

Eastern District of Kentucky

**FILED**

**SEP 06 2018**

AT LEXINGTON  
ROBERT R. CARR  
CLERK U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION  
AT LEXINGTON

IN RE: ONGLYZA (SAXAGLIPTIN) AND  
KOMBIGLYZE XR (SAXAGLIPTIN AND  
METFORMIN) PRODUCTS LIABILITY  
LITIGATION

Master File No. 5:18-md-2809-KKC  
MDL No. 2809

ALL CASES

**ORDER**  
**APPOINTING PLAINTIFFS' LEADERSHIP STRUCTURE**

The Court hereby ORDERS that the unopposed motion (DE 160, 5:18-md-2809, *et al.*) by certain counsel, who represent the majority of plaintiffs in this matter, for appointment to the following leadership positions ("Designated Counsel") is GRANTED as follows:

The Designated Counsel are appointed to the following positions for the duration of the litigation or until such time as the Court determines that a change in the duration of service shall be made. The Court may decide from time-to-time to modify these appointments, depending upon the needs of the litigation.

**A. Plaintiffs' Co-Lead Counsel**

The Court appoints the following counsel as plaintiffs' co-lead counsel:

Timothy Clark  
SANDERS PHILLIPS GROSSMAN, LLC  
2860 Michelle Drive, Suite 220  
Irvine, CA 92606  
[tclark@thesandersfirm.com](mailto:tclark@thesandersfirm.com)

Jennifer A. Moore  
GROSSMAN & MOORE, PLLC  
401 West Main Street, Suite 1810  
Louisville, KY 40202  
[jmoore@gminjurylaw.com](mailto:jmoore@gminjurylaw.com)

Defendants' counsel may rely upon all agreements made with Plaintiffs' co-lead counsel and such agreements shall be binding on all Plaintiffs whose cases are subject to the Court's jurisdiction.

The duties of Plaintiffs' Co-Lead Counsel are as follows:

- i. Determine, based upon consultation with other members of Plaintiffs' Executive and Steering Committees and other co-counsel, and present in the most efficient and reasonable fashion, to the Court and opposing parties the position of Plaintiffs on all matters arising during pretrial proceedings;
- ii. Initiate and coordinate all pretrial discovery on behalf of Plaintiffs in actions consolidated in this multi-district litigation, including developing and proposing to the Court schedules for commencement, execution, and completion of all discovery on behalf of Plaintiffs;
- iii. Submit and argue verbal and/or written motions presented to the Court on behalf of Plaintiffs' Designated Counsel, and oppose any motions submitted by Defendants or other parties;
- iv. Submit, if appropriate, additional counsel and/or committees for designation by the Court;
- v. Delegate specific tasks to other counsel in an effective and efficient manner that ensures the pretrial preparation for Plaintiffs is conducted efficiently, effectively, and economically;
- vi. Enter into stipulations with opposing counsel necessary for the advancement and conduct of this litigation, which will be submitted to the Court for approval;

- vii. Maintain adequate files of pretrial matters, establishing and maintaining document or exhibit depository, and ensuring those documents are available under reasonable terms and conditions for examination by all MDL plaintiffs and/or their respective counsel;
- viii. Conduct settlement negotiations on behalf of Plaintiffs, without entering into binding agreements except to the extent expressly authorized;
- ix. Hold meetings for Plaintiffs' counsel for any appropriate purpose, including coordinating responses to questions of other parties or of the Court;
- x. Prepare and distribute periodic status reports to the parties;
- xi. Coordinate responsibilities of Plaintiffs' Designated Counsel, schedule leadership counsel meetings, appear at status conferences, and perform other necessary logistic and administrative functions as required, and carry out duties as ordered by this Court;
- xii. Act as spokesperson for Plaintiffs at status conferences and pretrial proceedings and in response to any inquiries by the Court, subject to the right of any Plaintiffs' counsel to present non-repetitive individual or differing positions;
- xiii. Maintain time and disbursement records covering services of Designated Counsel and establishing guidelines for approval by this Court as to the keeping of time records and expenses;
- xiv. Monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided; and

- xv. Perform any such other duties as may be incidental to proper and efficient coordination of Plaintiffs' pretrial proceedings or authorized by further order of this Court.

