UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: TEPEZZA MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION This Document Relates to All Cases	No. 23 C 3568 MDL No. 3079 Judge Thomas M. Durkin Magistrate Judge M. David Weisman

THE PLC'S BRIEF IN SUPPORT OF ITS PROPOSED CASE SCHEDULE

Schedules drive cases to conclusion. And lawyers are notorious for taking all the time a schedule allocates. The PLC asks the Court to set the reasonable deadlines it proposes that will move these cases toward resolution. Adopting Defendant's suggested schedule would be the leisurely approach, adding no less than 15–18 months to the first proposed trial date sometime in *2027*.

PROCEDURAL BACKGROUND

The JPML centralized these cases before this Court in June 2023. ECF No. 1. The Court held an initial status hearing on June 28 and appointed Plaintiffs' leadership. ECF Nos. 9–10. On July 31, the Court held a status conference and ordered briefing on the initial orders (protective order, 502(d), and ESI protocol). ECF No. 16. The Court heard argument on the protective and 502(d) orders on September 8 and on the design-defect claim on September 29, 2023. ECF No. 53. The parties finalized and submitted the 502(d) order, which the Court entered on October 3, 2023. ECF No. 54. Following the October 5 status hearing, the parties submitted the protective order, which the Court entered on October 13. ECF No. 63.

Following the September 8 status hearing, the Court referred discovery supervision to Judge Weisman. ECF Nos. 44–45. Judge Weisman held an initial status hearing on October 19 focused on custodians and ESI issues. ECF No. 66. On November 1, the Court held a status conference and entered the stipulated bellwether protocol. ECF Nos. 68–69. This Court denied Defendant's motion to dismiss pre-approval design-defect claims on November 1. ECF No. 70.

Judge Weisman held a lengthy discovery conference on December 4 and ordered, among other things, a custodial cap of 65 and that Defendant provide hit reports for the search terms the PLC proposed in August to further the parties' efforts toward negotiating an ESI protocol. ECF No. 78. Later that month, new additional counsel appeared for Defendant. ECF Nos. 84–88. Immediately following new counsel's appearance, Defendant requested its first extension of the agreed deadlines to select bellwether trial cases; the PLC acquiesced. ECF. No. 91. Defendant then requested to postpone the agreed-to status hearing before Judge Weisman. ECF No. 95. Following the PLC's opposition, Judge Weisman denied the motion noting:

> The Court denies defendant's request to continue the status hearing. The PLC is correct. Status hearings are an important means of managing discovery, especially in cases such as this, *where the discovery process has been slow to gain traction*.

ECF No. 98 (emphasis supplied). The ensuing 24 hours were among the most productive in the case. The parties finalized the ESI protocol and further stipulated to search terms before convening for the January 9 status. ECF Nos. 99–101. The productivity continued as the parties submitted a stipulated production protocol for custodial productions later that month. ECF No. 106. The protocol set six waves of

production to conclude by December 30, 2024. *Id*. In February, the parties agreed (in most respects) to a production protocol for non-custodial production, ECF No. 110, with certain remaining issues to be determined at the upcoming status hearing on May 1. Like the custodial protocol, the non-custodial protocol anticipates production of Defendant's documents by the end of this calendar year. *Id*.

Last month, Defendant sought a second 60-day extension of its deadline to select bellwether discovery cases, which the Court granted with prejudice. ECF No. 129. Defendant's selections are now due on May 30. *Id*. Defendant's rationale for requiring the extension was the inability to collect medical records in a timely manner. During the hearing, the PLC expressed concern over Defendant's collection efforts noting they appeared to seek medical records that were beyond the bounds of Core Discovery and outlined in the PPF. The PLC confirmed that was, in fact, Defendant's tactic after receiving third-party subpoenas directed to medical providers that were *not* identified in the PPF.

ARGUMENT

The PLC's proposed schedule is consistent with MDL best practices, and the approach commonly taken by MDL courts in this District. The schedule anticipates deadlines that can be met with the reasonable diligence of all parties while also ensuring the litigation proceeds at a reasonable clip. Defendant's proposed schedule, however, unnecessarily prolongs all phases of litigation, and particularly bogs down discovery with bifurcated briefing on general and specific causation—a common defense proposal that MDL courts in this District routinely reject for its glaring

inefficiencies. The PLC urges adoption of its proposal as it better balances the interests of the parties and the Court.

A. Discovery generally[1]

The PLC's proposal offers a streamlined schedule that permits ample time for discovery and is consistent with the custodial and non-custodial production protocols entered in the case. Defendant's schedule is cushioned with extra weeks or months at every phase. Overall, the PLC requests 13 months to close fact discovery for general-liability witnesses and trial picks, setting a May 30, 2025 deadline for both. Defendant's proposal tacks on an extra nine months and would not close supplemental fact discovery until March 2, 2026. Worse, its proposal contemplates the first trial in *mid-2027*—four years after the JPML centralized this MDL. These differences demonstrate that the extra months baked into Defendant's schedule serve no purpose other than increasing costs and delaying resolution.

1. "Core Discovery" under the agreed Bellwether Protocol can be completed in six months.

The PLC's proposed schedule allocates six months for core discovery on the bellwether discovery picks between May and November 2024. This proposal is precisely consistent with the time allocated by Judge Pallmeyer in *In re Zimmer*

[1] The PLC's Proposed Schedule is attached as Exhibit A. Defendant proposes a staggered close of discovery for corporate witnesses and case-specific discovery. This is, or was, ostensibly based on the PLC's "agreement" that general discovery close on February 28, 2025. That is simply not true, and no such agreement occurred. During the meet-and-confer process, Defendant asked for, and the PLC supplied, additional time to complete *all* discovery (extending the close of all fact discovery from February 2025 to May 2025). Nothing in the PLC's proposal contemplated, let alone endorsed, a staggered close to discovery for corporate and plaintiffs' witnesses. Instead, the PLC proposed a simultaneous close for all fact discovery. That is entirely consistent with other mass tort MDLs in this District.

NexGen Knee Implant Products Liability Litigation, MDL No. 2272, Case No. 1:11-cv-05468, ECF No. 653 at PageID#: 22277 (ordering six months to complete core discovery—depositions of plaintiff, implanting surgeon, explanting surgeon, and a company sales representative—for the 12 bellwether discovery cases), and two months *longer* than that endorsed by Judge Kennelly in *In re: Testosterone Replacement Therapy Products Liability Litigation*, MDL No. 2545, Case No. 1:14-CV-01748, ECF No. 793 at PageID#: 11358–59 (ordering four months to complete core discovery—including up to four depositions *per side*—for 16 bellwether discovery cases). Similarly, on April 18, 2023, in *In re: Abbott Laboratories, et al., Preterm Infant Nutrition Products Liability Litigation,* MDL No. 3026, Case No: 1:22-cv-0071, ECF No.: 349 at PageID#: 4111, Judge Pallmeyer entered an Order governing "Core Discovery" (contemplating four total depositions for 12 bellwether selections). On October 26, 2023—six months later—the parties completed Core Discovery and made their respective trial picks. *Id.* ECF No. 416 at PageID#: 4761. Finally, in *In re: Recalled Abbott Infant Formula Products Liability Litigation* (*In re: Sturgis Recall*), MDL No. 3037, Case No. 22-C-4148, ECF No. 174 at PageID#: 2467, Judge Kennelly ordered five months to complete bellwether discovery on 10 bellwether candidates involving up to five depositions per case. Each of these MDL contemplated a "core discovery" period of four to six months—the precise timetable the PLC proposes here.

Conversely, Defendant wants 14 months—more than double the PLC's proposal—to complete core discovery. But such an extended period is unnecessary. Per the Bellwether Protocol, core discovery is limited to the agreed Plaintiff Fact

Sheet and the depositions identified in CMO 3 VI.D (plaintiff, three medical providers of Defendant's choosing, a case-specific sales rep, and—at the PLC's option—one additional provider). "Core discovery" to be completed in this initial phase does not include, *e.g.*, a plaintiff's family members or friends who have information on their damages: that component of discovery is part of the trial workup for the four trial picks. CMO 3 V.E. Moreover, although allowed, CMO No. 3 *does not require* the parties utilize every single deposition. As a result, it is highly unlikely the parties will do so given the PLC has no intention to take depositions beyond certain core medical providers which, in all likelihood, Defendant will select.

Nor does this issue arise in a vacuum. Specifically, Defendant already had nearly five months to collect medical records for each plaintiff in the bellwether pool. This is the corpus of data from which Defendant will conduct the core depositions. Yet Defendant proposes an additional 14-month window—a total of 19 months—for this work. Horizon should not be permitted to dillydally on the front end to justify more than a year of core discovery going forward.[2] Six months (and eight as to the PLC's selections) is more than reasonable to complete core discovery. Indeed, Defendant has already gone beyond the agreed scope of this discovery by subpoenaing medical providers who treated plaintiffs outside the agreed 10-year window before Tepezza infusions or who saw plaintiffs for totally unrelated reasons (such as dermatologists and orthopedists). Defendant was given more than enough time to

[2] That is precisely what Defendant did here. The PLC made its bellwether selections on March 30, 2024. Since that time, Defendant squandered the past month, making *no effort* to commence discovery, note *any* plaintiff's deposition or schedule a single provider deposition. Nothing precluded Defendant from commencing this work.

complete records collection. It should be prepared to enter the active phase of core discovery and complete that work within six months.

B. Supplemental discovery of the four bellwether trial selections can be completed within five months.

As agreed in the stipulated bellwether protocol, full pre-trial discovery is reserved for the cases selected for trial. This means the parties need to complete a full trial workup on only four of the 12 bellwether discovery cases. The PLC's schedule allows for over five months of discovery on the selected trial picks (November 1, 2024, to May 30, 2025); Defendant requests seven months (July 3, 2025, to March 2, 2026). When the parties commence this supplemental discovery on the four trial picks, all of the medical-records collection and core depositions will be completed.

C. Expert depositions can be completed within the five-week period the PLC proposes.

MDL courts in this District agree that four-to-eight weeks is sufficient to conduct expert depositions. *See, e.g.*, *In re TRT*, Case No. 1:14-cv-01748, ECF No. 793 at PageID#:11360 (ordering that expert depositions be completed within five weeks of Defendant Abbvie's disclosures, with Rule 702 motions due three weeks later); *In re Zimmer,* Case No. 1:11-cv-05468, ECF No. 653 at PageID#: 22278 (ordering depositions of the parties respective experts be completed over seven weeks for three different devices at issue); *In re: Abbott*, Case No.: 1:22-cv-00071, ECF No. 463 at PageID#: 7031 (ordering deposition of the parties' experts *for two defendants* be completed over an eight-week period that included Thanksgiving); *In re: Sturgis Recall*, Case No: 22-C-4148, ECF No. 174 at PageID#: 2468 (ordering deposition of the parties experts *for two separate products* be completed within 8.5 weeks).

The PLC's proposal aligns with this approach for this single-product MDL, suggesting five weeks for expert depositions (July 28–August 29, 2025), whereas Defendant proposes over three months (April 1, 2026–July 17, 2026).[3] No Court in this District has ever adopted such an approach in a mass tort MDL. In fact, *every* court to set expert deposition dates implemented a considerably shorter time-period for *far more* complex cases. For example:

- In *Zimmer*, Judge Pallmeyer order seven weeks to complete expert depositions on four trial picks, notwithstanding the expert disclosures involved *three* separate product lines with *two* different component parts;
- In *TRT*, Judge Kennelly ordered *five* weeks to complete expert depositions, notwithstanding the MDL included *no less* than *five* defendants with on-going separate discovery tracks and multiple bellwether selections for each defendant;
- In *NEC*, Judge Pallmeyer ordered eight weeks to complete expert depositions involving four trial picks, notwithstanding the MDL includes *two* separate defendants each of whom intends to supply their own experts; and
- In *Sturgis Recall*, Judge Kennelly ordered 8.5 weeks (60 days) to complete general and case-specific expert depositions involving five trial picks, notwithstanding the MDL included *two* alleged injuries, involving *two* separate bacterial contaminants (*e-coli* and *cronobacter*).

Each of these MDLs involved a combination of multiple products at issue, parallel discovery tracks involving multiple defendants, and/or multiple defendants who intend to present individual experts. Conversely, this case involves *one* Defendant, with *one* product. The suggestion that expert depositions require 1.5 to 3 times that of other MDLs in this District is simply not credible.

[3] It is noteworthy that Defendant's schedule *starts* expert depositions *eight months* after the PLC's proposed schedule ends.

That is particularly true if Defendant's lawyering practices to date remain consistent. Specifically, if past is prologue, Defendant will take as much time as the Court allocates to complete this work. Opting for the PLC's timetable will keep the attorneys conducting and defending these depositions well-steeped in the relevant scientific issues. A more leisurely pace leads to inefficiency as counsel must refamiliarize themselves with the science as they gear up for each deposition.

II. Defendant's proposal to bifurcate briefing on general and specific causation will needlessly increase costs and inconvenience witnesses and the Court.

Defendant's schedule contemplates two rounds of Rule 56 and 702 briefing that bifurcates general and specific causation. *No court* in this District has *ever* adopted such a schedule in a mass tort MDL. As noted in the PLC's proposal, any purported efficiencies that accompany phased discovery are fanciful. In reality, phased briefing is *only* efficient if the Court presumes, at the outset, that the PLC will lose general causation. At this early stage in the litigation, such a conclusion is not only premature but also unfounded. *See, e.g.*, *Ellison v. Gen. Iron Indus., Inc.*, No. 16C7428, 2016 WL 5934099, at *3 (N.D. Ill. Oct. 12, 2016) (noting that under *Twombly*, a complaint need only "provide enough factual support to raise a right to relief above the speculative level." (cleaned up)). Here, the FDA has already mandated a Section 5 warning label change to address the permanent hearing-related injuries plaintiffs allege (*i.e.*, FDA found a "causal association" between use of Tepezza and hearing loss). That label change is consistent with peer-reviewed literature identifying this risk quickly after product launch, *see, e.g., Kanesta-Rychner v. Horizon Therapeutics USA, Inc.*, Case No. 1:23-cv-03575, MDL No. 3079, ECF No. 15, ¶¶ 99–101, 107–17 (filed Feb. 22,

2024), as well as peer-reviewed literature confirming that IGFR-4—the receptor Tepezza impacts—has hearing-related implications, *see, e.g., id.* at ¶¶ 103–06. While a Section 5 label is not *per se* evidence of causation, it is a strong indicator, particularly when coupled with decades of peer-reviewed literature establishing mechanism, and the reason that most courts overseeing MDLs involving Section 5 label changes reject bifurcation.

Defendant's proposal asks the Court to ignore these scientific realities and drag plaintiffs through the exercise of proving their case twice. Worse, Defendant's schedule contemplates the parties complete the following work *before* briefing case-specific Rule 702 motions: a) *all* general liability discovery; b) *all* case-specific discovery c) *all* general liability expert reports; and d) *all* case specific expert reports. In other words, the *only* "efficiencies" Defendant's proposal achieves is delayed briefing on case-specific causation Rule 702 motions. But that is really no saving at all given Plaintiffs will likely use some or all of the same experts for general and specific causation evidence: meaning Defendant's proposal will require plaintiffs to work through two rounds of reports, depositions, and briefing. This will unfairly increase the cost to plaintiffs to litigate their claims.

It is no surprise that the Courts in this District routinely reject phased discovery approaches. *See In re Hair Relaxer Mktg., Sales Practices, and Prods. Liab. Litig.*, Case No. 1:23-cv-00818, ECF No. 146 at PageID#: 2053 ("The Court declines to adopt Defendants' proposal (Dkt. 125 at 6) requesting prioritizing 'general causation' discovery. Parties are to proceed with 'traditional' fact discovery[.]"); *In re*

TRT, Case No. 1:14-cv-01748, ECF No. 793 at PageID#:11357 ("The Court is unpersuaded that the revised proposal by the AbbVie defendants to bifurcate expert discovery and summary judgment (as between general causation and other matters) represents a fair, efficient, and reasonable way to manage the pretrial proceedings in this case."); *In re Abbott*, Case No. 1-22-cv-00071, ECF No. 463, PageID# 7031 (establishing simultaneous close of fact discovery and expert report submissions for both general and case-specific issues). These Court employed this regime because they recognized two fundamental tenets: 1) staggered discovery dates are inefficient; and 2) bifurcated discovery practice unnecessarily delays trial, and ultimately resolution. These orders demonstrate that bifurcated discovery is widely understood to be inefficient and inappropriate.[4]

Beyond inefficiency, bifurcating briefing on causation will inconvenience the parties and Court with inevitable redundancies and cross-references. Specifically, the same witnesses deposed on general causation (*e.g.*, plaintiffs' experts) are likely to provide testimony on other case-specific related issues. Most, if not all, of the case law implicating general and case specific experts will be the same. And much of the

