

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

IN RE: INCRETIN-BASED
THERAPIES PRODUCTS
LIABILITY LITIGATION

This Document Relates to All Cases

Case No. 13-md-2452-AJB-MDD
ORDER FOLLOWING CASE
MANAGEMENT CONFERENCE

On March 20, 2018, the Court convened a Case Management Conference in the above entitled matter. Prior to the conference, the parties submitted proposed scheduling plans for the case, (Doc. Nos. 2392, 2393), respectively. After a lengthy discussion, the Court is adopting the Defendants’ plan for completing discovery on general causation and pre-emption issues and renewing summary judgment and *Daubert* motions.

Contemporaneously, the parties are ordered to start work on a *Bellwether* trial protocol to be finalized no later than **December 14, 2018**. Plaintiffs will also continue to provide Plaintiffs’ fact sheets to the Defendants for the various plaintiffs.

The schedule now set addresses many of the concerns for both sides, while finding a workable plan for their diametrically opposed positions.

1 No later than *August 31, 2018*, Defendants must complete supplementation
2 (update) all previous disclosures and productions with further data through and
3 including *December 31, 2017*, and otherwise produce the categorical information
4 specified by the Ninth Circuit Court of Appeals. In that regard, the Court of
5 Appeals noted categorically:

- 6 1. Adverse event source documents and data basis;
- 7 2. Source files for each pancreatic cancer event with patient and
8 reporter's information redacted; and
- 9 3. Foreign regulatory files.

10 At page 5, (Doc. No. 2393), Defendants have set forth a more specific list of
11 what they believe is all inclusive of the categories mentioned above. Defendants
12 must produce this information starting immediately, in a rolling production, as
13 necessary. This production should be underway while the parties discuss any
14 expansion of the data to be produced on the general causation and pre-emption
15 issues. Plaintiffs are ordered to provide a list of all the documents they feel
16 necessary under the Ninth Circuit's decision. That list should be presented
17 forthwith, whereupon the parties will meet and confer in an attempt to meet
18 resolution. The Court will adjudicate any differences that cannot be settled
19 informally.

20 The Plaintiff may include the production of Sales and Marketing information
21 in the list of other materials, and the parties are ordered to meet and confer on the
22 discoverability of this information as it impacts general causation or pre-emption,
23 or should otherwise be discoverable for future aspects of the case at this time, giving
24 special attention to the questions of timing and cost of production and the degree to
25 which it will imperil the now set case schedule.

26 In the interim, Plaintiffs will continue to provide the Plaintiff's fact sheets as
27 necessary to develop the information from which bellwether plaintiffs will be
28

1 selected.


2 The parties will supplement their expert disclosures no later than **November**
3 **16, 2018.**

4 The filing deadline for *Daubert* and summary judgment motions is set for
5 **December 11, 2018**, oppositions are due **January 11, 2019**, and replies are due
6 **February 8, 2019**. The Court will hear argument on the motions pending at that
7 time on **February 20, 2019 at 10:00 a.m.** in Courtroom 4A.

8 With resolution of the summary judgments, unless ordered earlier, the parties
9 will select the *Bellwether* cases pursuant to the previously described protocol, and
10 will engage in necessary case specific discovery. Trials will be set commencing
11 January of 2020.

12 IT IS SO ORDERED.

13
14 Dated: March 21, 2018

15 
16 Hon. Anthony J. Battaglia
17 United States District Judge
18
19
20
21
22
23
24
25
26
27
28