

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**IN RE PLAVIX® PRODUCT LIABILITY  
AND MARKETING LITIGATION**

**Docket No. 13-CV-02418-FLW-TJB  
ALL CASES**

**AMENDED MDL CASE MANAGEMENT ORDER No. 4**

This Order shall apply to the MDL Plaintiffs listed on Exhibit A hereto, who were previously selected to be part of the Discovery Pool in these proceedings and who have complied with their initial discovery obligations. Except as further ordered by the Court, no further “replacement” Plaintiffs shall be selected in the event that Discovery Pool cases are dismissed.

**1. FACT DISCOVERY.** Depositions of Plaintiffs and non-prescribing treating doctors shall be completed by **April 15, 2016**. Depositions of prescribing doctors shall commence no earlier than **April 1, 2016** and shall be completed by **July 29, 2016**. Plaintiffs shall use the period prior to the start of prescribing doctor depositions to review Defendants’ production so as to prepare for prescribing doctor depositions and company witness depositions. Depositions of all fact witnesses, including case-specific and company witnesses, shall be completed by **October 31, 2016**.<sup>1</sup>

**2. EXPERT DISCOVERY.** Expert discovery in Trial Pool cases (as defined below) shall be completed as follows:

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<sup>1</sup> Depositions of certain family members may only be necessary if Plaintiffs intend to call those witnesses at trial. Plaintiffs must disclose the names of any family members they intend to call at trial no later than 90 days before the trial date in any trial-set case and make such witnesses available for deposition no later than 30 days before trial.

- a. **April 1, 2016:** Deadline for Plaintiffs to serve expert reports for purposes of opposing learned intermediary summary judgment motions. Defendants reserve the right to argue that such expert testimony is not necessary to resolve the motions.
- b. **November 15, 2016:** Deadline for service of Plaintiffs' expert reports.
- c. **January 11, 2017:** Deadline for service of Defendants' expert reports.
- d. **March 17, 2017:** Deadline for completing depositions of expert witnesses. Depositions of any Plaintiffs' experts will not take place before service of all Defendants' expert reports.

3. **EARLY SUMMARY JUDGMENT.** Defendants have indicated that they may move for summary judgment in some or all Discovery Pool cases following depositions of prescribing doctors. To avoid unnecessary resources of the parties and the Court, this Order contemplates that disposition of early summary judgment motions will precede selection of cases for trial. The following processes shall facilitate disposition of those motions so as to determine which cases may be appropriate candidates for trial:

- a. The parties shall meet and confer at the completion of prescriber depositions on each individual case to assess whether that particular case is one that Plaintiffs will dismiss voluntarily based on such testimony or whether Defendants may concede the case is not suitable for early summary judgment.
- b. Defendants will move for summary judgment on a rolling basis following completion of prescriber depositions in those cases where prompt agreement cannot be reached and in which Defendants believe such a motion is warranted.

- c. The Parties have consented to a summary adjudication process, whereby, subject to Court approval, the Court can issue expedited rulings on summary judgment motions without opinion. Any party may request or the Court may choose to write a written opinion, but any case in which summary judgment is granted shall not be eligible for the Trial Pool irrespective of whether such an opinion is requested or written.

4. **TRIAL SELECTION.** Those Discovery Pool cases not disposed of on early dispositive motions pursuant to the procedure outlined above or dismissed on other grounds by **November 1, 2016** shall comprise the Trial Pool. The priority of trials among the Trial Pool cases shall be determined as follows:

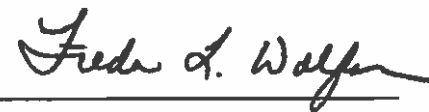
- a. Each party will select the case it wishes to try earliest, with Defendants picking first and the selection then alternating between Plaintiffs and Defendants, until the order of trial priority for every Trial Pool case has been determined.
- b. Plaintiffs and Defendants shall then each be allotted one peremptory strike. The two sides shall simultaneously exchange the name of the case they wish to strike. Cases that are struck will be moved to the bottom of that side's priority list, and will be replaced in trial priority with the next highest priority case picked by the same side so that the alternating order of trial priority is maintained.
- c. Plaintiffs agree to waive the right to trial in the transferor district under *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998) so that all Trial Pool cases will be tried in the MDL.

- d. The first trial case will be Defendants' highest priority case after the strike process has occurred.
- e. If a Trial Pool Plaintiff's case is dismissed for any reason following completion of the selection process, then the next selected case will take its place in the order of cases to be tried, except that if a case selected by Defendants is voluntarily dismissed by Plaintiffs (or if Plaintiffs withdraw as counsel for such Plaintiff) then such case shall be replaced by the next case selected by Defendants rather than the next case selected by Plaintiffs.

5. **PRETRIAL AND TRIAL DATES.** The case selected as first pursuant to the process set forth above will be tried in **July 2017**, with a date to be determined. The parties will meet and confer concerning a schedule for further pretrial dates and shall present to the Court an agreed-upon schedule or any disagreements pertaining thereto no later than **November 15, 2016**.

It is so **ORDERED**.

**BY THE COURT:**



**HON. FREDA L. WOLFSON**

# **EXHIBIT A**

| No. | Plaintiff Name             | Case No.      | Firm                              |
|-----|----------------------------|---------------|-----------------------------------|
| 1   | Asa Holcomb                | 3:14-cv-04637 | Salim Beasley                     |
| 2   | Suzanne Wilson             | 3:14-cv-04637 | Salim Beasley                     |
| 3   | Allen Cerritelli           | 3:14-cv-04637 | Salim Beasley                     |
| 4   | James Burrow               | 3:13-cv-00991 | Parker Waichman                   |
| 5   | William Hiltner            | 3:13-cv-04516 | Napoli Bern                       |
| 6   | James Montgomery           | 3:13-cv-04521 | Napoli Bern                       |
| 7   | Hattie Adams               | 3:14-cv-04637 | Salim Beasley                     |
| 8   | Allen Stephenson           | 3:13-cv-04521 | Napoli Bern                       |
| 9   | Roger Hopkins              | 3:13-cv-04521 | Napoli Bern                       |
| 10  | Candido Perez              | 3:13-cv-04516 | Napoli Bern                       |
| 11  | Jackie Gedeon              | 3:13-cv-04518 | Napoli Bern                       |
| 12  | Karla Hawley               | 3:13-cv-02083 | Salim Beasley/<br>Bisnar Chase    |
| 13  | Robert Patt                | 3:13-cv-04518 | Napoli Bern                       |
| 14  | Barbara Thorpe             | 3:13-cv-04518 | Napoli Bern                       |
| 15  | Thomas Beecher             | 3:13-cv-04519 | Napoli Bern                       |
| 16  | Judith Smith               | 3:15-cv-00850 | Miller Firm                       |
| 17  | Bernard E. Milowitz        | 3:13-cv-4521  | Napoli Bern                       |
| 18  | Wesley N. Byrd, Jr.        | 3:15-cv-00553 | Salim Beasley                     |
| 19  | Maria Samudio              | 3:15-cv-01028 | Salim Beasley                     |
| 20  | Houston E. Jackson,<br>III | 3:14-cv-04637 | Salim Beasley                     |
| 21  | Consolation Shaffer        | 3:14-cv-04637 | Salim Beasley<br>(former counsel) |
| 22  | Anna Anderson              | 3:14-cv-04637 | Salim Beasley<br>(former counsel) |
| 23  | Kenneth Grove              | 3:14-cv-04637 | Salim Beasley<br>(former counsel) |
| 24  | Lynette Hawkins            | 3:14-cv-04637 | Salim Beasley<br>(former counsel) |
| 25  | Phyllis Oswiecinski        | 3:14-cv-04637 | Salim Beasley<br>(former counsel) |
| 26  | Mary McCaughan             | 3:14-cv-04637 | Salim Beasley<br>(former counsel) |