[4] The few instances where MDL courts have approved bifurcated discovery were not based on the purported efficiencies of the approach, but solely at the parties' joint request. *See, e.g.*, *In re Viagra Sildenafil citate Prod. Liab. Litig.*, No. 3:16-md-2961, MDL No. 2691 (N.D. Cal. Sept. 26, 2016) at ECF No. 102 (Pretrial Order No. 6, adopting parties' joint proposed pretrial order); *In re Viagra Prod. Liab. Litig.*, No. 06-md-1724, MDL No. 1724 (D. Minn. June 30, 2006) at ECF No. 38 (Scheduling Order Relating to Phase I of Discovery, adopting parties' joint proposed pretrial order). Notably, although the Southern District of New York bifurcated general causation discovery, this decision appears to be an outlier and provides no legal (or other) basis for adopting the approach here. *In re Acetaminophen ASD-ADHD Prod. Liab. Litig.*, No. 1:22-cv-3043, MDL No. 3043 (S.D.N.Y. Dec. 7, 2022), at ECF No. 27 (stipulated bifurcation).

science establishing the methodology for general and case-specific evidence will overlap. Instead of promoting efficiency, Defendant's phased approach will require the Court to review the same evidence multiple times in different, but similar, briefs. Other than delaying the litigation and wasting resources, there is no point to bifurcating briefing on general and specific causation where many of the same documents and testimony will be referenced in both sets of causation briefs.

III. Setting a trial date—which Defendant ask the Court not to do—comports with standard MDL scheduling in this District and is crucial to managing these cases to resolution.

The PLC's schedule requests a trial date in January 2026, approximately 30 months after the Court appointed the PLC. This amount of time is standard for MDLs in this District. For example, in *In re Zimmer*—a case with multiple devices at issue—the Court appointed the leadership in September 2011 and held the first trial four years later. *In re Zimmer*, MDL No. 2272, Case No. 1:11-cv-05468, ECF No. 48 at PageID#: 425 (minute entry appointing counsel); ECF No. 1537 at PageID#: 44454 (setting opening statements for Oct. 13, 2015). In *In re TRT,* Judge Kennelly inherited the seven-defendant case with not one but two signature injuries in June of 2014 and set the first trial for October 31, 2016—28 months later.[5] ECF No. 793, PageID#: 11361. And in *In re Abbott,* the Court appointed the leadership team on May 26, 2022, 22-C-71, MDL No. 3026, ECF No: 109, PageID#: 1428, and anticipates holding the first trial in a case involving *two defendants* with *two separate* products in Q2 2025, 36 months later, *id.* at ECF No. 463 at PageID#: 7031. This single-defendant case

[5] The first trial was continued to January 2018—45 months after Judge Kennelly inherited the MDL.

alleging only hearing-related injury does not require the lengthier periods necessitated by a multi-defendant, multi-injury MDL.

In contrast to the PLC's proposal and this District's common practice, Defendant asks the Court *not* to set a trial date. Given Defendant's proposed Rule 56/702 briefing concludes on November 16, 2026, the earliest possible trial date under Defendant's proposed schedule is not until approximately mid-2027. Horizon's timeline also ignores the guidance set forth in the Manual for Complex Litigation, which advises courts to "tailor case-management procedures to the needs of the particular litigation and to the resources available from the parties and the judicial system" while also "keep[ing] in mind the goal of bringing about a just resolution as speedily, inexpensively, and fairly as possible." Manual for Complex Litigation, Fourth, § 10.1. Unlike Defendant's proposal, a trial date in January 2026 strikes the appropriate balance.

IV. There is no reason to set a "second wave" of bellwether discovery cases before the parties have tried the initial selections.

Defendant proposes that the parties add a second wave of 12 bellwether discovery cases to the mix before any of the initial 12 are tried. Indeed, Defendant proposes the parties work up additional cases before the Court entertains—let alone adjudicates—Rule 56 and Rule 702 motions. One is hard-pressed to square its "efficiency" argument regarding staggered discovery with an approach that contemplates a second wave of bellwether discovery.[6] This is unprecedented

[6] Moreover, Defendant's request underscores that its proposed discovery schedule is simply an effort to delay advancement of this case. Defendant repeatedly claimed the PLC's proposed schedule was "ridiculous" (*i.e.*, a 13-month discovery schedule with a standard eight-plus

inefficiency. CMO No. 3 contemplates four trials. While there may be a time to engage in a second round of bellwether selections (assuming the Court does not simply resort to those cases in the current pool or remands the cases following the first four trials) that day is not today and certainly not *before* the Court rules on *Daubert*.

