

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

---

**IN RE: INVOKANA (CANAGLIFLOZIN) : MDL NO. 2750**  
**PRODUCTS LIABILITY LITIGATION : Master Docket No. 3:16-md-2750**  
:  
:  
**JUDGE BRIAN R. MARTINOTTI**  
**JUDGE LOIS H. GOODMAN**  
:

---

**CASE MANAGEMENT ORDER NO. 10**  
(Initial Discovery Plan)

**I. SCOPE AND APPLICABILITY OF PLAN**

This Initial Discovery Plan is intended to conserve judicial and party resources, eliminate duplicative discovery, serve the convenience of the parties and witnesses, and promote the just and efficient conduct of this litigation. The following protocol and limitations in this Case Management Order shall apply to all cases in MDL 2750.

**II. DISCOVERY AND DOCUMENT PRODUCTION**

A. Pursuant to the Initial Case Management Order, all discovery proceedings are currently stayed. The discovery stay is lifted as provided herein.

B. The parties agree that Defendants will provide one master set of Fed. R. Civ. P. 26(a)(1)(A) disclosures on or before April 24, 2017.

C. Absent agreement of the parties or a Court Order increasing these limits for good cause, the Plaintiffs' Steering Committee (PSC) may serve a total of 50 Interrogatories as well as no more than 50 Requests to Admit. These limits do not apply to final trial bellwether cases that may seek case specific information. The parties agree that neither party shall serve contention interrogatories in this litigation or in the bellwether process. The parties have, and will continue

to confer about the scope and priority of the Requests for Production served on Defendants and shall present any disagreements to the Court for resolution. Defendants will produce documents on a rolling basis.

D. Plaintiffs shall provide Defendants with an initial list of custodial file requests by April 14, 2017 and the parties will meet and confer thereon.

E. The PSC shall provide Defendants with a list of initial Rule 30(b)(6) topics on or before April 21, 2017. The parties will meet and confer regarding requested employee deponents and 30(b)(6) topics and identify any disagreements regarding requested depositions to present to the Court. Any current or former employee or 30(b)(6) witness deposition is to be coordinated solely through Defendants' counsel. The parties are presently meeting and conferring on a Case Management Order to address communications and contacts with current or former employee of Defendants. And hope to submit an agreed to case management order or areas of disagreement for the upcoming status conference on April 27, 2017.

F. The parties will meet and confer regarding a timeline for documents to be produced in this litigation generally, as well as a timeline for production of specific documents in advance of each deposition, as well as a certification that the production is complete.

G. Absent Court order extending for good cause, the deadline for the discovery in the initial bellwether cases, including corporate discovery, <sup>is</sup> March 16, 2018. The parties both recognize that plaintiff's medical conditions may change and that fact that Defendants' product is still on the market and as such may be subject to regulatory or other updates/ changes, all of which may require additional discovery.

H. The PSC may seek additional Rule 30(b)(6) depositions, and the parties will meet and confer regarding topic areas and production of these witnesses, as the litigation matures.

### III. BELLWETHER SELECTION PROTOCOL, SCHEDULING, AND TRIAL DATES

#### A. Selection of Bellwether Plaintiffs

On or before June 1, 2017, the parties shall submit to the Court a proposed Case Management Order identifying the process and parameters for selecting bellwether plaintiffs and any sequence of which categories of cases should proceed first. This sequence will be further addressed in the June 1, 2017 proposed Order that the parties will submit.

#### B. Bellwether Schedule

1. By August 31, 2017, the Plaintiffs and Defendants shall identify in writing an agreed to number of bellwether candidates per side that shall serve as the pool of bellwether discovery plaintiffs. The process and mechanisms of designations and selections of the pool of bellwether discovery plaintiffs shall be done in accordance with the CMO to be submitted on June 1, 2017.

2. Between September 1, 2017 and December 15, 2017, bellwether core discovery shall take place. A maximum of four (4) case-specific depositions will be permitted per side for each case, unless otherwise agreed by the parties or ordered by the court for good cause. No case-specific depositions will proceed outside of the cases selected for the bellwether pool.

3. By January 5, 2018, each side shall provide to the Court, their recommendations for the bellwether trial pool. It is <sup>THE</sup> parties' current intention the trial pool shall include no more than three (3) bellwether cases selected from the pool of the bellwether discovery plaintiffs.

4. By January 19, 2018, the Court will select three (3) bellwether cases to serve as the first three bellwether trial cases and designate the order of such trials.

5. Additional discovery on the final bellwether trial cases may be conducted from January 22, 2018 through March 16, 2018, which may include additional written discovery, additional depositions (of new deponents).

#### **IV. EXPERT DISCOVERY AND DESIGNATIONS**

A. Plaintiffs' Rule 26(a)(2) expert reports for the bellwether trial cases shall be served on or before March 23, 2018.

B. Defendants' Rule 26(a)(2) expert reports for the bellwether trial cases shall be served on or before April 20, 2018.

C. On or before May 4, 2018, plaintiffs shall designate any rebuttal expert witnesses for the bellwether trial cases.

D. Depositions of expert witnesses shall commence after defendants' expert reports are tendered or after any rebuttal is served if one is served. However, so as to try and begin expert depositions sooner, the parties will meet and confer in good faith to determine if in fact plaintiffs do intend to serve rebuttal expert reports for each expert, and if not, the parties may endeavor to start expert depositions before May 4, 2018, but not before April 20, 2018. ~~Depositions of~~ All expert depositions shall be completed by June 22, 2018.

#### **V. SUMMARY JUDGMENT & DAUBERT MOTIONS**

A. It is currently contemplated that the Summary Judgment and *Daubert* schedule for the initial trial(s) in September, 2018 will follow the schedules set forth below:

B. *Daubert* and all dispositive motions shall be filed on or before June 29, 2018.

C. Responses to *Daubert* and any dispositive motions shall be filed on July 27, 2018.

D. Replies to Responses to *Daubert* and any dispositive motions shall be filed on August 13, 2018.

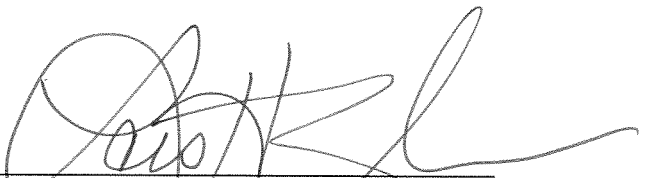
E. Jury Selection in the first trial shall be September, 2018 consistent with the Court's

directives in Case Management Order No. 8. An Order will later be issued with deadlines for pre-trial exchanges, motions *in limine*, pre-trial conferences and additional trial settings.

**VI. OTHER DISCOVERY MATTERS**

The parties are continuing to meet and confer regarding the Plaintiff Fact Sheet and, Defense Fact Sheet and still intend to submit to the Court a joint PFS and DFS or areas of disagreement or other proposals for same before the next Case management Conference, and will begin discussions on a Deposition Protocol shortly, and intend to submit proposed Case Management Orders thereon.

Dated: MAY 1, 2017



LOIS H. GOODMAN  
UNITED STATES MAGISTRATE JUDGE