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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

TONY R. MOORE, CLERK
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE, LOUISIANA

IN RE ACTOS (PIOGLITAZONE-
PRODUCTS LIABILITY LITIGATION

This Document Applies to All Cases

6-11-md-2299

JUDGE DOHERTY

MAGISTRATE JUDGE HANNA

SCHEDULING ORDER

This Court, having considered the scope of these proceedings, the number of plaintiffs (both current and anticipated), the amount of discovery that will be required, and the time necessary to complete pre-trial preparations and commence bellwether trials, hereby establishes the following deadline targets.

NOTICE: All parties should be aware that, should any of this Court's assumptions be proven substantially in error, *this Order is subject to amendment, with deadlines possibly being moved either earlier or later.*

1. In light of the discovery plans approved to date, and in anticipation of the entry of a discovery protocol, the parties in all cases in this proceeding are relieved from complying with the requirements of Federal Rule of Civil Procedure 26(a) and (f) at this time. However, once the discovery pool has been selected by the parties, Rule 26(f) Reports will be required for those cases selected for inclusion in the Discovery Pool.
2. **July 16, 2012** – Defendants shall provide to the Special Masters and PSC an *estimate as to the number of documents they can produce by June 3, 2013* assuming a diligent document review process.
3. **August 13, 2012** – The parties shall submit to the Court, through the Special Master(s), a joint draft *Discovery Protocol*.
4. **October 31, 2012** – The Court shall issue an order describing the *Bellwether Trial Protocol*.

5. **June 3, 2013** - Defendants' counsel shall *certify* that they have engaged in best efforts to identify, locate and supply all responsive Electronically Stored Information and document production discovery requested by the Plaintiffs' Steering Committee.¹
6. **June 3, 2013** - The parties shall each select 20 cases ("*Discovery Pool*") from the eligible pool of cases.²
7. **June 10, 2013** – Defendants shall notify the PSC of any selected Discovery Pool case in which Defendants assert there is *missing essential preliminary discovery* in the PFS form and authorizations, that impairs the parties' ability to proceed with case-specific discovery in the particular case. *The parties shall make a good faith effort to resolve any such issue or present any outstanding disputes to the Court within 14 days thereafter.*
8. **July 1, 2013** – The parties shall produce to the Court a *Rule 26(f) Report* on each Discovery Pool case, using the form that will be adapted for these proceedings.
9. **1st day of each month thereafter, until the Pre-Trial Order is filed** – The parties shall exchange updated *witness and exhibit lists*. No witness or exhibit may be added without leave of Court once the fact discovery deadline has passed (except for experts identified, and reports produced, in accordance with this order); however, witnesses and exhibits may be removed up through submission of the Pre-Trial Order.
10. **September 30, 2013** - The parties shall complete *core discovery*³ in Discovery Pool cases.

¹ All subsequent target pretrial deadlines in this Order presume that the Defendants can comply with this June 3, 2013 deadline. Defendants' ability to comply with this deadline will be reassessed by the Court, through the Special Master(s), periodically, including in approximately two months, following receipt of Defendants' estimate as to the number of documents they can produce by June 3, 2013, commencement of the "Search Methodology Proof of Concept" set forth in Section E of the Protocol Relating to the Production of Electronically Stored Information, and after resolution of any scope of discovery issues that remain outstanding.

² Cases shall be considered eligible for selection to the Discovery Pool if filed, served, and a Plaintiff's Fact Sheet and properly executed authorizations have been served upon Defendants by December 30, 2012. In determining the size of the Discovery Pool, the parties have agreed that any cases dismissed after selection to the Discovery Pool will not be replaced.

³ Core Discovery by the parties shall include depositions of the plaintiff(s), the prescribing doctor(s) and treating doctor(s), and two additional depositions per side. In the event any party seeks depositions beyond these case-specific fact witnesses in an individual plaintiff's case, agreement (in writing) must be obtained or, if no agreement can be obtained after a good faith attempt, leave of Court may be sought.

11. **October 1, 2013** – The Court shall establish a *schedule of deadlines* for *dispositive motions* presenting legal challenges only, emanating from those cases selected for inclusion in the Discovery Pool.
12. **October 16, 2013** – The *selection of bellwether trial cases* and *sequence of trials* shall be *set*.⁴
13. **October 30, 2013** – Deadline for filing *amendments* to pleadings in selected bellwether cases. This deadline is designed to permit the parties to clarify the pleadings; any attempt to add new parties to this action, or to introduce new issues, at this stage of the proceedings will bear the presumption of denial.
14. **December 2, 2013** – Plaintiffs shall complete *Defendant depositions* and Non-Case-Specific *Third Party discovery* and depositions in the first bellwether case in a manner consistent with the Discovery Protocol.
15. **December 18, 2013** – The parties shall complete *case-specific fact discovery* in the first bellwether trial case.
16. **January 31, 2014** - *Plaintiffs* shall designate and serve reports for *generic experts* and *case-specific* experts in the first bellwether trial case. Depositions of Plaintiffs’ generic experts shall occur before depositions of Defendants’ disclosed experts within the same discipline.⁵
17. **March 4, 2014** - *Defendants* shall designate and serve reports for *generic experts* and *case-specific* experts in the first bellwether trial case.⁶
18. **March 11, 2014** - Commencement of *expert depositions in the first bellwether case*.
19. **April 1, 2014** - The parties shall exchange *deposition excerpt designations*, to be used in lieu of live testimony, in the first bellwether trial case.⁷

⁴ The parties shall submit a proposed order setting forth their agreed-upon process for handling bellwether trial pool cases or, if they cannot agree, shall provide their competing submissions to the Court and Special Masters by a date to be subsequently determined.

