

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

IN RE: ABILIFY (ARIPRAZOLE)
PRODUCTS LIABILITY
LITIGATION

Case No. 3:16-md-2734

Chief Judge M. Casey Rodgers
Magistrate Judge Gary Jones

This Document Relates to All Cases

CASE MANAGEMENT ORDER NO. 2

The Court held a Second Case Management Conference in this matter on January 30, 2017. This Order serves as a non-exhaustive recitation of the key points of discussion between the Court and counsel at the conference.

I. CASE MANAGEMENT PLAN

The following 3-part plan will govern this litigation until further order of the Court:

1. General Causation – The question of whether Abilify causes compulsive behavior in people taking the drug is central to the MDL, and thus, the Court considers it prudent to expedite a global general causation determination. Accordingly, by February 15, 2017, the Joint Science and Expert Sub-Committee will submit a proposed schedule for general causation discovery, including, at a minimum, a deadline to complete document production (if not already complete), a deadline for the identification of experts and production of expert reports, a deadline

to complete depositions, and a deadline to file *Daubert* and/or dispositive motions. This schedule should be developed in light of the Court's stated intent to decide the issue of general causation by the end of the summer, with a hearing in July.

2. Full Work Up of 6 Cases – Concurrent with the general causation undertaking, the parties will fully work up the six cases originally filed in the Northern District of Florida prior to the entry of the Order allowing direct filing, ECF No. 106. These cases are: *Eckert v. Bristol-Myers Squibb Company et al.*, 3:16cv536; *Johnson v. Bristol-Myers Squibb Company et al.*, 3:16cv594; *Perez v. Bristol-Myers Squibb Company et al.*, 3:16cv251; *Viechec v. Bristol-Myers Squibb Company et al.*, 3:16cv291; *Locklear v. Bristol-Myers Squibb Company et al.*, 3:16cv341; *Lyons v. Bristol-Myers Squibb Company et al.*, 3:16cv414. The Court adopts the Plaintiffs' Fact Sheet from the New Jersey litigation for these cases. The Fact Sheet should be completed by these Plaintiffs no later than February 28, 2017.

Also by February 28, 2017, the Joint Discovery Committee should confer, establish, and submit a schedule for the progression of these cases. The proposed schedule should include, at a minimum, a deadline to complete document discovery, a deadline for the identification of experts and production of expert reports regarding specific causation, a deadline to complete depositions (fact and expert), a deadline for dispositive motions, including motions to dismiss and motions for summary

judgment, as well as *Daubert* motions. This schedule will also be fast tracked. The undersigned intends to hold *at least* one trial by the end of the year.

3. Vetting of Potential Claimants - Plaintiffs will be permitted to use the BrownGreer MDL Centrality database to organize and manage information on potential plaintiffs prior to their cases being filed. Brown Greer will maintain two distinct data pools in the database, a non-party pool and a party pool. Only Plaintiffs' counsel will have access to the non-party data pool. Also, Plaintiffs' counsel will be responsible for the costs associated with the non-party pool. The Court will not look to the non-party pool for the purposes of taking a census of the litigation, determining bellwether Plaintiffs, or otherwise examining the specific characteristics of the individuals. At this time, the only information the Court is interested in receiving from BrownGreer regarding the non-party pool is a monthly report containing the following: the percentage of individuals in the non-party pool that have converted into filed cases; the percentage of individuals in the non-party pool that have been removed from the pool (but that did not convert into filed cases); and the average amount of time individuals spend in the non-party pool before either being converted into filed cases or removed from the pool. This information will also be available to Plaintiffs' and Defense counsel. Plaintiffs should notify the Court if BrownGreer cannot produce these statistical reports.

By February 15, 2017, Plaintiff's Steering Committee should file an agreed upon Plaintiffs' Profile Form to be used to enter data into the party pool, as well as a reasonable deadline by which all current Plaintiffs can complete the longer Fact Sheet.

As a related matter, Plaintiffs have cited the difficulty in acquiring casino and financial records of various potential plaintiffs as a reason for their delay in filing more cases. Plaintiffs are requesting that the Court use its authority under the All Writs Act to order the production of such documents. Defendants have no objection. Accordingly, Plaintiffs should file a proposed order for the Court's review by February 15, 2017.

II. OTHER ISSUES

In their Joint Proposed Agenda, the parties raised a concern regarding *ex parte* contact with Plaintiffs' treating physicians; however, at the conference, they indicated that they were continuing to confer on this issue in an effort to reach an agreement, if possible. In the event the parties are unable to reach an agreement, they should file legal briefs addressing this issue by February 15, 2017.

The parties are also continuing to confer regarding an ESI Protocol. The undersigned has referred this issue to Magistrate Judge Jones. The parties should promptly contact his chambers to schedule a conference. As a starting point for

these discussions, the parties and Judge Jones should use the ESI Order entered in the New Jersey Abilify litigation.

Regarding Science Day, one to two experts per side will present on the scientific issues relevant to this MDL. The experts should be prepared to give self-guided presentations. The parties should inform the Court of the identity(ies) of their expert(s) by February 23, 2017.

The Third Case Management Conference remains scheduled for March 1, 2017, with Science Day to follow on March 2, 2017. The Fourth Case Management Conference is rescheduled for March 24, 2017, at which time the Court will also hold oral argument and/or an evidentiary hearing on OPC's motion to dismiss on personal jurisdiction grounds. Also during this Conference, BrownGreer will present a demonstration of MDL Centrality and report on any available data. Both case management conferences will begin at 9:15 a.m. (CT), preceded by a preconference meeting at 8:30 a.m. (CT) with Plaintiffs' lead and liaison counsel and Defendants' liaison counsel and two other representatives. Science Day will begin at 9:00 a.m. (CT), with no advance meeting.

DONE and **ORDERED** on this 2nd day of February, 2017.

M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE