

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

**IN RE: ZANTAC (RANITIDINE)
PRODUCTS LIABILITY
LITIGATION**

**MDL NO. 2924
20-MD-2924**

**JUDGE ROBIN L. ROSENBERG
MAGISTRATE JUDGE BRUCE E. REINHART**

THIS DOCUMENT RELATES TO: ALL CASES

JOINT STATEMENT ON SUBMISSION OF PROPOSED ORDERS

Pursuant to the Court's Pretrial Orders #2 (DE 31), #4 (DE 68) and #9 (DE 375), the Practices and Procedures Team and Defendants Sanofi US Services, Inc., Sanofi-Aventis U.S. LLC, Chattem, Inc., Boehringer Ingelheim Pharmaceuticals, Inc., Glaxosmithkline, LLC and Pfizer, Inc. respectfully submit the following proposed Orders for the Court's consideration:

1. [Proposed] Pretrial Order - Appointment of Special Master;
2. [Proposed] Pretrial Order - Direct Filing – Stipulated; and
3. [Proposed] Pretrial Order - Service of Process on Certain Defendants.

Copies of the foregoing are attached.

The undersigned have been advised that certain other Defendants may wish to be heard with respect to entry of the attached proposed Orders. Therefore, the undersigned respectfully propose that the Court enter an Order establishing a deadline (Friday, March 20, 2020) for any other Defendants to file responses and/or objections to entry of the attached proposed Orders.

Respectfully submitted,

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Practices and Procedures Team

CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2020, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that the foregoing document is being served on all counsel of record or parties registered to receive CM/ECF Electronic Filings.

/s/ Robert C. Gilbert
Robert C. Gilbert, Esquire

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

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**JUDGE ROBIN L. ROSENBERG
MAGISTRATE JUDGE BRUCE E. REINHART**

_____/

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[PROPOSED] PRETRIAL ORDER #XX
Appointment of Special Master

It appearing that preparation of specific policies and procedures for management of this MDL will benefit the parties and the Court, the Court hereby, on recommendation of and with the consent of the parties, ORDERS:

1. Appointment: Jaime Dodge, Director of the Institute for Complex Litigation and Mass Claims at Emory Law School, is appointed under Federal Rule of Civil Procedure 53 for the purpose of establishing practices and procedures that will assist with and facilitate the just and efficient early management of this litigation through the negotiation and implementation of initial case management orders and related matters including data collection and analytics and other early case management issues identified by the parties.
2. Responsibilities and Authority: Consistent with Fed. R. Civ. P. 53 and the currently anticipated needs of the Court, as well as the parties' consent, the Court directs that Professor Dodge shall have the authority to (1) meet separately and together with various groups to facilitate communications between and amongst the parties and the Court; (2) encourage the submission of recommendations for procedures that will ensure the efficient management and administration of this litigation; (3) provide recommendations to the

Court as to the establishment of such practices and procedures; and (4) facilitate discussions between the parties, with the consent of the parties or as requested by the Court, with respect to the establishment of discovery procedures or protocols. Professor Dodge shall act only as a facilitator and shall not have the authority to issue reports and recommendations on substantive issues of law, to decide discovery disputes, to conduct evidentiary hearings, or to impose sanctions.

3. *Ex Parte* Communications: Professor Dodge may communicate *ex parte* with any party's attorneys for the purpose of fulfilling her role. She may use the information gained to advise the Court with respect to any procedural or scheduling matters, but shall not use *ex parte* communications to advise the Court on substantive issues of law, discovery disputes, evidentiary hearings or other substantive matters. No communications or sharing of materials with Professor Dodge in the context of this Appointment will be deemed a waiver of any privilege, the protection afforded by the work product doctrine, the protection afforded to material prepared for litigation, or violation of HIPAA or other law limiting sharing of information. This protection is retroactive and covers all prior conversations and communications between Professor Dodge and either side related to this litigation. The parties will treat Professor Dodge's communications with any party or the Court as privileged and those communications will not be subject to discovery by any party.
4. Records: Professor Dodge shall maintain billing records of the time spent on this matter, with descriptions of the activities and matters worked upon which shall be submitted to the parties on a periodic basis for review and payment.
5. Fees and Expenses: Compensation, at rates mutually agreeable to Professor Dodge and the parties, shall be paid to Professor Dodge on a periodic basis by the parties, along with

reimbursement for reasonable expenses incurred. Those fees and expenses shall be divided, with Defendants bearing 50% of this cost and Plaintiffs bearing 50% of this cost. Professor Dodge shall incur only such fees and expenses as may be reasonably necessary to fulfill her duties under this Order.

6. Reasonable Diligence: As required by Fed. R. Civ. P. 53(b)(2), the Court directs Professor Dodge to proceed with all reasonable diligence.
7. Disqualification Affidavit: Pursuant to Fed. R. Civ. P. 53(b)(3), before this Order shall take effect, Professor Dodge must file an affidavit disclosing whether there is ground for disqualification under 28 U.S.C. § 455. If any ground is disclosed, this Order shall take effect only if the parties, with the Court's approval, waive disqualification.
8. Pacer: The parties consent to Professor's Dodge addition to the Pacer service list. She will have access to Pacer free of charge.
9. Amendment: Pursuant to Fed. R. Civ. P. 53(b)(4), the Court may amend this Order at any time after notice to the parties and an opportunity to be heard.

DONE and ORDERED in Chambers, West Palm Beach, Florida, this ____ day of March,
2020

ROBIN L. ROSENBERG
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

**IN RE: ZANTAC (RANITIDINE)
PRODUCTS LIABILITY
LITIGATION**

**MDL NO. 2924
20-MD-2924**

**JUDGE ROBIN L. ROSENBERG
MAGISTRATE JUDGE BRUCE E. REINHART**

_____/

THIS DOCUMENT RELATES TO: ALL CASES

[PROPOSED] PRETRIAL ORDER # XX
Direct Filing - Stipulated

I. SCOPE OF THE ORDER

This stipulated Order shall govern the direct filing of actions in *In re Zantac (Ranitidine) Products Liability Litigation*, MDL No. 2924, in the Southern District of Florida and applies only to personal injury claims brought by Plaintiffs based on usage or purchase of Zantac or ranitidine in the United States.

II. DIRECT FILING OF CASES INTO MDL NO. 2924

1. To eliminate delays associated with the transfer to this Court of cases filed in or removed to other federal district courts and to promote judicial efficiency, any plaintiff whose case would be subject to transfer to MDL No. 2924 may file his or her complaint against all Defendants directly in MDL No. 2924 in the United States District Court for the Southern District of Florida.¹

2. Any complaint that is filed directly in the Southern District of Florida pursuant to this Order shall be deemed directly filed in MDL No. 2924 and filed as a new civil action through the Court's electronic filing system. At the time of filing, the complaint shall bear the caption set

¹ This Order shall apply to any complaints filed directly in the Southern District of Florida on or after February 20, 2020.

forth in Paragraph 13 of this Order and be accompanied by a civil cover sheet and summons. The civil cover sheet shall specify under the “Related Case(s)” section that the case is related to MDL No. 2924. Once the case is filed, it shall be assigned a civil case number. After review by the Clerk of Court’s office, the case will be automatically consolidated in MDL No. 2924.

3. With the exception of any complaints that include plaintiffs who solely assert derivative claims, no multi-plaintiff complaints may be directly filed in MDL No. 2924.

4. Each case filed directly in MDL No. 2924 that emanates from a district outside the Southern District of Florida will be filed in MDL No. 2924 for pretrial proceedings only, consistent with the Judicial Panel on Multidistrict Litigation’s February 6, 2020, Transfer Order (DE 1).

5. In any complaint directly filed in the Southern District of Florida pursuant to this Order, Plaintiff shall identify his or her federal district of residence in which the action otherwise would have been filed absent the direct filing procedure. Upon completion of all pretrial proceedings applicable to a case directly filed in this Court, pursuant to 28 U.S.C. § 1404(a), this Court will transfer each case to the identified federal district of residence unless the parties jointly advise the Court that a case should be transferred to another district in which venue is proper.

6. Nothing contained in this Order shall preclude the parties from agreeing, at a future date, to try cases filed pursuant to this Order in the Southern District of Florida.

7. All Defendants stipulate and agree that they will not assert any objection of improper venue pursuant to Fed. R. Civ. P. 12(b) as to any ranitidine-related cases filed directly in the Southern District of Florida that emanate from districts outside the Southern District of Florida and that are filed in this multidistrict litigation for pretrial proceedings.

8. The inclusion of any action in this MDL No. 2924, whether such action was or will be filed originally or directly in the Southern District of Florida, shall not constitute a determination

by this Court that venue is proper in this district. Likewise, nothing in this Order shall be construed as a waiver of personal jurisdiction by any named Defendant, served or unserved.

9. Filing an action directly into MDL No. 2924 shall not constitute, for any party, a waiver pursuant to *Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998).

10. All parties stipulate and agree that a case that was filed directly in MDL No. 2924 pursuant to this Order will have no impact on choice of law that otherwise would apply to an individual case had it been originally filed in another district court and transferred to this Court pursuant to 28 U.S.C. § 1407.

11. All Defendants stipulate and agree that the filing of a complaint directly in MDL No. 2924 pursuant to this Order shall stop the running of any statute of limitations or prescriptive or preemptive period as if the complaint had been filed in an appropriate venue.

12. The references to “all Defendants” herein shall not constitute an appearance by or for any Defendant not properly served.

13. The caption for any complaint that is directly filed in MDL No. 2924 before this Court shall bear the following caption:

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

**IN RE: ZANTAC (RANITIDINE)
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**MDL NO. 2924
20-MD-2924**

**JUDGE ROBIN L. ROSENBERG
MAGISTRATE JUDGE BRUCE E. REINHART**

_____,

Plaintiff(s),

COMPLAINT [& JURY DEMAND]

vs.

CIVIL ACTION NO. _____

_____,

Defendants.

_____/

THIS DOCUMENT RELATES TO: *CASE NAME*

DONE and ORDERED in Chambers, West Palm Beach, Florida, this ____ day of
March, 2020.

ROBIN L. ROSENBERG
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

**IN RE: ZANTAC (RANITIDINE)
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**JUDGE ROBIN L. ROSENBERG
MAGISTRATE JUDGE BRUCE E. REINHART**

_____/

THIS DOCUMENT RELATES TO: ALL CASES

[PROPOSED] PRETRIAL ORDER # XX
Service of Process on Certain Defendants

I. SCOPE OF THE ORDER

This stipulated Order shall govern (1) cases transferred to this Court by the Judicial Panel on Multidistrict Litigation, pursuant to its Order of February 6, 2020; (2) any tag-along actions subsequently transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to Rule 7.1 of the Rules of Procedure of that Panel; and (3) all related cases originally filed in this Court or transferred or removed to this Court. The Order applies only to claims brought by Plaintiffs based on usage or purchase of Zantac or ranitidine in the United States.

II. STREAMLINED SERVICE OF PROCESS AS TO DEFENDANTS BOEHRINGER, SANOFI, AND GSK

Defendants Boehringer Ingelheim Pharmaceuticals, Inc., Boehringer Ingelheim Corporation, and Boehringer Ingelheim USA Corporation (collectively, “Boehringer”); Sanofi US Services Inc., Sanofi-Aventis U.S. LLC, and Chattem, Inc. (collectively, “Sanofi”); and GlaxoSmithKline LLC (“GSK”) agree to waive formal service of process under Federal Rule of Civil Procedure 4 and accept service of Zantac (Ranitidine) cases that are properly commenced in,

removed to, or transferred to this MDL.¹ No summons is required. By waiving formal service of process, Boehringer, Sanofi, and GSK do not waive any defenses available to them, including arguments that any defendant is not properly named or not a proper party to an action.

A. These procedures for informal service of process are not available in cases in which the plaintiff seeks remand to state court unless and until remand is denied. For a plaintiff seeking remand, all deadlines set forth in this Order run from the date on which remand is denied.

B. Plaintiffs whose Complaints are not subject to Paragraph A above and who have not already served Boehringer, Sanofi, or GSK shall have sixty (60) days to serve the Complaint. For plaintiffs whose cases already have been docketed in this MDL, the 60 days shall run from the entry of this Order. Other plaintiffs shall have 60 days from the docketing of their Complaint in the MDL. The file-stamped Complaint shall be served by electronic mail to the following email address: ZantacComplaints@arnoldporter.com.²

C. The sending of a Complaint to the email address in Section B, if compliant with the additional requirements in this Section and Section D, shall constitute service on Boehringer, Sanofi, and GSK. Each email sent to the above email address shall contain only one Complaint, and the subject line of each email shall state the plaintiff's first and last name as well as the originating court. The body of each email must also include contact information for the plaintiff's counsel of record and specify the Defendant(s) being served.

D. A plaintiff serving a Complaint shall receive an automatic reply from the above email address when a Complaint is served. If no such reply is received within twenty-four (24)

¹ "Defendants" as used in Section 2 of this Order refers only to Boehringer, Sanofi, and GSK and not to any other entities that may be named as defendants in cases filed in this MDL.

² Defendants shall ensure that this email address is active within thirty (30) days of the date of the entry of this Order and will confirm to Plaintiffs' liaison counsel once that is so.

hours, the plaintiff shall re-serve the Complaint one additional time pursuant to the terms of this Order. If no reply is received within twenty-four (24) hours of the second attempted service email, the plaintiff shall contact counsel for Sanofi to resolve the issue. Upon successful service by electronic mail, the date of the initial effort to serve the Complaint via email shall be deemed the date of service.

E. Service will be effective only if made in accordance with these procedures. General mailing or use of other methods of transmission, including but not limited to Federal Express and electronic mail to email addresses other than that outlined above, will not be deemed sufficient to effect service. Defendants who have consented to streamlined service under this Order agree to provide thirty (30) days' notice before moving to dismiss any Complaint based on a technical defect in the service process described in this Order. Defendants may provide such notice to the submitting plaintiff's counsel via the contact email address provided in the service email pursuant to Section C above. Failure to serve a Complaint within 60 days will be subject to the standards set forth in Fed. R. Civ. P. 4(m).

F. In accordance with Pretrial Order #1 (DE 13), Defendants are not required to respond to Complaints in accordance with this Order until a date to be set by the Court. Other than those based on formal service of process, Defendants reserve all rights and defenses available to them under federal or state law and applicable treaties and conventions.

III. SERVICE OF PROCESS AS TO DEFENDANT PFIZER

A. Without waiver of any defenses, Pfizer agrees that Plaintiffs may effect service of process pursuant to the provisions of Fed. R. Civ. P. 4 by sending a copy of the summons and complaint by certified mail to Pfizer's registered agent for service of process at the following address: The Corporation Trust Company, 1209 Orange Street, Wilmington, DE 19801. Service

shall be deemed effective on the day that the summons and complaint are sent to Pfizer as set forth above. Plaintiffs shall be responsible for filing a return of service with the Court.

B. Within thirty (30) days of the entry of this Order, counsel for Pfizer will provide plaintiffs' liaison counsel with an email address for service by electronic mail. At such time as an email address is provided, Pfizer will accept service by electronic mail to that email address, consistent with the procedures and provisions outlined in Sections II.A through II.E above.

C. General mailing to Pfizer or its counsel (except as provided above) or use of other methods of transmission (e.g., electronic transmission, Federal Express, or DHL) to Pfizer or its counsel will not be sufficient to effect service. This Order does not prevent any plaintiff from effecting service pursuant to any other method authorized under the Federal Rules of Civil Procedure.

D. In accordance with Pretrial Order #1 (DE 13), Pfizer is not required to respond to Complaints in accordance with this Order until a date to be set by the Court. Other than those based on formal service of process, Pfizer reserves all rights and defenses available to it under federal or state law and under applicable treaties and conventions.

DONE and ORDERED in Chambers, West Palm Beach, Florida, this ___ day of March, 2020.

ROBIN L. ROSENBERG
UNITED STATES DISTRICT JUDGE