

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

<hr/>	:	<b>MDL NO. 2458</b>
<b>IN RE: EFFEXOR (VENLAFAXINE</b>	:	<b>13-MD-2458</b>
<b>HYDROCHLORIDE) PRODUCTS</b>	:	
<b>LIABILITY LITIGATION</b>	:	
<hr/>	:	<b>HON. CYNTHIA M. RUFÉ</b>
	:	
<b>THIS DOCUMENT APPLIES TO:</b>	:	
<b>ALL ACTIONS</b>	:	
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**CASE MANAGEMENT ORDER NO. 15  
(Direct Filing and Master Answer)**

**AND NOW**, this 29th day of September 2014, upon consideration of the parties' Joint Motion [Doc. No. 159], and to promote efficiency in the management of discovery and trial issues in this MDL, and in view of the parties' agreement, the Court hereby **GRANTS** the Motion and enters this Case Management Order to govern cases filed directly into this MDL and to permit the entry of a Master Answer by Defendants under the following terms.

**I. GENERAL MATTERS**

A. *Applicability of This Order and Other Orders of This Court.*

Consistent with this Court's Case Management Order No. 1 ("CMO No. 1"), dated August 22, 2013, this Order and, unless otherwise specified, any prior or subsequent pretrial or case management orders issued in this MDL, shall govern the practice and procedure in those actions transferred to this Court by the Judicial Panel on Multidistrict Litigation ("JPML") pursuant to its order of August 6, 2013, all related actions originally filed in this Court or transferred or removed to this Court, and any "tag-along" actions transferred to this Court by the JPML pursuant to Rules 7.1 and 7.2 of the Rules of Procedure of the Panel, after the filing of the final transfer order by the Clerk of the Court. Henceforth, these cases, which have been

consolidated by the Court pursuant to CMO No. 1, will be referred to as the “MDL proceedings.” The provisions of this Order, and any prior or subsequent pretrial order or case management orders issued in the MDL proceedings, shall supersede any inconsistent provisions of the Court’s Local Rules.

B. *Application to All Parties and Counsel.*

Unless otherwise specified in other orders of the Court, this Order and all subsequent pretrial or case management orders shall be binding on all parties and their counsel in all cases currently pending, or subsequently transferred to, removed to, or pending in the MDL proceedings and shall govern each case in the MDL proceedings unless the order explicitly states that it relates only to specific cases.

**II. DIRECT FILING**

In order to eliminate delays associated with transfer to this Court of cases filed in or removed to other federal district courts, any plaintiff whose case would be subject to transfer to these MDL proceedings may file his or her case directly in the United States Court for the Eastern District of Pennsylvania (“EDPA”), as specified below:

A. Any complaint that is directly filed in the MDL proceedings must be a “Single-Plaintiff Complaint.” A “Single-Plaintiff Complaint” is a complaint filed: (1) by an individual plaintiff; (2) by a plaintiff and family member plaintiffs; or (3) on behalf of the estate of a deceased individual, together with any family members and/or beneficiaries of such estate. “Multi-Plaintiff” complaints, or complaints joining two or more plaintiffs other than as expressly provided above, may not be directly filed into the MDL proceedings without court approval.

B. Every complaint filed directly in the MDL proceedings must comply with the Federal Rules of Civil Procedure and allege the current state of residence of the plaintiff(s).

C. Every complaint filed directly in the MDL proceedings also should, to the extent possible at the time of filing, include allegations identifying: (1) the specific defendant(s) being sued in the case; (2) for each defendant, the specific product(s) the plaintiff is alleged to have ingested and on which plaintiff(s) base their claims against each defendant; (3) the date the minor plaintiff or decedent was born; and (4) if applicable, the date when the decedent died.<sup>1</sup>

### **III. TRANSFERS AND PRESERVATION OF RIGHTS.**

A. No reference in this Order to actions filed originally or directly in the United States District Court for the Eastern District of Pennsylvania shall constitute a waiver of any defendant's contention that jurisdiction or venue is improper or that the action should be dismissed or transferred or any plaintiff's contention that jurisdiction or venue is proper.

B. Nothing herein constitutes a waiver of any party's rights under *Lexecon v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998). Those rights are expressly preserved.

C. Defendants will not challenge the venue of any action filed directly in the MDL proceedings in the Eastern District of Pennsylvania pursuant to each of the provisions set forth above for purposes of pretrial proceedings, without prejudice to their right to seek transfer pursuant to 28 U.S.C. §§ 1404 and 1406 for trial.

D. Should the parties agree both that a case should be transferred and on the district to which it should be transferred, the parties will jointly advise the Court of the district to which the case should be transferred at the appropriate time. Should the parties disagree as to the district to which a case should be transferred, nothing in this Order precludes any party from

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<sup>1</sup> Nothing in this paragraph is intended to preclude a plaintiff from moving to amend the complaint, pursuant to Federal Rule of Civil Procedure 15, as additional facts become known or to preclude a plaintiff faced with a potential statute of limitations bar from filing suit based on available information.

filing a motion to transfer pursuant to 28 U.S.C. § 1404(a) or § 1406 at the conclusion of pretrial proceedings.

**IV. MASTER SHORT-FORM ANSWER.**

A. The Master Short-Form Answer and Affirmative Defenses (“Master Short-Form Answer”) will be filed once by Defendants Pfizer Inc. (including unincorporated divisions and business units, including, without limitation, Roerig), Pfizer International LLC, Wyeth Pharmaceuticals Inc., and Wyeth LLC (collectively, “the Pfizer Defendants”) in MDL 2458 upon entry of this Case Management Order, and shall be deemed to respond to the allegations of all of the complaints then pending in, filed in, or transferred to MDL 2458. In their Master Short-Form Answer, the Pfizer Defendants may generally deny the allegations of the complaints and assert affirmative defenses. The Master Short-Form Answer is not intended to and will not waive any applicable defenses available to the Pfizer Defendants, including any objections to service, jurisdiction, or venue, and the Pfizer Defendants may respond to any particular individual complaint by way of motions permissible under the Federal Rules of Civil Procedure. The Pfizer Defendants may also file counterclaims, crossclaims and, third-party complaints, pursuant to Fed. R. Civ. P. 13 and 14 in connection with any particular individual action. To the extent any of the Pfizer Defendants desires to respond to any particular individual complaint for the purpose of motion practice, or for the purpose of pleading any additional affirmative defenses, counterclaims, crossclaims, or third-party complaints, the Pfizer Defendants will file any such motions or pleadings within 45 days of transfer of the action to this MDL or, for those actions currently pending in this MDL, within 45 days of the filing of the Master Short-Form Answer.

B. Any direct or indirect subsidiaries of Pfizer Inc., Pfizer International LLC, Wyeth

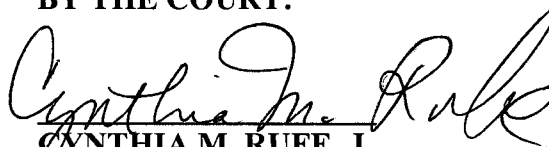
Pharmaceuticals Inc., and Wyeth LLC, if named in future complaints, shall be included within the definition of Pfizer Defendants as used in this Order and shall be deemed to have joined in the Pfizer Defendants' Master Short-Form Answer.

C. Because the Pfizer Defendants will be deemed to have answered all cases pending in, filed in, or subsequently transferred to this MDL upon filing of the Master Short-Form Answer, cases may only be voluntarily dismissed by order of Court pursuant to Fed. R. Civ. P. 41(a)(2) or a stipulation signed by all parties pursuant to Fed. R. Civ. P. 41(1)(a)(ii).

D. Plaintiffs are deemed to deny each allegation of the Master Short-Form Answer. Plaintiffs in any of the actions consolidated in this MDL may also file responsive pleadings allowed under the Federal Rules of Civil Procedure to the Master Short-Form Answer or any subsequent answer: (1) within 60 days of filing of the Master Short-Form Answer for actions pending in this MDL at the time of said filing, (2) within 60 days of the filing of any separate individual answer, or (3) within sixty 60 days of transfer of the action to this MDL, if such transfer occurs after the filing of the Master Short-Form Answer.

It is so **ORDERED**.

**BY THE COURT:**

  
CYNTHIA M. RUFÉ, J.