VII. The Court ought to Order the parties engage in periodic and repeated settlement discussions.

In the *NEC* litigation, Judge Pallmeyer ordered the parties engage in periodic settlement discussions. *In re: Abbott,* ECF No. 463 at PageID#: 7031. Similarly, in *In re: Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litigation*, Judge Conti emphasized counsel's responsibility to "explore, develop and pursue all settlement options pertaining to any claim or portion thereof of any case filed in this litigation" from day one in the first pretrial order. MDL No. 3014, W.D. Pa. Case No. 2:21-mc-01230, ECF No. 4 at Page 8. Strange things happen when parties are forced to talk resolution—like settlement. It is axiomatic that settlement is preferred to trial. Settlement is efficient and provides certainty for the parties. But resolving mass-tort cases is complicated due to the many moving parts associate with resolving multi-party claims. That is why no mass tort—ever—has resolved vis-à-vis a single mediation session as Defendant's suggest. Given the complexities associated with these issues, the Court ought to compel the parties to start those discussions now. Even if immediately unsuccessful, early resolution discussions will allow the

month schedule for expert discovery and Rule 702 motion practice), yet simultaneously tells the Court that the parties should engage in a second wave of Bellwether discovery while *simultaneously* completing expert discovery, briefing Rule 702 and 56 motions *and* trying *four* Bellwether trials. These dueling positions are utterly inconsistent.

parties to discuss, and potentially resolve, an assortment of complex issue that are enveloped within mass-tort cases. Simply put, a resolution process is efficient.

VIII. While the parties agreed to the deadlines for Rule 12 motion practice, the parties disagree as to the scope of those briefs.

Per CMO No. 3, the parties negotiated the timing of Rule 12 motion practice. CMO No. 3 contemplates a briefing schedule that includes an omnibus motion impacting, in whole or in part, all cases in this MDL, and individual motion practice directed towards the 12 bellwether plaintiffs' state-court claims. The PLC proposed an opposition brief of 20 pages to Defendant's omnibus motion. Defendant rejected this proposal. The PLC also proposed limiting briefing on the state-court issues to seven pages. Defendant rejected this proposal. The Court is the master of its own docket and may, in its discretion modify page limits. Here that makes sense where: (1) there is no need for the Court to review the applicable Rule 12 standard in twelve separate briefs, twelve separate times; *and* (2) every state in the Union recognizes some form of negligence (the hallmark of this litigation). In short, to the extent there is motion practice on individual claims it will likely involve whether a particular claim is properly plead under a particular state's common law or statutory scheme. The Court does not need 180 pages of briefing (per side) on those issue.[7]

CONCLUSION

As Defendant has demonstrated, it will take as much time as the Court is willing to grant it to litigate this MDL, but when forced to act expeditiously can do

[7] The PLC suggests that the Court impose a meet and confer obligation on the individual state-court claims. Such a discussion may, in and of itself, eliminate motion practice on certain state-court claims.

so. The only way to ensure the timely progress of this MDL is to enter a schedule consistent with what the PLC proposes.

Dated: April 26, 2024

Respectfully submitted,

/s/ Timothy J. Becker
Timothy J. Becker
JOHNSON // BECKER, PLLC
444 Cedar Street, Suite 1800
St. Paul, Minnesota 55101
(612) 436-1800
tbecker@johnsonbecker.com
Co-Lead Counsel

/s/ Ashlie Case Sletvold
Ashlie Case Sletvold
PEIFFER WOLF CARR KANE
CONWAY & WISE, LLP
6370 SOM Center Road, Suite 108
Cleveland, Ohio 44139
(216) 589-9280
asletvold@peifferwolf.com
Co-Lead Counsel

/s/ Trent B. Miracle
Trent B. Miracle
FLINT COOPER
222 East Park Street #500
Edwardsville, Illinois 62025
(608) 406-1686
tmiracle@flintcooper.com
Co-Lead Counsel

/s/ Molly Condon Wells
Molly Condon Wells
WALLACE MILLER
150 North Wacker Drive, Suite 1100
Chicago, Illinois 60606
(312) 261-6193
mcw@wallacemiller.com
Liaison Counsel

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: TEPEZZA MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION, This Document Relates to All Cases	No. 23 C 3568 MDL No. 3079 Judge Thomas M. Durkin Magistrate Judge M. David Weisman

The PLC's Proposed Schedule

The PLC proposes the Court adopt the following schedule governing: 1) Rule 12 Motion Practice; 2) general and case specific discovery; 3) presentment of expert reports and corresponding Rule 56 and 702 Motion Practice; and 4) trial for MDL 3079:

Deadline	Proposed Dates
Defendant to make its Bellwether picks:	May 30, 2024
The Parties to generate four random picks for inclusion in the Bellwether Pool and submit Notice of Random Cases to the Court:	June 6, 2024
PLC's Version Defendant's due date to file Rule 12(b)(6) motions on Bellwether Candidate picks. To the extent the Defendant intends to file an Omnibus Motion that generally effects more than one plaintiff in this MDL, the brief shall be limited to 15 pages. To the extent the Defendant intends to file a brief or briefs related to alleged pleading defects related to any individual state court claim in a given Plaintiff's case, said briefs shall be limited to 7 pages.	July 19, 2024
PLC's Version The PLC's due date for its opposition to any Omnibus Brief filed by Defendant. The brief shall be limited to 20 pages. The PLC's brief(s) related to	August 30, 2024

individual state court cause of actions shall be limited to 7 pages.	
PLC's Version The Defendant shall be entitled to a 10-page reply to the PLC's Opposition on its Omnibus Motion to Dismiss. The Court will not entertain reply briefs on any motion related to a state court claim affecting an individual plaintiff.	September 27, 2024
The issues set forth in Defendant's Motions to Dismiss will be ripe for oral argument by:	October 14, 2024
Close of Core Fact Discovery for Bellwether Candidates:	November 1, 2024
The Parties to submit Position Papers regarding the representativeness of the trial selections limited to three pages per plaintiff.	November 29, 2024
The issues related to trial selections shall be ripe for oral argument on or after:	December 9, 2024
Close of Fact Discovery for a Wave I trial selections:	May 30, 2025
Close of Fact Discovery for General Liability witnesses:	May 30, 2025
The PLC to submit Expert Reports (note: This applies to both general and case-specific expert discovery for the individual trial selections):	June 13, 2025
Defendants to submit Expert Reports (note: This applies to both general and case-specific expert discovery for the individual trial selections.):	July 11, 2025
At 5:00 p.m. CST, the Parties will simultaneously supply two prospective deposition dates from two separate weeks for each experts' depositions along with the deposition's proposed location:	July 14, 2025
Submission of any Rebuttal Expert Reports:	July 25, 2025
Depositions of Experts:	July 28, 2025–August 29, 2025
Parties to submit Summary Judgment and/or Rule 702 Motions on General and Case Specific causation:	September 26, 2025
Parties to submit Opposition briefs to Summary Judgment and/or *Daubert* Motions:	October 31, 2025
Parties to submit Replies in support of Summary Judgment and/or *Daubert* Motions:	November 14, 2025

The issues related to Rule 702 and 56 will be ripe for oral argument on or after:	November 24, 2025
PLC's Version: Court-Ordered Mediation for discussion regarding potential resolution (note: the Parties may meet in-person or remotely):	Quarterly, starting in Q2 2024
Final Pretrial Conference:	December 8–12, 2025
Proposed Trial Date:	January 12, 2026

Dated: April 24, 2024

Respectfully submitted,

/s/ Timothy J. Becker
Timothy J. Becker
JOHNSON // BECKER, PLLC
444 Cedar Street, Suite 1800
St. Paul, Minnesota 55101
(612) 436-1800
tbecker@johnsonbecker.com

Plaintiffs' Co-Lead Counsel

/s/ Ashlie Case Sletvold
Ashlie Case Sletvold
PEIFFER WOLF CARR KANE
CONWAY & WISE, LLP
6370 SOM Center Road, Suite 108
Cleveland, Ohio 44139
(216) 589-9280
asletvold@peifferwolf.com

Plaintiffs' Co-Lead Counsel

/s/ Trent B. Miracle
Trent B. Miracle
FLINT COOPER
222 East Park Street, #500
Edwardsville, Illinois 62025
(618) 620-1207
tmiracle@flintcooper.com

Plaintiffs' Co-Lead Counsel

/s/ Molly Condon Wells
Molly Condon Wells
WALLACE MILLER

150 North Wacker Drive, Suite 1100
Chicago, Illinois 60606
(312) 261-6193
mcw@wallacemiller.com

Plaintiffs' Liaison Counsel