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June 5, 2018

VIA ECF

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

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

Dear Judge Rodgers:

In advance of the June 12, 2018 case management conference, Plaintiffs and Defendants Bristol-Myers Squibb Company (“BMS”), Otsuka America Pharmaceutical, Inc. (“OAPI”), and Otsuka Pharmaceutical Co., Ltd. (“OPC”) (collectively, “Defendants”) jointly submit the following proposed agenda.

I. Status of Global Settlement Discussions

Consistent with the Court’s Global Settlement Order No. 1 (ECF No. 881), the parties continue to meet and confer regarding a framework for a global settlement.

The parties anticipate submitting a stipulation regarding “no pay” cases for the Court’s consideration in advance of the CMC. In addition, the parties will be prepared to discuss a schedule for the case selection process outlined in CMO-13.

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Pursuant to the Court's Order (ECF No. 876), the parties have executed releases in the *Lilly*, *Lyons*, and *Viechec* cases and also have filed stipulations of dismissal in those cases.

II. Recent Filings in Other Jurisdictions

Between April 25 and May 2, 2018, 7 complaints — comprising 241 plaintiffs — were filed in California state court:

- Napoli Shkolnik, PLLC filed the first complaint, *Breeze*, on behalf of 9 California plaintiffs, on April 25, 2018;
- Aylstock, Witkin, Kreis & Overholtz, PLLC filed one complaint, *Rollo*, on behalf of 11 California plaintiffs and 1 nonresident plaintiff who allegedly was prescribed and ingested Abilify in California, on April 30, 2018;
- Kirtland & Packard, PLLC filed 3 complaints — *Green*, *Evans*, and *Davis* — on behalf of 78 California plaintiffs and 55 nonresident plaintiffs, on April 30, 2018;
- Milstein Jackson Fairchild & Wade, LLP filed the *Wyle* case on behalf of 3 California plaintiffs, on May 1, 2018.
- Napoli Shkolnik, PLLC filed two additional complaints — *Adeniran* and *Behrman* — on behalf of 80 California plaintiffs and 2 nonresident plaintiffs, on May 2, 2018;

The complaints in all of these cases are essentially identical to the Master Complaint in this MDL, except that Plaintiffs added one non-diverse defendant — a California pharmaceutical distributor named McKesson

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Corporation.¹ Defendants removed these cases to federal court on the basis that Plaintiffs fraudulently joined McKesson to defeat diversity jurisdiction. Based on the state court in which they were filed, Defendants removed *Breeze*, *Rollo*, *Green*, *Evans*, *Davis*, and *Adeniran* to the Northern District of California, and *Wyle* and *Behrman* to the Central District of California. Plaintiffs moved to remand all of these cases.

The JPML transferred *Breeze* to this MDL. Plaintiffs' motion to remand in that case is now pending in this MDL.

The JPML has conditionally transferred *Rollo*, *Green*, *Evans*, *Davis*, *Adeniran*, *Wyle*, and *Behrman*. Plaintiffs have advised Defendants that they will withdraw any oppositions to those conditional transfer orders.

The parties request that the Court defer hearings on the remand motions in these eight California cases until the conclusion of settlement negotiations.

III. Status of the New Jersey Litigation

By Order dated May 7, 2018, the New Jersey Supreme Court designated the Abilify cases in New Jersey state court as a multicounty litigation ("MCL"). Those cases were transferred from Judge DeLuca to the New Jersey Superior Court, Law Division, Atlantic County, where they will be overseen for at least several months by Judge Nelson C. Johnson.

Judge Johnson held a telephonic case management conference on May 21, at which he stayed the New Jersey litigation until at least July so as to not interfere with global settlement discussions. The parties understand that Judge Johnson intends to participate by phone in the June 12 MDL CMC,

¹ The *Behrman* Complaint also names as defendants Dr. Mark Frye, WPP Montagu Square LLC, Ogilvy Healthworld LLC, Compelle! Communications, and Nellie O'Brien.

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and will schedule a New Jersey CMC in July so that the parties can provide an update on the status of the cases.

In addition, the parties understand that Judge Johnson will retire from the bench later this year, at which point Judge John C. Porto will assume responsibility for the MCL.

* * *

The parties look forward to discussing these issues with Your Honor at the June 12 case management conference.

Respectfully Submitted,

/s/ Anand Agneshwar
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