

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:22-md-03036-RJC-DCK**

**IN RE: GARDASIL PRODUCTS LIABILITY
LITIGATION**

MDL No. 3036

**THIS DOCUMENT RELATES TO
ALL CASES**

JOINT STATUS REPORT FOR JUNE 27, 2023 PRETRIAL CONFERENCE

Pursuant to the Court’s Third Pretrial Order, dated January 27, 2023, the parties jointly submit the following status report ahead of the Pretrial Conference scheduled on June 27, 2023, at 11:00 a.m.:

I. PLEADINGS

A. Merck’s Federal Rule of Civil Procedure 12 Motion

Pursuant to the Third Pretrial Order, Merck filed a Federal Rule of Civil Procedure 12(c) motion in the *Bergin* (W.D.N.C.) and *America* (N.D.N.Y.) cases on February 7, 2023. D.E. 67, 68. Pursuant to the parties’ agreement and the Court’s text-only Order, Plaintiffs filed their response on March 9, 2023, and Merck’s reply was filed on March 23, 2023.

II. DISCOVERY

A. Plaintiffs’ Motion to Compel

On March 20, 2023, the Court entered its Order related to Plaintiffs’ Motion to Compel. Merck has worked diligently to comply with the Court’s Order. The parties continue to meet and confer regarding production logistics concerning the Gardasil and Gardasil 9 adverse event report information from the Merck Adverse event Reporting and Review System (“MARRS”).

Merck produced in eCTD format the portions of the Gardasil and Gardasil 9 regulatory files that already exist in eCTD format except for Module 3, which contains the CMC sections that the Court ordered need not be produced. Merck has also produced additional documents, amended several interrogatory answers, and has provided Plaintiffs with responsive information on several of Plaintiffs' discovery requests, which have been narrowed during meet and confers, consistent with the Court's Order. The parties are continuing to meet and confer regarding the remaining categories as indicated in the Court's Order.

B. Defendants' Fact Sheets

The parties reached agreement on a proposed DFS and DFS Order. On May 18, 2023, the parties submitted a proposed Order and proposed Defendant Fact Sheet to the Court via CyberClerk.

C. Initial Bellwether Pool

The following cases have been selected, pursuant to the First Case Management Order, for inclusion in the Initial Bellwether Pool:

1. Bond, Mary Ellouise, Case No. 3:23-CV-00058 (Merck's selection)
2. Brayboy, Lakia, Case No. 3:22-CV-00509 (Random selection)
3. Derr, Maeson, Case No. 3:22-CV-00381 (Agreed/Court selection)
4. Dunn, Logan, Case No. 3:23-CV-00129 (Plaintiffs' selection)
5. Feters, Sydney, Case No. 3:22-CV-00403 (Merck's selection)
6. Flores, Savannah, Case No. 3:22-CV-00397 (Random selection)
7. Hilton, Kameron, Case No. 5:22-CV-00030 (Agreed/Court selection)
8. Humphries, Cooper, Case No. 3:22-CV-00395 (Plaintiffs' selection)
9. Lane, Chaunna, Case No. 3:23-CV-00116 (Random selection)
10. Linton, Kirsten (obo C.K.), Case No. 3:23-CV-00125 (Plaintiffs' selection)

11. Lipscomb, Madelyn, Case No. 3:22-CV-00396 (Merck's selection)
12. Malloy, Madelyn, Case No. 3:22-CV-00407 (Merck's selection)
13. McElerney, Corrin, Case No. 3:22-CV-00382 (Plaintiffs' selection)
14. McTighe, Jaden, Case No. 3:23-CV-00130 (Merck's selection)
15. Soileau, Nalon, Case No. 3:22-CV-00399 (Random selection)
16. Wagner, Tanja (obo S.W.), Case No. 3:22-CV-00362 (Plaintiffs' selection)

Each of these Plaintiffs has waived *Lexecon*. The parties will begin to coordinate on "Core Initial Workup" as defined in the First Case Management Order (D.E. 77).

D. Rule 30(b)(6) Deposition Notices to Merck

Plaintiffs served two Rule 30(b)(6) deposition notices. The parties are currently meeting and conferring about the scope of the noticed topics so that Merck can obtain witness availability and present for deposition.

E. Plaintiffs' Fact Sheets

The parties are meeting and conferring about the production format of materials Plaintiffs produced as part of PFS productions.

Date: June 20, 2023

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Respectfully submitted,

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