

**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. 10

The Court held the Tenth Case Management Conference in this matter on December 14, 2017. This Order serves as a non-exhaustive recitation of the key points of discussion between the Court and counsel at the conference.

I. Revised Discovery Schedule

In order to establish a schedule that would provide the Plaintiffs with sufficient time to review Defendants' discovery, the Court revised the discovery schedule as follows:

December 24	Substantial Completion of Defendants' Document Production
February 23	Deadline to Complete Depositions of Plaintiffs, their Family Members, and their Treating Physicians, and close of fact discovery
March 1	Deadline for Plaintiffs' Experts' Reports
April 1	Deadline for Defendants' Experts' Reports
April 8	Deadline for Expert Rebuttal Reports

April 29	Deadline to Complete Expert Depositions
May 14	Deadline to file <i>Daubert</i> Motions and Dispositive Motions
May 21	Deadline to file Response Briefs to <i>Daubert</i> Motions
May 28	Deadline to file Reply Briefs to <i>Daubert</i> Motions
May 29 – June 1	<i>Daubert</i> Hearings (if required) and Pre-trial conference
June 18	Start of Trial ¹

II. Upcoming Case Management Conferences

The Eleventh, Twelfth, Thirteenth, and Fourteenth Case Management Conferences are scheduled for January 18, 2018, February 14, 2018², March 30, 2018, and April 19, 2018, respectively, at 9:30 A.M. (CDT). The Court will hold a pre-conference meeting at 8:30 AM prior to each case management conference with those attorneys permitted to attend under Case Management Order No. 9, ECF No. 548. The Court will contact the parties to schedule dates for regular discovery conference calls.

¹ Following the dismissal of *Perez v. Bristol-Myers Squibb Co., et al.*, Case No. 3:16-cv-251, the first trial pool includes 4 cases. At this time, the Court does not intend to add cases to the pool.

² This Case Management Conference is subject to cancellation based on the undersigned's schedule. However, this does not preclude the parties from meeting with Cathy Yanni, and in fact, a settlement meeting is encouraged.

III. Second Set of Trial Pool Plaintiffs

The parties were directed to meet and confer regarding a second set of trial pool plaintiffs in advance of the Eleventh Case Management Conference. The Court requested the parties to discuss the composition of the second trial pool, whether the Parties will agree to a Lexicon waiver, and whether the cases can be consolidated into multi-plaintiff trials. If the parties were unable to reach an agreement on the issue of multi-plaintiff trials, they were required to submit simultaneous briefs addressing their respective positions by January 5, 2018, which they have done.

IV. Discovery Issues

Counsel for Plaintiff *Lilly*, 3:17-cv-186, represented that Lilly began taking Abilify in 2003 and that custodians for Defendants OAPI and BMS only provided discovery dating back to 2005. According to Plaintiff's counsel, this may preclude Lilly from proving that Defendants knew or should have known about the potential risks of Abilify at the time she started taking the drug. The Court directed OAPI and BMS to extend the date range for two custodians to 2002 (the date range for OPC's custodians already extends back). During a discovery conference call held by the Court on January 4, 2018, Counsel for BMS notified the Court that the parties have identified three custodians for which BMS will extend the date range back to 2002. Counsel for OAPI notified the Court it does not retain documents that date back to

2002 pursuant to the company's document retention policy, which at that time, only required OAPI to retain files for 60 days.

In light of the Court's discussion regarding Plaintiff *Lilly*, the Court also ordered the parties to be prepared to discuss their positions on the relevant date for notice purposes at the Eleventh Case Management Conference. In the event this issue is not resolved by the Eleventh Case Management Conference, the Parties must brief the issue by March 1, 2018.

DONE and **ORDERED** on this 8th day of January, 2018.

M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE