

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: PROTON-PUMP
INHIBITOR PRODUCTS
LIABILITY LITIGATION

2:17-MD-2789 (CCC)(LDW)
(MDL 2789)
and all member and related cases

Judge Claire C. Cecchi

This Document Relates to:

*Angel Marie Lee, as Administrator of
the Estate of David P. Foster,
Deceased (2:17-cv-02475-CCC-
LDW)*

CASE MANAGEMENT ORDER NO. 82
(Bellwether Pretrial Scheduling Order for *Foster*)

I. SCOPE AND APPLICABILITY

This Case Management Order (“CMO”) is intended to conserve judicial resources, eliminate duplicative discovery, serve the convenience of the parties and witnesses, and promote the just and efficient conduct of this litigation. The following shall apply to Civil Action No. 2:17-cv-02475 in MDL 2789.

II. PRETRIAL SCHEDULE FOR *FOSTER*

A. Parties shall exchange witness lists for *Foster* on or before **October 14, 2022**.

- B. Motions in limine for *Foster* shall be filed on or before **October 31, 2022**.
- C. Oppositions to motions in limine for *Foster* shall be filed on or before **November 28, 2022**.
- D. Deposition designations for *Foster* shall be filed on or before **December 2, 2022**.
- E. Replies to oppositions to motions in limine for *Foster* and any stipulations to such motions shall be filed on or before **December 12, 2022**.
- F. Parties shall exchange lists of their “most likely to use” exhibits for *Foster* on or before **December 12, 2022**, identifying the approximately 500 documents (exclusive of medical records and medical/scientific literature) they are most likely to offer into evidence at trial. If a party in good faith supplements its exhibit list before trial with a reasonable number of additional exhibits, the other party shall not object to the additional exhibits on the basis of timing of their addition to the exhibit list, but the party reserves the right to object to the additional exhibits on any other grounds.

- G. Objections to deposition designations and counter-designations for *Foster* shall be filed on or before **December 23, 2022**.
- H. Objections to deposition counter-designations for *Foster* shall be filed on or before **January 6, 2023**.
- I. Objections to the approximately 500 documents (exclusive of medical records and medical/scientific literature) that the parties are most likely to offer into evidence at trial for *Foster* shall be filed on or before **January 6, 2023**. The parties in *Foster* reserve their right to object to all other exhibits until time of trial.
- J. Special Master Ellen Reisman shall issue Reports & Recommendations for *Foster* on Defendant's motion for summary judgment, on Defendant's *Daubert* motions as to Dr. Jeffrey Silberzweig, and on the parties' motions in limine.
- K. Objections to the Reports & Recommendations issued by Special Master Ellen Reisman for *Foster* on Defendant's motion for summary judgment, on Defendant's *Daubert* motions as to Dr. Jeffrey Silberzweig, and on the parties' motions in limine shall be filed within **21 days** after the respective Reports & Recommendations are issued.
- L. Responses to objections to the Reports & Recommendations issued by Special Master Ellen Reisman for *Foster* on Defendant's motion for

summary judgment, on Defendant's *Daubert* motion as to Dr. Jeffrey Silberzweig, and on the parties' motions in limine shall be filed within **7 days** after the respective objections are filed.

- M. If the Court determines that a hearing or additional oral argument on summary judgment and/or *Daubert* motions, or limited/certain parts thereof, is necessary, such a hearing will be scheduled at the Court's convenience thereafter.
- N. Parties may each on or before **January 20, 2023** designate for ruling by the Court up to 50 priority exhibits and up to 8 priority deposition designations for *Foster* that were previously identified on their respective exhibit lists and deposition designations.
- O. Each party shall submit proposed jury instructions, jury questionnaires, and verdict forms for *Foster* on or before **January 20, 2023**.
- P. The parties shall submit a proposed Joint Pretrial Order to the Court for *Foster* on or before **February 1, 2023**.
- Q. The Court shall hold a final pretrial conference for *Foster* on a date(s) to be provided by the Court.
- R. Trial for *Foster* will be held on **March 1, 2023** (or 30 days after the Court decides summary judgment and *Daubert* motions, whichever is later).

III. MEET AND CONFER

The Court reminds the parties that the Federal Rules of Civil Procedure “should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1; *see also* Fed. R. Evid. 102 (Rules of evidence “should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay ... to the end of ascertaining the truth and securing a just determination.”). Accordingly, the parties shall meet and confer in good faith and attempt to resolve any disputes regarding the admission into evidence of any exhibit or testimony, any proposed jury questionnaires or instructions, and any other matter set forth above in Section II prior to filing any motion or other paper seeking the Court’s determination on the issue.

IT IS SO ORDERED

SIGNED 9th day of September, 2022.

s/ Claire C. Cecchi

CLAIRE C. CECCHI
United States District Judge