and Pfizer's experts will run concurrently except that Plaintiffs' expert in a particular area of expertise will be deposed ten (10) days prior to any Pfizer expert in the same area of expertise.
Friday, January 30, 2015	Pfizer's case-specific expert reports due for first two cases selected for trial, together with two (2) dates for the deposition of each expert to take place between February 12, 2015, and March 9, 2015.
Friday, March 6, 2015	Deadline to file Daubert motions on general causation and general liability experts.
Friday, April 3, 2015	Deadline for completion of additional case-specific discovery for the first two cases selected for trial.
Friday, April 3, 2015	Deadline for responses to Daubert motions on general causation and general liability experts.
Wednesday, April 15, 2015	Deadline for case-specific Daubert and dispositive motions for the first two cases selected for trial.
Friday, April 17, 2015	Deadline for reply briefs in support of Daubert motions on general causation and general liability experts.

Date	Action
Week of April 27, 2015 (or as otherwise set by the Court)	Hearing on Daubert motions on general causation and general liability experts.
Friday, May 1, 2015	Deadline for responses to case-specific Daubert and dispositive motions.
Friday, May 8, 2015	Deadline for replies in support of case-specific Daubert and dispositive motions.
To be set by the Court	Hearing on case-specific Daubert and dispositive motions.
Friday, May 15, 2015	Dispositive Motions in two trial cases due
Friday, May 29, 2015	Responses to Dispositive Motions in two trial cases due
Friday, June 5, 2015	Replies to Dispositive Motions in two trial cases due
Wednesday, July 1, 2015	The first case to be tried shall be subject to being called for jury selection and/or trial on or after this date.

DISCOVERY MATTERS

11. Pfizer has identified eight depositions of Pfizer employees in *Cantor v. Pfizer, Inc.*, No. 1114888/08 (N.Y. Sup. Ct. Mar. 10, 2010). Pfizer must produce the transcripts of these depositions. The production of these transcripts is subject to the protective order in this MDL but without other restrictions.

12. With regard to Pfizer's production of custodial files, where an email or an attachment to an email is responsive and produced to Plaintiffs, all other attachments to the email must also be produced, subject to claims of privilege and the modification below. Any attachment that is (1) a compilation of adverse event reports or other such document that contains personal information which must be redacted under HIPAA and (2) that relates to a medication other than Lipitor (and not to Lipitor) may be withheld as nonresponsive. If, upon reviewing these attachments, Pfizer identifies other categories of documents that are particularly

burdensome to review and redact page-by-page and that are categorically not likely to lead to the discovery of admissible evidence, Pfizer may seek modification of this Order.

FUTURE STATUS CONFERENCES

13. Status Conferences will be held on the following dates at 10 A.M.:

- a. June 13, 2014;
- b. July 18, 2014;
- c. August 15, 2014;
- d. September 19, 2014;
- e. October 17, 2014;
- f. November 14, 2014; and
- g. December 19, 2014.

14. Plaintiffs' Lead Counsel and Defendant's Counsel must confer and submit a joint status report five (5) business days before status conferences as explained in Paragraph 4 of CMO 2.

OTHER MATTERS

15. The Court adopted the parties agreed discovery dispute resolution procedure in CMO 4, paragraph 43. In this procedure, the parties submit letter briefs to the Court instead of formal motions. To clarify, these letter briefs are to be filed on ECF. Any exhibits or materials that the parties wish the Court to review in camera may be emailed to chambers.

16. In cases filed in or transferred to this MDL after the entry of this Order, the Clerk shall include a statement in the initial notice to counsel that Case Management Orders Nos. 1-6 govern all cases in the MDL proceedings and can be viewed on the Court's MDL website.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "R. Gergel", written over a horizontal line.

Richard Mark Gergel
United States District Court Judge

May 16, 2014
Charleston, South Carolina