

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

**In Re: TAXOTERE (DOCETAXEL)
PRODUCTS LIABILITY
LITIGATION**

MDL NO. 2740

**THIS DOCUMENT RELATES TO:
ALL CASES**

SECTION “N” (5)

JOINT REPORT NO. 2 OF LIAISON COUNSEL

NOW INTO COURT come Plaintiffs’ Co-Liaison Counsel (“PLC”) and Defendants’ Liaison Counsel (“DLC”), who respectfully submit this Joint Report No. 2 of Liaison Counsel.

1. REPORT OF CLAIMS AND CASE INVENTORY

On October 4, 2016, the Panel transferred 28 civil action(s) to the United States District Court for the Eastern District of Louisiana for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. *See In re Taxotere (Docetaxel) Prod. Liab. Litig.*, No. MDL 2740, 2016 WL 5845996 (U.S. Jud. Pan. Mult. Lit. Oct. 4, 2016). Since that time, 222 additional actions have been transferred to the Eastern District of Louisiana pursuant to 23 Conditional Transfer Orders of the JPML. All such actions have been assigned to the Honorable Kurt D. Engelhardt. Currently there are 857 cases pending in the MDL.

2. FEDERAL/STATE COORDINATION

State court proceedings have been filed in California, Missouri, and Delaware that involve the same general facts and allegations of plaintiffs herein. All but two of these state court cases (Delaware), have been removed to federal court, or are in the process of being removed to Federal Court. The Plaintiffs in the majority of those cases are seeking remand to state court and are opposed to transfer to this MDL. The parties will be prepared to discuss the status of state court filings at the March 17, 2017 status conference.

The parties are making efforts to coordinate with counsel, advise them of the status conference call in number (listen only), as well as alert the relevant state court judges of the MDL, the Court's willingness to cooperate with the state court judges for the purposes of coordinating discovery and other pretrial proceedings, and provide the call in number for the status conferences, should they want to join.

3. PRETRIAL ORDERS

The Court has issued the following Pretrial Orders:

Pretrial Order No. 1 (R. Doc. 4) entered October 13, 2016 – Setting initial conference.

Pretrial Order No. 2 (R. Doc. 104) entered November 17, 2016 – Appointing Plaintiffs' Liaison Counsel, Plaintiffs' Steering Committee, and Defendants' Liaison Counsel.

Pretrial Order No. 3 (R. Doc. 115) entered November 30, 2016 – Filing Requests for Summons and Summons Returns.

Pretrial Order No. 4 (R. Doc. 122) entered December 9, 2016 – Procedures for Direct Filing into the MDL [**superseded by PTO 5**].

Pretrial Order No. 5 (R. Doc. 131) entered December 13, 2016 – Amended Procedures for Direct Filing into the MDL.

Pretrial Order No. 6 (R. Doc. 133) entered December 13, 2016 – Appointing Settlement Committees.

Pretrial Order No. 7 (R. Doc. 155) entered December 28, 2016 – Approving and attaching Counsel Contact Information Form.

Pretrial Order No. 8 (R. Doc. 156) entered December 30, 2016 – Federal-State Coordination and Cooperation.

Pretrial Order No. 9 (R. Doc. 160) entered January 3, 2017 – Streamlined Service on sanofi-Aventis U.S. LLC.

Pretrial Order No. 10 (R. Doc. 169) entered January 11, 2017 – JPML Clarification on Scope of MDL.

Pretrial Order No. 11 (R. Doc. 170) entered January 11, 2017 – Extending Deadline to Submit Proposed PFS and DFS.

Pretrial Order No. 12 (R. Doc. 191) entered January 20, 2017 – Directing that Service of Process shall be made on all known, non-sanofi Defendants by February 15, 2017; Directing Liaison Counsel to Provide Proposed Deadlines for Close of Pleadings.

Pretrial Order No. 13 (R. Doc. 209) entered January 31, 2017 – Appointing Brian S. Rudick to the Settlement Committee.

Pretrial Order No. 14 (R. Doc. 216) entered February 3, 2017 – Order from January 27, 2017 Status Conference.

Pretrial Order No. 15 (R. Doc. 230) entered February 10, 2017 – Order setting deadlines for Master and Short Form Complaint, Motions to Dismiss and Master Answer.

Pretrial Order No. 16 (R. Doc. 234) entered February 13, 2017 – Intention to Enter Common Benefit, Time and Expense Rules, Appointment of CPA, Holdback, Assessments, and Related Issues.

Pretrial Order No. 17 (R. Doc. 235) entered February 13, 2017 – Intention to Appoint Kenneth W. DeJean as Special Master.

Pretrial Order No. 18 (R. Doc. 236) entered February 14, 2017 – Ordering the use of the attached Plaintiff Fact Sheets and Defense Fact Sheets. See also R.Doc. 236-1.

Pretrial Order No. 19 (R. Doc. 262) entered February 23, 2017 – Adopting the proposed Common Benefit Order submitted by Liaison Counsel and the Plaintiffs' Steering Committee.

Pretrial Order No. 20 (R. Doc. 265) entered February 24, 2017 – Appointing Kenneth W. DeJean as Special Master.

Pretrial Order No. 21 (R. Doc. 276) entered March 7, 2017 – Setting Deadlines following March 6, 2017 meeting with liaison counsel.

Pretrial Order No. 22 (R. Doc. 279) entered March 10, 2017 – Implementation of Deadlines for Service of Fact Sheets and Deficiencies.

Pretrial Order No. 23 (R. Doc. 280) entered March 10, 2017 – Amending Exhibit A to Pretrial Order No. 18 (R. Doc. 236-1) to include the authorizations approved by the Court.

Pretrial Order No. 24 (R. Doc. 286) entered March 16, 2017 – Guidelines for service of Fact Sheets through MDL Centrality and Plaintiff Liaison Counsel Distribution of Orders and Notices per Pretrial Order No.1.

Pretrial Order No. 25 (R. Doc. 287) entered March 16, 2017 – Appointing John F. Olinde to serve as Liaison Counsel for the non-Sanofi defendants.

4. COUNSEL CONTACT INFORMATION FORM

All counsel in the MDL are required to complete the Counsel Contact Information Form (available as a fillable PDF on the Court's MDL 2740 website) attached to PTO No. 7 (R. Doc. 155), and forward it to Plaintiffs' Co- Liaison Counsel. This information must be kept current by counsel providing the information, and will be relied upon throughout the litigation.

5. DIRECT FILING

On December 13, 2016, the Court entered PTO No. 5 (R. Doc. 131), a superseding Order, allowing plaintiffs to directly file their cases into the MDL. Plaintiffs are reminded to review the above listed Pretrial Orders relevant to filing cases in this MDL, as well as the Court's local rules.

6. SERVICE ON SANOFI ENTITIES

Counsel for sanofi and the PSC have agreed to a streamlined service procedure set forth in Pretrial Order No. 9 for service of complaints on the domestic sanofi entity. As a result of Pretrial Order No. 9, plaintiffs are not required to effectuate service on the foreign sanofi entities unless otherwise ordered by the Court.

7. SERVICE ON NON-SANOFI ENTITIES

The February 15, 2017, deadline for completion of service on non-sanofi defendants has now passed. During the March 6, 2017, liaison counsel meeting, it was reported that service has been made on a defendant for each non-sanofi version of docetaxel at issue in the MDL in at least one matter, and that the remaining entities will be dismissed. Following the March 6, 2017,

meeting with liaison counsel, the Court entered PTO 21 (R. Doc. 276) which, in pertinent part, requires liaison counsel to confer and submit to the Court a proposed order regarding streamlined service of non-sanofi defendants within twenty (20) days of the meeting. The parties will be prepared to discuss the status of these negotiations.

8. PRESERVATION ORDER

Counsel are reminded to familiarize themselves with the terms of PTO No. 1 (R. Doc. 4, ¶12) regarding preservation of evidence. If the parties determine that it would be appropriate to seek any modification of, or amendment to, the order, they will meet and confer in order to draft language for a proposed order to be presented to the Court.

9. PROTECTIVE ORDER

Plaintiffs and defendants are conferring regarding entry of a Protective Order. PLC and DLC will report to the Court on the status of these matters at the March 17, 2017 Status Conference.

10. MDL CENTRALITY

The parties worked with BrownGreer to develop a Proposed Pretrial Order regarding the submission of fact sheets through MDL Centrality and other functionality. On March 10, 2017, liaison counsel submitted a proposed order regarding MDL Centrality to the Court. On March 16, 2017, the Court entered Pretrial Order No. 24 regarding the service of fact sheets and authorizations through MDL Centrality and PLC distribution of Orders and Notices per Pretrial Order No. 1.

Jake Woody, the BrownGreer representative working with the parties will address the Court to review the features of Centrality. Mr. Woody will work with the Court to place his

presentation on the Court's website so it is available to all attorneys. It should be on the website before the end of the month.

11. PLAINTIFF AND DEFENDANT FACT SHEETS

Pursuant to Pretrial Order No. 18 (R. Doc. 236) entered on February 14, 2017, the Court Ordered that the Plaintiff Fact Sheets and Defense Fact Sheets attached to the Order be utilized in the litigation. On Friday, March 3, 2017, the parties submitted proposed Orders regarding the guidelines for implementation of Plaintiff and Defense Fact Sheets to the Court. The Court issued Pre-trial Order 22 on March 10, 2017 – Implementation of Deadlines for Service of Fact Sheets and Deficiencies. And on March 10, 2017 the Court issued Pre-trial Order 23 amending Exhibit A to Pretrial Order No. 18 (R. Doc. 236-1) to include the authorizations approved by the Court.

