

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: EFFEXOR (VENLAFAXINE HYDROCHLORIDE) PRODUCTS LIABILITY LITIGATION	:	MDL NO. 2458 13-MD-2458
	:	

THIS DOCUMENT RELATES TO: ALL ACTIONS	:	HON. CYNTHIA M. RUFÉ
	:	

PLAINTIFFS' PROPOSED AGENDA FOR
GENERAL STATUS CONFERENCE ON JUNE 10, 2014 AT 2:00 P.M.

I. Joint Agenda

The parties were unable to agree on a Joint agenda in time for submission of the agenda to the Court. The PSC anticipates Pfizer will file its own agenda. The PSC believes it will be more helpful to the Court for the Joint agendas to describe in summary fashion the agreements and disagreements of the parties. The PSC believes this will allow the Court flexibility to request additional action from the parties prior to the hearing should the Court desire and to have a more fulsome understanding of the issues before the hearing. The PSC will be prepared to address this in more detail at the hearing.

II. Status Overview, Case Volume, Anticipated Volume

III. State Court Cases and Coordination

IV. Proposed Pretrial Orders and Pending Motions

a. Common Benefit Order

As discussed with the Court on May 13, 2014, the PSC has agreed to a \$25,000 limitation for including a case as a "Covered Case" under the Proposed Common Benefit Order. *See* Docket No. 62-1. Pfizer does not oppose this provision. The PSC requests that the Court enter the Common Benefit Order proposed by the Plaintiffs with this modification.

b. Appointment of Accountant

The PSC filed an unopposed request to appoint Alan Winikur, of Zelnick, Mann & Winikur, P.C., as the outside auditor for time and expenses for the Effexor Common Benefit Fund. *See* Docket No. 82. The PSC requests the Order be

entered following the entry of the Common Benefit Order discussed above.

c. Protective Order

On February 20, 2014, Plaintiffs moved the Court to enter a Protective Order. *See* Docket No. 63. Pfizer filed its response to the Plaintiffs' Motion and an alternative proposed Protective Order on March 21, 2014. *See* Docket No. 81. To date, no Protective Order has been entered in this litigation, but Pfizer has continued producing documents pursuant to the Protective Order entered in the Effexor case *Boyer v. Wyeth Pharmaceuticals, Inc.*, 2:12-cv-00739. Plaintiffs request that their proposed protective order be entered and will be prepared to address this at the hearing.

d. Pretrial Order Governing Discovery and Scheduling

On March 21, 2014, Pfizer moved the Court to enter a proposed pretrial order governing various discovery and scheduling matters after the parties were unable to reach agreement on such a proposed order. *See* Docket Nos. 80 & 81. On May 23, 2014, the PSC filed a response. *See* Docket No. 96. Pfizer has sought leave to file a reply. The parties are prepared to address their proposals with the Court.

e. ESI Issues

As discussed with the Court, the PSC had repeatedly requested an informal meet and confer with Pfizer personnel to discuss repositories of documents and data and the most efficient method of providing the documents and data. After the status conference, on May 14, 2014, the PSC requested dates for the meeting. Pfizer indicated it was not available to meet the following week but did not provide any future dates or times for the meeting. The PSC made requests for a meeting again on May 15, May 19, May 22, May 24, May 29 and May 30, 2014. In addition, to move efforts forward the PSC provided Pfizer's counsel with a proposed Document Production/ESI Protocol. To date, Pfizer has not provided any dates for this meeting. The PSC will request that the Court Order Pfizer to comply with its prior agreement to have such a meeting with an internal Pfizer representative on an expedited basis.

V. Discovery Status

a. Pfizer's Document Production

Pfizer produced approximately 1.8 million pages of the Effexor NDA and IND in consolidated individual cases before this MDL was established and has continued producing documents in the MDL, including on March 19, 2014 and May 15, 2014, pursuant to the Protective Order entered in the Effexor case *Boyer v. Wyeth Pharmaceuticals, Inc.* Pfizer has responded to discovery requests and is

continuing to collect, review, and prepare documents for production, including custodial files.

b. Discovery from Plaintiffs and Pfizer's Motion to Compel Discovery Responses

In February 2014, Pfizer served Requests for Production and requests for authorizations in each pending case. On May 21, 2014, Pfizer filed a Motion to Compel Discovery Responses in nearly 50 cases. See Docket No. 94. Plaintiffs' responses are due June 4. The PSC will be prepared to report on this issue at the conference.

c. Authorizations

The Plaintiffs intend to seek an order appointing RecordTrak as the medical records provider in this case and will be prepared to discuss this at the hearing.

Dated: May 30, 2014

Respectfully Submitted:

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