

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

**IN RE: LIPITOR (ATORVASTATIN  
CALCIUM) MARKETING, SALES  
PRACTICES AND PRODUCTS LIABILITY  
LITIGATION**

**MDL No. 2:14-mn-02502-RMG  
CASE MANAGEMENT ORDER  
NO. 8**

**This Document Relates to All Actions**

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**MASTER PLEADINGS**

This Order reflects agreement to date between the parties with respect to the issues contained herein.

AND NOW, this 2<sup>nd</sup> day of June, 2014, the Court hereby enters the following Case Management Order ("CMO") to govern further proceedings in this litigation.

**Master Pleadings.** The parties shall file master pleadings as follows:

1. **Master Complaint:** On May 30, 2014, Plaintiffs shall file a Master Complaint. Once the Master Complaint is filed and this Order is entered, all Complaints currently on file, and all of those subsequently filed, will be deemed to have adopted the Master Complaint, which will become the operative Complaint in every individual action.

2. **Master Answer by Pfizer Inc.:** Within thirty (30) days of the filing of the Master Complaint, Pfizer shall file a Master Answer and Affirmative Defenses ("Master Answer"). The Master Answer shall be deemed to respond to the allegations of the Master Complaint, and for all of the complaints then pending in, filed in, or transferred to MDL No. 2502, as described above, the Master Answer shall be deemed the answer to those allegations

that correspond to the Master Complaint and shall be deemed a denial of any allegations not contained in the Master Complaint.

a. The Master Answer is not intended to and shall not waive any applicable defenses available to Pfizer, including any objections to service, jurisdiction or venue, and any defenses to any state law claims, and Pfizer may respond to any individual complaint by way of motions permissible under the Federal Rules of Civil Procedure. Pfizer may also file counterclaims, cross-claims, and/or third-party complaints, pursuant to Rules 13 and 14 of the Federal Rules of Civil Procedure, in connection with any particular individual action, with such filing to be made within sixty (60) days of transfer of the action to the MDL or, for those actions currently pending in the MDL, within sixty (60) days of the filing of the Master Answer, unless good cause is shown for filing at a later date.

b. Because Pfizer shall be deemed to have answered all cases pending in, filed in, or subsequently transferred to MDL No. 2502 upon filing of the Master Answer, cases may only be voluntarily dismissed by order of the Court pursuant to Federal Rules of Civil Procedure Rule 41(a)(2) or a stipulation pursuant to Federal Rules of Civil Procedure Rule 41(a)(1)(ii), except that a complaint filed directly in the MDL may be voluntarily dismissed upon notice by Plaintiff within ten (10) days of the filing of the complaint.

c. Neither the filing of the Master Answer, nor the filing of a Notice of Appearance or ECF registration in an action, nor the appearance at a status conference shall constitute a waiver of any defense of lack of personal jurisdiction.

3. **Response to Master Answer:** Plaintiffs are deemed to deny each allegation of the Master Answer. Plaintiffs in any action consolidated in MDL No. 2502 may also file

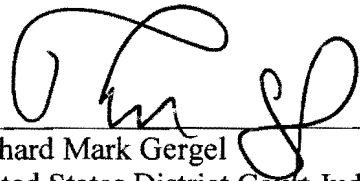
responsive pleadings allowed under the Federal Rules of Civil Procedure to the Master Answer or any subsequent answer:

- a. within sixty (60) days of filing the Master Answer for actions pending in the MDL at the time of said filing;
- b. within sixty (60) days of filing any separate individual answer;
- c. within sixty (60) days of transfer of the action to the MDL, if such transfer occurs after the filing of the Master Answer; or
- d. within sixty (60) days of direct filing a complaint in this MDL.

4. **Short Form Complaint:** Any Plaintiff who files a claim after the entry of this Order shall use the Short Form Complaint attached as Exhibit A to this Order. In addition, within forty-five (45) days of the entry of this Order, any Plaintiffs' counsel that has filed Complaints in or transferred to this MDL proceeding prior to the entry of this Order shall also file Short Form Complaints as attached in Exhibit A to this Order for half of counsel's previously filed cases. Within ninety (90) days of the entry of this Order, such Plaintiffs' counsel shall file Short Form Complaints as attached in Exhibit A for the remainder of counsel's previously filed cases.

5. **Greenstone LLC:** A Plaintiff shall not name Greenstone LLC as a Defendant in a Short Form Complaint unless she has evidence (such as pharmacy or similar records) or some other good faith basis for believing she was dispensed Greenstone atorvastatin.