**B. Plaintiffs' Liaison Counsel**

Laraclay Drake Parker  
GOLDEN LAW OFFICE  
771 Corporate Dr., #750  
Lexington, KY 40503  
[LParker@goldenlawoffice.com](mailto:LParker@goldenlawoffice.com)

The duties of Liaison Counsel are as follows:

- i. Maintain and distribute an up-to-date service list to co-counsel and Defendants' Liaison Counsel;
- ii. Receive and distribute to co-counsel Orders from the Court, and documents from opposing parties and counsel;
- iii. Coordinate the establishment of a document depository, maintain and make available to co-counsel and other Plaintiffs' counsel a complete electronic file of all documents served by or upon parties;
- iv. Submit necessary documents to the Court and the Clerk of the Court; and
- v. Any other such duties as Ordered by this Court.

**C. Plaintiffs' Executive Committee**

In addition to Plaintiffs' Co-Lead Counsel, the Plaintiffs' Executive Committee shall consist of:

Daniel C. Burke  
BERNSTEIN LIEBHARD, LLP  
10 East 40th Street  
New York, NY 10016  
[dburke@bernlieb.com](mailto:dburke@bernlieb.com)

Fred Olinde  
THE OLINDE FIRM  
400 Poydras Street, Suite 1980  
New Orleans, LA 70130  
[folinde@olindefirm.com](mailto:folinde@olindefirm.com)

Tim Porter  
PORTER MALOUF  
825 Ridgewood Road  
Rigeland, MS 39157  
[tporter@portermalouf.com](mailto:tporter@portermalouf.com)

Plaintiffs' Executive Committee will work closely with Plaintiffs' Co-Lead Counsel and Plaintiffs' Liaison Counsel regarding management of the litigation, including assisting in organizing subcommittees and delegating tasks to subcommittees. Plaintiffs' Executive Committee will also assist in scheduling meetings for Plaintiffs' counsel, keeping minutes and/or records of Plaintiffs' counsel meetings, and any other administrative functions as necessary.

**D. Plaintiffs' Federal-State Court Liaison Counsel:**

Erin Copeland  
FIBICH, LEEBRON, COPELAND & BRIGGS  
1150 Bissonnet St.  
Houston, TX 77005  
[ecopeland@fibichlaw.com](mailto:ecopeland@fibichlaw.com)

The duties of Plaintiffs' Federal-State Court Liaison Counsel include:

- i. Monitor and report to the Court the status of various state court litigations and proceedings when necessary;
- ii. Organize and submit any necessary documents to both the Court and the Clerk of the Court; and
- iii. Any other such duties as this Court may order.

### **E. Plaintiffs' Steering Committee**

Plaintiffs' Steering Committee members shall consult with Plaintiffs' Co-Lead and Liaison Counsel in coordinating the plaintiffs' pretrial proceedings, in planning and conducting discovery, and in planning and preparing for trial. Subcommittees shall be formed as necessary.

Plaintiffs' Steering Committee members shall include Plaintiffs' Co-Lead Counsel and Executive Committee and the following additional members:

Raymond Boucher  
BOUCHER LLP  
21600 Oxnard Street, Suite 600  
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Erin Copeland  
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141 North Broadway  
Lexington, KY 40507  
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Steven Tepler  
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2929 Plummer Cove Road  
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Matthew L. White  
GRAY & WHITE LAW  
713 E. Market Street, #200  
Louisville, KY 40202  
[mwhite@grayandwhitelaw.com](mailto:mwhite@grayandwhitelaw.com)

**F. Privileged Communications**

Cooperation among counsel and the parties is essential for the orderly and expeditious resolution of the litigation. The communication, transmission, or dissemination of information among plaintiffs' counsel shall be subject to the joint attorney-client privilege and the protections afforded by the attorney work-product doctrine; provided, however, that the conditions necessary to create such a privilege or protection have been satisfied and the privilege or protection has not been waived.

SO ORDERED, this 6 day of September 2018.

  
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Karen K. Caldwell  
United States District Judge