

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

IN RE: ABILIFY (ARIPIRAZOLE)
PRODUCTS LIABILITY LITIGATION

Case No. 3:16md2734

This Document Relates to:

Judge M. Casey Rodgers
Magistrate Judge Gary Jones

Bletz v. Bristol-Myers Squibb Co., et al.,
Case No. 3:17cv581

*Harned v. Bristol-Myers Squibb Co., et
al.*, Case No. 3:18cv796

*Kennedy v. Bristol-Myers Squibb Co., et
al.*, Case No. 3:16cv688

*Northcutt v. Bristol-Myers Squibb Co., et
al.*, Case No. 3:18cv170

Ortiz v. Bristol-Myers Squibb Co., et al.,
Case No. 3:18cv462

*Stingley v. Bristol-Myers Squibb Co., et
al.*, Case No. 3:18cv766

ORDER

On September 14, 2018, the above-captioned six cases were randomly selected from the second discovery pool and scheduled to proceed with fast-tracked discovery and trial. *See* ECF Nos. 993, 995. The trials for these cases will be held in the summer of 2019. This Order establishes a discovery schedule for the fast-

track cases and memorializes the Court's rulings on several discovery issues raised at the 17th case management conference.

A. Discovery Schedule

Fact discovery in the fast-track cases will recommence in **January 2019** and be completed by **March 15, 2019**. Expert depositions will proceed thereafter and must be complete by **April 29, 2019**. To ensure that both sides are in a position to meaningfully depose experts within this 45-day time period, the parties are directed to adhere to the following schedule.

Depositions of individual plaintiffs must be taken by **January 31, 2019**. Also by that date, both sides must produce their Rule 26(a)(2) disclosures, including the written reports required by Rule 26(a)(2)(B), for expert witnesses who are not case-specific (*i.e.*, regulatory expert). Plaintiffs' case-specific expert disclosures are due by **March 1, 2019**. Defendants' case-specific expert disclosures are due by **April 1, 2019**. By separate order, the Court will set pretrial deadlines and trial dates for these cases.

B. Defendants' First Sets of Interrogatories and Requests for Production

In early October 2018, Defendants served their first sets of interrogatories and requests for production for the fast-track cases. Plaintiffs objected to these requests as premature, cumulative, and otherwise improper because, in their view, the Fact Sheet protocol was designed to replace written discovery in this MDL. On

consideration, the Court agrees with Defendants that written discovery is not foreclosed by the use of Plaintiff Fact Sheets, particularly since it was propounded and responded to, without objection, in the first discovery pool and the parties had no agreement otherwise. That said, the Court finds Defendants' current number of requests to be overly broad, disproportionate to the needs of the fast-track cases, and unduly burdensome given the above-established discovery schedule and the incredible amount of information already provided via the Fact Sheets. The Court thus will limit written discovery by Defendants to no more than **8 interrogatories** and **15 requests for production** in each of the fast-track cases. Defendants are directed to propound revised written discovery requests consistent with this ruling by **Thursday, December 6, 2018**. Plaintiffs' responses are due within **30 days** thereafter. To the extent Plaintiffs determine they have already provided certain information sought in Defendants' revised requests, they must so indicate in their responses and identify the manner in which the information was provided (*e.g.*, specific response on Fact Sheet).

With respect to the substance of Defendants' specific discovery requests, the Court rules as follows.

1. Bruce Bletz, Case No. 3:17cv581

The contents of the Bletz interrogatories are permissible, with the exception of Interrogatory No. 14, which the Court finds overly broad and not proportional to the needs of this case. Plaintiffs' objection to Interrogatory No. 14 is sustained.

The contents of the Bletz requests for production are permissible except as follows. Requests for Production Nos. 11, 20, 27, and 39 are overly broad and No. 45 is irrelevant. All five of these requests seek information not proportional to the needs of the case. Requests for Production Nos. 24 and 25 are duplicative of information already requested and provided via the Fact Sheet and records authorizations protocols. Request for Production No. 37 is premature. Plaintiffs' objections to the contents of Requests for Production Nos. 11, 20, 24, 25, 27, 37, 39, and 45 are sustained.

Requests for Production Nos. 31, 34, and 44 are overly broad due to their temporal scope. Requests Nos. 31 and 34 are limited to the period from 5 years prior to Bletz's first Abilify prescription through the present. Request No. 44 is limited to the period from 10 years prior to Bletz's first Abilify use to the present. Plaintiffs' objections to the contents of Requests for Production Nos. 31, 34, and 44 thus are sustained in part and overruled in part.

2. **Licente Harned, Case No. 3:18cv796**

The contents of the Harned interrogatories are permissible, except for Interrogatory No. 16, which the Court finds overly broad due to the 10-year scope of the interrogatory. The Court thus will limit the temporal scope of Interrogatory No. 16 to the period from five years prior to the date Harned first took Abilify to the present. Plaintiffs' objection to the contents of Interrogatory No. 16 is sustained in part and overruled in part.

The contents of the Harned requests for production are permissible except as follows. Requests for Production Nos. 11, 20, and 27 are overly broad and seek information not proportional to the needs of the case. Requests for Production Nos. 24 and 25 are duplicative of information already requested and provided via the Fact Sheet and records authorizations protocols. Request for Production No. 37 is premature. Plaintiffs' objections to the contents of Requests for Production Nos. 11, 20, 24, 25, 27, and 37 are sustained.

