

**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. 18**
)

) **This Order relates to all cases.**
)
)
)

Discovery Issues

1. Motion for Entry of Deposition Protocol. The Court **DENIES** Pfizer's Motion for Entry of Deposition Protocol (Dkt. No. 415). The Court finds the extensive protocol unnecessary but does address some specific issues the protocol raised below.
2. Ex parte contact with treating or prescribing healthcare providers. The Court agrees with Judge Fallon's analysis in *In re Vioxx Prod. Liab. Litig.*, 230 F.R.D. 473 (E.D. La. 2005), and orders that defense counsel may not meet with Plaintiff's treating or proscribing healthcare providers *ex parte*, except with the permission of Plaintiff's counsel.

Plaintiffs' counsel may meet with treating or proscribing healthcare providers *ex parte*. However, if Plaintiffs' counsel shows to, provides to or discusses with a healthcare provider any documents other than those provider's records of treatment, Plaintiffs' counsel must disclose and provide copies of any such documents to Pfizer within three (3) days of the documents being shown to the provider or five (5) days prior to the healthcare provider's deposition, whichever is earlier.

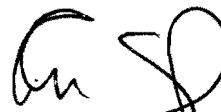
3. Depositions of treating or proscribing healthcare providers. In discovery depositions of Plaintiffs' healthcare providers, Pfizer's counsel will be the first questioner. Plaintiffs may later take a *de bene esse*/trial deposition of healthcare providers.
4. Disclosure of documents prior to deposition. To the extent practicable, at least five (5) days prior to a deposition, all examining counsel shall provide to opposing counsel and deponent's counsel copies of documents to be shown to a witness during the deposition or about which counsel expects to examine a deponent.¹
5. Plaintiff's ESI and document production. Any of the Plaintiffs in the fourteen Discovery Pool cases who have not yet provided a written response to Pfizer regarding how they searched for and collected responsive documents must do so by **September 26, 2014**.

Future Status Conferences

6. The October Status Conference will be held on **October 24, 2014, at 9 A.M.**
7. Status Conferences will be held on the following dates at 10 A.M.:
 - a. November 20, 2014;
 - b. December 18, 2014;
 - c. January 22, 2015;
 - d. February 26, 2015;
 - e. March 26, 2015;
 - f. April 23, 2015; and
 - g. May 21, 2015.

¹ Local Civil Rule 30.04(H) applies, with the modification that if documents are provided or otherwise identified at least **five (5) days** before the deposition, then the witness and the witness's counsel do not have the right to discuss the documents privately during the deposition.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

September 22, 2014
Charleston, South Carolina