⁵ The parties in good faith will schedule depositions of their experts within a reasonable amount of time after serving the experts’ reports.

⁶ The Court will determine what, if any, process (in addition to motion practice) might be employed to evaluate the parties’ experts and the opinions offered.

⁷ New excerpt designations are allowed for any deposition that has not occurred as of this date. Supplementation of excerpt designations is allowed in response to information developed in connection with taking,

20. **May 15, 2014** – The parties shall exchange *objections to deposition excerpt designations* and exchange *counter-deposition designations* in the first bellwether trial case.
21. **May 22, 2014** - Completion of *expert depositions in the first bellwether case*.
22. **June 5, 2014** – The parties shall exchange *objections to counter-deposition designations* in the first bellwether trial case.
23. **June 13, 2014** – The parties shall *brief their objections to deposition excerpt designations*. Copies of all relevant excerpts – tabbed for the Court’s ease of reference – shall be attached. The parties are expected to engage in good faith negotiations to resolve as many objections as possible prior to this filing.
24. **June 19, 2014** - The parties shall serve on opposing counsel, the Court, and the Special Master(s) *Daubert motions* and *summary judgment* motions in the first bellwether trial case.⁸ The parties are advised to review, and comply with, the Local Rules of the Western District of Louisiana as they apply to summary judgment motions and supporting documents.
25. **July 10, 2014** - The parties shall serve on opposing counsel, the Court, and the Special Master(s) *motions in limine* in the first bellwether trial case.⁹
26. **July 14 - 18, 2014** – *Oral argument* on deposition excerpt designations, if required by the Court.
27. **July 24, 2014** – The parties shall serve on opposing counsel, the Court, and the Special Master(s) *oppositions* to *Daubert* and *summary judgment* motions, if any, in the first bellwether trial case.

or preparing for, expert depositions. However, this excerpt designation process must be completed in a manner to allow the parties to reasonably comply with the June 13, 2014 deadline. noted in Paragraph 23.

⁸ All motions containing confidential or privileged information shall **not** be filed with the Clerk of the Court until any confidentiality issues are resolved. However, opposing counsel, the Court, and the designated Deputy Special Master shall be provided courtesy copies of any such filings no later than the deadlines established herein.

⁹ Should oral argument be requested as to any given motion, and should that request be granted as to any given motion, oral argument will take place in September 2014 at a time designated by the Court..

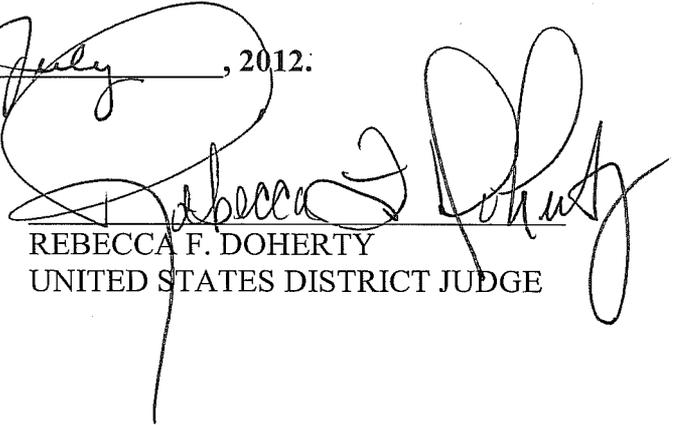
28. **August 5, 2014** – The parties shall serve on opposing counsel, the Court, and the Special Master(s) *replies* to *Daubert* and *summary judgment* motions, if any, in the first bellwether trial case.¹⁰
29. **August 11, 2014** - The parties shall serve on opposing counsel, the Court, and the Special Master(s) *oppositions* to *motions in limine* in the first bellwether trial case.
30. **August 18, 2014** - The parties shall serve on opposing counsel, the Court, and the Special Master(s) *replies* to *motions in limine* in the first bellwether trial case.
31. **September 24, 2014** – *Plaintiffs* shall submit to Defendants *inserts* for pre-trial order, voir dire, jury interrogatories, and jury instructions.
32. **October 1, 2014** – *Defendants* shall submit to Plaintiffs *inserts* for pre-trial order, voir dire, jury interrogatories, and jury instructions.
33. **October 2 – 7, 2014** – Counsel for the parties shall *confer* to create the Pre-Trial Order, joint jury instructions, joint jury instructions, and proposed voir dire requests.
34. **October 8, 2014** – The parties shall file the *Pre-trial Order*, together with proposed *voir dire* requests, *joint jury interrogatories*, and *joint jury instructions*.
35. **October 22, 2014, 10:00 a.m.** – *Pre-Trial Conference* for the first bellwether case.¹¹
36. **October 24, 2014** – *Glossary* of Real Time terms.
37. **October 24, 2014** – Final *exchange of exhibits*.
38. **October 27, 2014** – Parties to produce *bench books* to the Court.
39. **November 3, 2014** - *Trial* of the first bellwether case.

¹⁰ The parties shall have 21 days following service of all reply briefs, referenced herein, to resolve any matters concerning privilege or confidentiality pursuant to paragraph 10 of the Protective Order (*i.e.*, Case Management Order: Protecting the Confidentiality of Discovery Materials).

¹¹ This Court's pre-trial conferences are extensive and address both substantive and procedural issues at length. Counsel should expect that the pre-trial conference will be lengthy, and make their plans accordingly.

40. January 12, 2015 – *Trial* of the second bellwether case.

SO ORDERED, this 13 day of July, 2012:



REBECCA F. DOHERTY
UNITED STATES DISTRICT JUDGE