Requests for Production Nos. 31, 34, and 44 are overly broad due to their temporal scope. Requests Nos. 31 and 34 are limited to the period from 5 years prior to Harned's first Abilify prescription through the present. Request No. 44 is limited to the period from 10 years prior to Harned's first Abilify use to the present. Plaintiffs' objections to the contents of Requests for Production Nos. 31, 34, and 44 thus are sustained in part and overruled in part.

3. Christine M. Kennedy, Case No. 3:16cv688

The contents of the Kennedy interrogatories are permissible, with the exception of Interrogatory Nos. 13, 15, and 16, which the Court finds overly broad given their respective temporal scopes. Interrogatory Nos. 13 and 16 are limited to the period from five years prior to the date Kennedy first took Abilify to the present. Interrogatory 15 is limited to the period from ten years prior to the date Kennedy first took Abilify to the present. Plaintiffs' objections to the contents of Interrogatory Nos. 13, 15, and 16 are sustained in part and overruled in part.

The contents of the Kennedy requests for production are permissible except as follows. Requests for Production Nos. 11, 20, and 27 are overly broad and seek information not proportional to the needs of the case. Requests for Production Nos. 24 and 25 are duplicative of information already requested and provided via the Fact Sheet and records authorizations protocols. Request for Production No. 37 is premature. Plaintiffs' objections to the contents of Requests for Production Nos. 11, 20, 24, 25, and 27 are sustained.

Requests for Production Nos. 31 and 34 are overly broad due to their temporal scope and are hereby limited to the period from 5 years prior to Kennedy's first Abilify prescription through the present. Plaintiffs' objections to the contents of Requests for Production Nos. 31 and 34 thus are sustained in part and overruled in part.

4. Annette Northcutt, Case No. 3:18cv170

The contents of the Northcutt interrogatories are permissible. Plaintiffs' objections to the contents of these interrogatories are overruled.

The contents of the Northcutt requests for production are permissible except as follows. Requests for Production Nos. 11, 20, and 27 are overly broad and seek information not proportional to the needs of the case. Requests for Production Nos. 24 and 25 are duplicative of information already requested and provided via the Fact Sheet and records authorizations protocols. Request for Production No. 37 is premature. Plaintiffs' objections to the contents of Requests for Production Nos. 11, 20, 24, 25, and 27 are sustained.

Requests for Production Nos. 31 and 34 are overly broad due to their temporal scope and are hereby limited to the period from 5 years prior to Northcutt's first Abilify prescription through the present. Plaintiffs' objections to the contents of Requests for Production Nos. 31 and 34 thus are sustained in part and overruled in part.

5. Louis Ortiz, Case No. 3:18cv462

The contents of the Ortiz interrogatories are permissible, except for Interrogatory No. 13, which the Court finds overly broad and encompassing irrelevant information due to its unlimited temporal scope. The Court finds Interrogatory No. 13 permissible as it pertains the specific individuals identified in

the interrogatory (*i.e.*, brothers, mother, son's mother, neighbor). Beyond that, Interrogatory No. 13 is limited to the period from five years prior to the date Ortiz first took Abilify to the present. Plaintiffs' objections to the contents of Interrogatory No. 13 are sustained in part and overruled in part.

The contents of the Ortiz requests for production are permissible except as follows. Requests for Production Nos. 11, 20, and 27 are overly broad and seek information not proportional to the needs of the case. Requests for Production Nos. 24 and 25 are duplicative of information already requested and provided via the Fact Sheet and records authorizations protocols. Request for Production No. 37 is premature. Plaintiffs' objections to the contents of Requests for Production Nos. 11, 20, 24, 25, and 27 are sustained.

Requests for Production Nos. 31 and 34 are overly broad due to their temporal scope and are hereby limited to the period from 5 years prior to Ortiz's first Abilify prescription through the present. Plaintiffs' objections to the contents of Requests for Production Nos. 31 and 34 thus are sustained in part and overruled in part.

6. Valerie Stingley, Case No. 3:18cv766

The contents of the Stingley interrogatories are permissible, except for Interrogatory No. 14, which the Court finds overly broad, unduly burdensome, disproportionate to the needs of the case, and encompassing irrelevant information due to the 10-year scope of the interrogatory. The Court will limit the temporal

scope of Interrogatory No. 14 to five years prior to the date Stingley first took Abilify. Plaintiffs' objection to the contents of Interrogatory 14 is sustained in part and overruled in part.

The contents of the Stingley requests for production are permissible except as follows. Requests for Production Nos. 11, 20, 27, and 39 are overly broad and No. 45 is irrelevant. All five of these requests seek information not proportional to the needs of the case. Requests for Production Nos. 24 and 25 are duplicative of information already requested and provided via the Fact Sheet and records authorizations protocols. Request for Production No. 37 is premature. Plaintiffs' objections to the contents of Requests for Production Nos. 11, 20, 24, 25, 27, 37, 39, and 45 are sustained.

Finally, Requests for Production Nos. 31, 34, and 44 are overly broad due to their temporal scope. Request Nos. 31 and 34 are limited to the period from 5 years prior to Stingley's first Abilify prescription through the present. Request No. 44 is limited to the period from 10 years prior to Stingley's first Abilify use to the present. Plaintiffs' objections to the contents of Requests for Production Nos. 31, 34, and 44 thus are sustained in part and overruled in part.

SO ORDERED, on this 4th day of December, 2018.

M. Casey Rodgers

M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE