

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**IN RE: XARELTO (RIVAROXABAN)  
PRODUCTS LIABILITY LITIGATION**

**\* MDL NO. 2592  
\*  
\* SECTION L  
\*  
\* JUDGE ELDON E. FALLON  
\*  
\* MAG. JUDGE NORTH**

**\* \* \* \* \*  
THIS DOCUMENT RELATES TO ALL CASES**

**PRE-TRIAL ORDER NO. 11  
(Bundling of Complaints and Answers)**

The Court hereby Orders as follows<sup>1</sup>:

**1. Bundling of Complaints.**

- a. In an effort to minimize the expenses of all parties, and to promote judicial efficiency, the Court hereby authorizes claims of more than one plaintiff, and up to one hundred (100) plaintiffs, to be filed in a single Complaint with one filing fee for the Lead Plaintiff at the time of filing. The joined plaintiffs’ (plaintiffs named in the Joint Complaint other than the Lead Plaintiff) responsibility for a filing fee will be suspended until the resolution of their respective claims, at which time the fee must be paid before the case can be dismissed and closed, unless otherwise ordered by the Court. This process shall henceforth be referred to as “Joint Complaints” or the filing of “Joint Complaints.” The Plaintiff Fact Sheet (“PFS”) obligations of

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<sup>1</sup> Certain other Bayer entities have been named or may be named as defendants in these proceedings. These other Bayer entities include Bayer Healthcare, LLC; Bayer Corporation; Bayer HealthCare AG; and Bayer AG. Specific provisions relieving these other Bayer entities from answering are found at paragraph 8(c) pursuant to Pretrial Order No. 10. Possible discovery from these entities is also governed by Pretrial Order No. 10 until further Order of this Court.

- plaintiffs named in a “Joint Complaint” begin to run from the time the “Joint Complaint” is filed.
- b. In the section of the Joint Complaint entitled “Plaintiff Specific Allegations,” each individual plaintiff shall be listed alphabetically and in consecutively numbered paragraphs, and each paragraph shall include subsections containing case-specific allegations for each plaintiff. The case-specific allegations shall include the county and state of citizenship of the Plaintiff.
  - c. Once a Joint Complaint is filed, this Court will, *sua sponte*, issue an order severing the individual plaintiffs listed in the Plaintiff Specific Allegations (the “Severance Order”). Plaintiffs’ counsel shall then file separate short form Complaints for each case, attaching the Severance Order as Attachment 1, and a list of the individual case captions for the plaintiffs named in the Joint Complaint as Attachment 2. Individual Civil Action Numbers and case captions will then be assigned for each individual case. Civil Cover Sheets will not be required for the severed civil actions. Instructions for filing individual severed Xarelto cases are attached to this Order.
  - d. Joint Complaints may be filed directly in this Court pursuant to this Court’s previously entered Direct Filing Order.
  - e. Service of the Joint Complaint, together with a copy of the applicable Severance Order and a list of the individual cases and their civil action numbers, shall be sufficient to effectuate service of process for each of the individual cases associated with the Joint Complaint.

**2. Answers and Responsive Pleadings.**

- a. Within forty-five (45) days from this Order, Defendants shall file an Omnibus Answer that shall be deemed as a denial of all allegations in any Complaint pending in the MDL prior to the filing of the Omnibus Answer. The Omnibus Answer shall also set out Defendants' Affirmative Defenses.
- b. The Omnibus Answer shall not constitute an appearance as to any defendant that has not been served and shall be deemed as the answer with respect to a previously un-served defendant thirty (30) days after service on that defendant.
- c. For each case filed in or transferred to the MDL after the filing of the Omnibus Answer, the Omnibus Answer shall be deemed as the operative Answer in each such case thirty (30) days after the case is docketed if an individual Answer is not filed prior to that time. Once the answer has been deemed as the operative answer, the requirements of Fed. R. Civ. P 15 shall attach for any amendments of the complaint and the requirements of Fed. R. Civ. P. 41(a) for a voluntary dismissal such that any dismissal shall occur only upon a stipulation of dismissal signed by all parties who have appeared or by Court Order after a properly noticed motion.
- d. Certain other Bayer entities have been named or may be named as defendants in these proceedings. The term "other Bayer entities" as used in this Order includes but is not limited to Bayer Healthcare, LLC; Bayer Corporation; Bayer HealthCare AG; and Bayer AG. The "other Bayer entities" are relieved of any obligation to answer complaints pursuant to Pretrial Order No. 10 (Streamlined Service on Certain Bayer Defendants) (Rec. Doc. 357) until further order of this Court.
- e. Other than the Omnibus Answer set out above, the Defendants' obligation to file any responsive pleading to a Complaint that is filed in or transferred to this

proceeding is hereby stayed until further Order of the Court. The Court is specifically preserving the Defendants' right to file any motion pursuant to Fed. R. Civ. P. 12.

- f. Thirty (30) days after the bellwether discovery pool is selected, the Defendants' shall file individual Answers for each discovery pool plaintiff that will supersede and substitute for the Omnibus Answer and may file Rule 12 motions against any of the discovery pool plaintiffs.
- g. The individual plaintiffs will have thirty (30) days to file any response in opposition.
- h. After such period, the Court will decide whether oral argument is necessary.

New Orleans, Louisiana this 4th day of May, 2015.

  
UNITED STATES DISTRICT JUDGE

### **Documents Needed**

Have the following PDFs available before starting the severed civil case opening process:

- Short Form Complaint
- Severance Order
- List of the individual case captions for all plaintiffs named in the Joint Complaint

Note: A civil cover sheet is not required

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### **Opening the Individual Severed Cases**

Login to CMECF and select Civil on the main menu bar, then under Open a Case, click on the link **CIVIL CASE**.

- In the "Other Court Name" field enter "EDLA"
  - In "Other court number" field enter the original case number of the Joint Complaint
  - Jurisdiction is "4" (Diversity)
  - For most cases, Cause of action is: 28:1332pl (Diversity - Personal Injury) . If the case alleges "wrongful death", use Cause of Action: 28:1332wd (Wrongful Death)
  - Nature of suit: 367 (Personal Injury: Health Care/Pharmaceutical Personal Injury Product Liability)
  - Citizenship of 1<sup>st</sup> named pla: either 1-Citizen This State, or 2-Citizen Other State
  - Citizenship of 1<sup>st</sup> named defendant: 5 - Incorporated/Principal Business Other State
  - Jury demand "p" for plaintiff, no Class Action, no \$ demand
  - County is the Louisiana parish of residence for the 1<sup>st</sup> named plaintiff, or "Out of State", or "Out of Country"
  - Add individual plaintiffs as listed in the Short Form Complaint
  - Add defendants as listed in the Short Form Complaint
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### **Docketing the Lead Event/Individual Severed Complaint**

- Select the link "Docket Lead Event", select the event "Complaint"
- Select the plaintiff(s) as the filer
- Create the attorney/party association
- Select the defendant(s) that this filing is against

The Short Form Complaint will be the **Main document** with **Attachments** of:

- Severance Order
- List of the individual case captions for all plaintiffs named in the Joint Complaint

At the prompt for electronic payment of the fee, select "Prepayment of fee not required pursuant to 28:1916." The clerk's office will modify the docket text to "Prepayment of fee not required pursuant to Pre-Trial Order No. 11."

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