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March 5, 2018

The Honorable M. Casey Rodgers
United States District Court for the
Northern District of Florida
Arnow Federal Building
100 North Palafox Street
Pensacola, Florida 35202

Re: *In re Abilify (Aripiprazole) Products Liability Litigation*, MDL No. 2734

Dear Judge Rodgers:

As directed by the Court pursuant to Mr. Pathan's e-mail of February 27, 2018, the parties met and conferred regarding (1) the order in which the cases in the trial pool are to be tried, and (2) the anticipated duration of each trial. The parties' shared belief is that each trial will last approximately two weeks, with times per side to be worked out. However, the parties were unable to reach consensus on the order of cases for trial.

Defendants believe the cases should be tried in an order that is fair to both sides and that will give the parties information about the pool as a whole as quickly as possible. Plaintiffs already voluntarily dismissed three trial pool cases before Defendants took a single deposition, and Plaintiffs' counsel withdrew from a fourth case. On this measure, the three cases that remain are those that are strongest for Plaintiffs based on the original random selection.

Plaintiffs propose a process for identifying the "most representative" case. However, the proposal Plaintiffs submitted to the court is different than what they described during the parties' meet-and-confer. During the meet-and-confer, Plaintiffs claimed that two of the three cases have "idiosyncrasies" that make them unrepresentative. The "idiosyncrasies" Plaintiffs identified, however, appear to be nothing more than factual weaknesses in those cases. All the trial pool cases have idiosyncrasies of their own, which Defendants suspect will be true of most of the Plaintiff pool.

Moreover, Defendants have learned during discovery of the first trial pool Plaintiffs that cases often look very different than initially portrayed in the complaint,



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profile form, and fact sheet. As such, there are no metrics that currently tell us what factors are representative in any relevant way of the larger pool of Plaintiffs. The best the parties can do is eliminate what they each view as outliers and try the case in the middle that remains.

Defendants therefore propose that each side “strike” one of the three trial pool cases, and the remaining case will be tried first. Through this process, neither side would choose their “best” case first. And each side would ensure that the case it views as the “outlier”—or the least representative—will not be tried first. The Court could then randomly select the order in which the remaining two cases are to be tried. Defendants believe this approach would be fairest to both sides.

Defendants look forward to discussing these matters with the Court.

Respectfully Submitted,

s/ Anand Agneshwar
Anand Agneshwar