12. CLASS CERTIFICATION BRIEFING SCHEDULE

A putative class action has been filed in the matter captioned *Matthews et al. v. Sanofi S.A. et al*, No. 16-17731. This matter was originally filed in the Civil District Court for Orleans Parish, Louisiana but has been removed to the Eastern District of Louisiana and consolidated for pretrial proceedings in MDL No. 2740. On February 16, 2017, the Court granted Plaintiffs' Motion for Extension of Time to file their Motion for Class Certification (R. Doc. 241), and ordered that Plaintiffs file their Motion for Class Certification on or before Tuesday, April 25, 2017.

13. MASTER COMPLAINT, SHORT FORM COMPLAINT AND MASTER ANSWER

Pursuant to Pretrial Order No. 15 (R. Doc. 230), which was entered on February 10, 2017, the Court set deadlines for the master complaint, short form complaint, master answer, and motions to dismiss. The Master complaint, and an exemplar Short Form Complaint shall be filed

on or before March 31, 2017. The parties are reminded to review and comply with the deadlines outlined in PTO 15.

The parties are meeting and conferring on a proposed voluntary dismissal order.

14. DISCOVERY

Pursuant to Magistrate Judge North's Order dated January 30, 2017 (R. Doc. 199), the PLC, DLC and representatives of both the PSC and the defendants have conferred and are in the process of negotiating the framework of an appropriate ESI discovery protocol for this MDL. A meeting was held with Magistrate Judge North on March 16, 2017. PLC and DLC will report to the Court on the status of these matters at the March 17, 2017 Status Conference.

15. MOTION PRACTICE

Following the March 6, 2017, meeting with liaison counsel, the Court entered PTO 21 (R. Doc. 276) which, in pertinent part, required liaison counsel to confer regarding jurisdictional motions, i.e. motions to remand. PLC and DLC will report to the Court on the status of these matters at the March 17, 2017, Status Conference.

The parties are meeting and conferring on defendants' proposed third party litigation funding order before engaging in motion practice.

16. SCIENCE PRESENTATION

At the Court's request, the parties will provide the Court with a proposal regarding brief plaintiff and defendant attorney PowerPoint presentations to the Court to provide background science information related to the drug Taxotere (Docetaxel) and hair loss. Following the March 6, 2017, meeting with liaison counsel, the Court entered PTO 21 (R. Doc. 276) which, in pertinent part, requires liaison counsel to confer regarding the dates offered by the Court for "Science Day," which include Wednesday, April 19, 2017, or Wednesday, May 3, 2017. PLC

and DLC have conferred and have selected May 3, 2017, as the date for the “Science Day” and will report to the Court on the status of these matters at the March 17, 2017, Status Conference.

17. APPEARANCE AND PARTICIPATION OF OTHER DEFENDANTS

Following the March 6, 2017, meeting with liaison counsel, the Court entered PTO 21 (R. Doc. 276) which, in pertinent part, requires Defendants to submit a proposed order designating counsel who will attend each of the Plaintiffs’ Steering Committee meetings by Wednesday, March 15, 2017.

18. APPOINTMENT OF CO-LIAISON COUNSEL FOR DEFENDANTS

Following the March 6, 2017, meeting with liaison counsel, the Court entered PTO 21 (R. Doc. 276) which, in pertinent part, requires Defendants to submit a proposal for a co-liaison counsel for defendants from amongst counsel for the non-sanofi defendants on or before March 10, 2017. On that date, several of the non-sanofi defendants jointly proposed John Olinde of Chaffe McCall to serve as a co-defense liaison counsel on behalf of the non-sanofi defendants. (R. Doc. 281)

19. SETTLEMENT COMMITTEES

Pursuant to Pretrial Order No. 6 (R. Doc. 133), this Court appointed representatives of plaintiffs and defendants to respective Settlement Committees, which are tasked with maintaining a continuing, collaborative discussion of the elements and characteristics of a framework for potential resolution of cases. The current Settlement Committee members held a meeting on March 7, 2017. At the Court’s direction, the non-sanofi defendants are considering candidates for a Settlement Committee. PLC and DLC will report to the Court on the status of these matters at the March 17, 2017, Status Conference.

20. SPECIAL MASTER FOR PLAINTIFFS' TIME AND EXPENSES

In Pretrial Order No. 20 (R. Doc. 265) the Court appointed Kenneth W. DeJean as Special Master for the Plaintiffs to review the time and expenses submitted as common benefit.

Mr. DeJean will introduce himself to the Court at the March 17, 2017, Status Conference.

21. NEXT STATUS CONFERENCE

The Court has announced that the next status conference will be held on May 12, 2017, at 10:00 a.m.

Dated: March 17, 2017

Respectfully submitted:

/s/Dawn M. Barrios

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Defendants' Liaison Counsel

CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2017, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to all counsel of record who are CM/ECF participants.

/s/ M. Palmer Lambert

M. PALMER LAMBERT