



Susan M. Sharko
973-549-7350 Direct
Susan.Sharko@dbr.com

Law Offices

600 Campus Drive
Florham Park, NJ
07932-1047

973-549-7000 phone
973-360-9831 fax
www.drinkerbiddle.com

*A Delaware Limited
Liability Partnership*

CALIFORNIA
DELAWARE
ILLINOIS
NEW JERSEY
NEW YORK
PENNSYLVANIA
WASHINGTON DC
WISCONSIN

VIA ECF

June 26, 2015

The Honorable Robert B. Kugler, U.S.D.J.
United States District Court for the District of New Jersey
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Street, Courtroom 4D
Camden, New Jersey 08101

Re: In re Benicar (Olmesartan) Products Liability Litigation
MDL No. 2606

Dear Judge Kugler:

On behalf of the parties, we submit the enclosed Proposed Joint Agenda and
Report for 30 June 2015 Status Conference.

Thank you for your consideration of this matter.

Respectfully submitted,

DRINKER BIDDLE & REATH LLP

Susan M. Sharko

Enclosure

cc: Hon. Joel Schneider, U.S.M.J. (w/ enclosure)
Christopher Coffin, Esq.
Adam Slater, Esq.
Richard Golomb, Esq.
Michael C. Zogby, Esq.

*Andrew B. Joseph
Partner responsible for
Florham Park Office*

Established 1849

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: BENICAR (OLMESARTAN)	*	MDL 2606
PRODUCTS LIABILITY LITIGATION	*	
	*	
THIS DOCUMENT RELATES TO	*	JUDGE ROBERT B. KUGLER
ALL CASES	*	
	*	MAG. JUDGE JOEL SCHNEIDER

**PROPOSED JOINT AGENDA AND REPORT
FOR 30 JUNE 2015 STATUS CONFERENCE**

- 1. Report on Docket.**
- 2. Report on State Court Litigation.**
- 3. Report on Orders Entered Since Last Conference.**

Order dated May 22, 2015: The Court entered a briefing schedule for parties to address issues relating to Master Pleadings, ESI protocol, Plaintiff Fact Sheet, and Protective Order.

Case Management Order No. 4: The Court entered the parties' stipulated Direct Filing Order.

Case Management Order No. 5: The Court sustained Defendants' objection to Plaintiffs' version of paragraph 18 of the proposed Protective Order, and denied Defendants' request to include paragraphs 14 and 17 in Plaintiffs' proposed Short Form Complaint.

Order dated June 5, 2015: The Court entered the Stipulated Discovery Protective Order.

Case Management Order No. 6: The Court ordered Plaintiffs to file their Master Complaint by June 15, 2015, and Defendants to file their Master Answer by July 15, 2015.

- 4. Status of Discovery.**

5. ESI Issues.

- a. Motion.
- b. Plaintiffs served requests and Defendants responded.

6. Plaintiffs' report Status of Service of Process on Japanese Entity and Request to Streamline Domestic Service.

The Plaintiffs want to update the Court on service on Japan. The parties will meet and confer on the issue of domestic service.

7. Creation of a Master Docket.

The Plaintiffs suggest that the Court create a Master Docket for the filing of any documents that relate to all actions in this MDL. Creating such a Master Docket will eliminate the need for the Clerk to file documents related to all actions in each separate case within the MDL.

8. Multi-Plaintiff Complaints.

DEFENSE POSITION: Several of the plaintiffs in this MDL have filed and continue to file multi-plaintiff complaints. See David Conriquez, Pamela Askew, Rory Johnson-Smith, and Carl Monarch v. Daiichi Sankyo, Inc., et al., No. 2:15-cv-4099; Louis Verduzco, Michael Ewald, and Frances Mary Ewald v. Daiichi Sankyo, Inc., et al., No. 1:15-cv-2725. Multi-plaintiff complaints in litigation like this are not permitted by case law, Federal Rule or standard practice. See Cumba v. Merck & Co. Inc., No. 08-cv-2328 (DMC), 2009, at *1 (D.N.J. May 12, 2009) (Rule 20 was not met where “the only unifying factors among the personal injury plaintiffs lie in the allegations that each took the drug Vytorin and that each sustained broadly similar injuries as a result thereof); see also FED. R. CIV. P. 20(a). Proceeding with multiple plaintiffs in one complaint “impair[s] the efficient administration of justice.” In re Diet Drugs Prods. Liab. Litig., 325 F. Supp. 2d 540, 541 (E.D. Pa. 2004); see

also In re PPA Prods. Liab. Litig., 460 F.3d 1217, 1245 (9th Cir. 2006) (bundling of plaintiffs “diverted the court’s time and resources”); Boschert v. Pfizer Inc., No. 4:08-cv-1714, 2009, at *3 (E.D. Mo. May 14, 2009) (“Very little economy, if any at all, would be realized should these plaintiffs’ claims remain joined.”). Defendants request that each plaintiff be directed to file a single complaint for each plaintiff alleging injuries in this litigation.

PLAINTIFFS’ POSITION: Multi-plaintiff complaints are permissible. Plaintiffs believe the parties should meet and confer on this issue.

9. Implementation Order.

The parties request that the Court enter the stipulated Implementation Order filed electronically on June 26, 2015.

10. Plaintiff Fact Sheet.

The parties met and conferred on this issue, and will submit their proposals and supporting letter briefs today, June 26, 2015.

11. Defense Fact Sheet.

The parties are in the process of meeting and conferring relating to the form and process for preparation of Defense Fact Sheets, which will relate to the information provided in Plaintiff Fact Sheets. If any dispute remains, the parties will request a briefing schedule in advance of the next conference.

12. Document Repository.

As required by Order dated May 22, 2015 (Doc. No. 20), Plaintiffs will inform the Court regarding their chosen document repository on June 30, 2015.

13. Status of Court Website.

Dated: June 26, 2015

Respectfully Submitted,

/s/ Susan M. Sharko
Susan M. Sharko
susan.sharko@dbf.com
Lead Counsel for the Defendants
DRINKER BIDDLE & REATH LLP
600 Campus Drive
Florham Park, NJ 07932
PH: (973) 549-7000
FAX: (973) 360-9831

/s/ Michael C. Zogby
Michael C. Zogby
michael.zogby@dbf.com
Defendants' Liaison Counsel
DRINKER BIDDLE & REATH LLP
600 Campus Drive
Florham Park, NJ 07932
PH: (973) 549-7000
FAX: (973) 360-9831

/s/ Christopher L. Coffin
Christopher L. Coffin
ccoffin@pbclawfirm.com
Co-Lead Counsel for the Plaintiffs
Pendley, Baudin & Coffin, L.L.P.
1515 Poydras Street, Suite 1400
New Orleans, LA 70112
PH: (504) 355-0086
FAX: (504) 523-0699

/s/ Adam M. Slater
Adam M. Slater
alsater@mskf.net
Co-Lead Counsel for the Plaintiffs
Mazie Slater Katz & Freeman LLC
103 Eisenhower Parkway
Roseland, New Jersey 07068
PH: (973) 228-9898
FAX: (973) 228-0303

/s/ Richard M. Golomb

Richard M. Golomb

rgolomb@golombhonik.com

Liaison Counsel for Plaintiffs

GOLOMB & HONIK

1515 Market Street, Suite 1100

Philadelphia, PA 19102

PH: (215) 985-9177

FAX: (215) 985-4169