**AND IT IS SO ORDERED.**

  
\_\_\_\_\_  
Richard Mark Gergel  
United States District Court Judge

June 2, 2014  
Charleston, South Carolina

## **Exhibit A**



**IDENTIFICATION OF PARTIES**

1. Plaintiff(s) herein is/are:

- ☐ Plaintiff, the Injured Party, \_\_\_\_\_ is a resident and citizen of \_\_\_\_\_.
- ☐ Plaintiff, Injured Party's, spouse, \_\_\_\_\_, is a resident and citizen of \_\_\_\_\_. (Required only for claims by Injured Party's spouse.)
- ☐ Plaintiff as Administrator/Personal Representative/Executor/other of The Estate of \_\_\_\_\_, deceased/Injured Party brings this claim on behalf of the Estate of \_\_\_\_\_. A copy of Letters of Administration, where required for the commencement of such a claim, is attached hereto.

2. The following entities are made Defendants herein:

- ☐ Pfizer Inc.
- ☐ Greenstone LLC f/k/a Greenstone Limited ("Greenstone"). (Greenstone was not involved in the sale of atorvastatin calcium tablets until January 2013.)
- ☐ Other: \_\_\_\_\_

**VENUE AND JURISDICTION**

3. Jurisdiction in this Complaint is based on:

- ☐ Diversity of Citizenship
- ☐ Other (As set forth below, the basis of any additional ground for jurisdiction must be pled in sufficient detail as required by the applicable Federal Rules of Civil Procedure.

4. District Court and Division in which you might have otherwise filed absent the direct filing Order entered by this Court: \_\_\_\_\_

**CASE SPECIFIC FACTS**

5. Plaintiff/Injured Party began taking Lipitor® (atorvastatin calcium) as directed and prescribed by her treating physician(s).

a. Approximate Dates Plaintiff Started and Stopped taking Lipitor: \_\_\_\_\_

b. State(s) of Ingestion: \_\_\_\_\_

c. Gender: \_\_\_\_\_

d. Current Age or Date of Death if Plaintiff is deceased: \_\_\_\_\_

6. Subsequently, Injured Party was diagnosed with Type 2 Diabetes.

a. Date of Diagnosis with Type 2 Diabetes: \_\_\_\_\_

b. State of Diagnosis: \_\_\_\_\_

7. Plaintiff/Injured Party has suffered severe and permanent physical and emotional injuries including, but not limited to, the development of Type 2 Diabetes as a result of her ingestion of the prescription drug Lipitor® (atorvastatin calcium).

8. As a direct, proximate and foreseeable result of Defendants actions or inactions, Plaintiff suffered grievous bodily injury and consequently economic and other losses, including but not limited to pain and suffering, emotional distress and loss of enjoyment of life, as described in detail in Plaintiffs' *Master Long Form Complaint and Demand for Jury Trial*.

**CAUSES OF ACTION**

9. Plaintiff(s) hereby adopt(s) and incorporates by reference, the *Master Long Form Complaint and Demand for Jury Trial* as if set forth fully herein.

10. Furthermore, the following claims and allegations are asserted by Plaintiff(s) and are herein adopted by reference from Plaintiffs' *Master Long Form Complaint*:

☐ First Cause of Action

(Negligence)

- ☐ Second Cause of Action  
(Negligent Misrepresentation)
- ☐ Third Cause of Action  
(Negligent Design)
- ☐ Fourth Cause of Action  
(Strict Products Liability-Design Defect/Products Liability-Design Defect)
- ☐ Fifth Cause of Action  
(Strict Products Liability-Failure to Warn/ Products Liability-Failure to Warn)
- ☐ Sixth Cause of Action  
(Breach of Express Warranty)
- ☐ Seventh Cause of Action  
(Breach of Implied Warranties)
- ☐ Eighth Cause of Action  
(Fraud and Misrepresentation)
- ☐ Ninth Cause of Action  
(Constructive Fraud)
- ☐ Tenth Cause of Action  
(Loss of Consortium)
- ☐ Eleventh Cause of Action  
(Wrongful Death)
- ☐ Twelfth Cause of Action  
(Unjust Enrichment)
- ☐ Punitive Damages

11. Furthermore, Plaintiff(s) assert(s) the following additional theories and/or State Causes of Action against the Defendants identified in Paragraph 2 above: (Additional theories and/or State Causes of Action are attached hereto.) \_\_\_\_\_

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**WHEREFORE**, Plaintiff(s) pray(s) for relief and judgment against Defendants as set forth in the *Master Long Form Complaint and Demand for Jury Trial* as appropriate.

**JURY DEMAND**

Plaintiff(s) hereby demand(s) a trial by jury as to the claims in this action.

Dated: \_\_\_\_\_

Respectfully Submitted,

/s/ \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**Counsel for Plaintiff(s)**