

OCT 04 2013

TONY R. MOORE, CLERK  
BY                      DEPUTY

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

IN RE: ACTOS (PIOGLITAZONE)  
PRODUCTS LIABILITY LITIGATION

This Document Applies to All Cases

6-11-md-2299

JUDGE DOHERTY

MAGISTRATE JUDGE HANNA

**FIRST AMENDED SCHEDULING ORDER:**  
**PILOT BELLWETHER PROGRAM (SECOND TRIAL)<sup>1</sup>**

This Court having established a Pilot Bellwether Program ["PBP"], the following abbreviated schedule for proceeding toward the second Pilot Bellwether Trial serves the very important goal of moving these proceedings toward completion of this Court's responsibilities in a reasonable timeframe.

**PLEASE NOTE: THE DEADLINES ESTABLISHED HEREIN SHOULD BE CONSIDERED HARD AND FAST. THEY WILL NOT BE EXTENDED, CONTINUED, OR DELAYED BY THE COURT IN ANY WAY ABSENT EXTRAORDINARILY GOOD CAUSE SHOWN.<sup>2</sup>**

**Trial Date (2<sup>nd</sup> Pilot Bellwether Trial):** *April 14, 2014*  
**Pre-Trial Conference:** *March 31, 2014, 10:00 am*

**DEADLINES**

- 5/16/2013:** Plaintiffs shall provide a complete set of all *requests for production* of documents to Defendants.
- 6/10/2013:** The Court shall establish a *schedule for anticipated motions and briefing of legal issues.*

<sup>1</sup> **The only amendment to this Scheduling Order** is the deadline for removing witnesses and exhibits from their respective lists. The deadline is contained on page 2 of this Order and is corrected to March 20, 2014 from January 2, 2014. **All other aspects of this Order remain unchanged.**

<sup>2</sup> As to deadlines that do impact this Court's ability to complete its tasks – tasks such as briefing deadlines – the parties are expected to comply with all deadlines or obtain extensions from the Court. However, with regard to deadlines that do not have an immediate impact on the Court's ability to perform its tasks, the parties are permitted to grant extensions to each other, but should be advised that such extensions will not be enforced by this Court.

**No dates will be included in this Scheduling Order** to address any process for nominating plaintiffs for inclusion in the Pilot Bellwether Discovery Pool for the second Pilot Bellwether Trial, nor for identifying the plaintiffs whose cases will be tried in the Pilot program, because that process is included in the Scheduling Order: Pilot Bellwether Program (First Trial) (Rec. Doc. 2359).

**7/19/2013:** Parties to exchange first *witness and exhibit lists*.<sup>3</sup> “Witnesses” shall include factual witnesses as well as experts, identified by area of expertise (deadline for identifying experts by name is separate). *Updates due the first day of each month thereafter*. No witness or exhibit may be added without leave of Court once the discovery deadline has passed; however, witnesses and exhibits may be removed through **March 20, 2014**. Counsel are cautioned that, in creating witness and exhibit lists, good faith is expected at all times.

**8/19/2013:** Defendants must *certify good-faith belief* that all documents requested by the Plaintiffs, agreed by the Defendants to be produced, and/or ordered by this Court, have been produced or will be produced within ten (10) days of this date.

**10/17/2013:** *Expert-Related Deadlines* Begin

Plaintiffs’ Deadlines	Defendants’ Deadlines
<b>10/17:</b> Plaintiffs to identify experts and produce background information ( <i>See Fed. R. Civ. Proc. 26(a)(1)(B)(iv-vi)</i> )	<b>11/11:</b> Defendants to identify experts and produce background information ( <i>See Fed. R. Civ. Proc. 26(a)(1)(B)(iv-vi)</i> )
<b>10/23:</b> Plaintiffs to produce expert reports	<b>11/18:</b> Defendants to produce expert reports
<b>11/25 through 12/23:</b> Plaintiffs’ expert depositions <sup>4</sup>	<b>11/25 through 12/23:</b> Defendants’ expert depositions

**1/6/2014:** Deadline for supplementation, if any, of expert reports and completion of supplemental expert depositions, if any. In light of the fact that expert reports must be produced prior to the completion of discovery, supplementation of reports and depositions will be permitted (pursuant to Fed. R. Civ. Pro. 26(a)(1)(D)) in order to respond to factual information discovered after an original report is issued.

<sup>3</sup> This requirement is imposed in lieu of the Fed. R. Civ. Proc. 26(f) reporting requirement.

<sup>4</sup> Depositions of Plaintiffs’ experts shall occur before depositions of Defendants’ experts within the same discipline.

**12/30/2013:** *Discovery* Deadline<sup>5</sup>

**1/13/2014:** Motions Deadline Begin (*limine, any remaining dispositive motions*)  
 Motions: 1/13  
 Oppositions: 1/27  
 Replies: 2/3<sup>6</sup>

**1/16/2014:** *Deposition Excerpt Designations* Deadlines Begin

Plaintiffs' Deadlines	Defendants' Deadlines
<b>1/16:</b> Plaintiffs to produce excerpt designations, if any	<b>1/27:</b> Defendants to produce excerpt designations, if any
<b>2/10:</b> Plaintiffs' objections to Defendants' designations and counter-designations	<b>1/30:</b> Defendants' objections to Plaintiffs' designations and counter-designations

No replies will be permitted. This Court will determine whether and, if so, when argument will be heard on the admissibility of deposition excerpts.

**1/20/2014:** Motions Deadline Begin (*Daubert* motions)  
 Motions: 1/20  
 Oppositions: 2/17<sup>7</sup>  
 Reply arguments on *Daubert* motions, if necessary, may be presented at the evidentiary hearing

**3/3/2014:** *Expert Roundtable/Daubert evidentiary hearing*<sup>8</sup>

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<sup>5</sup> Counsel are expected to schedule and sequence discovery so as to permit all deadlines to be met. This Court's Special Masters, as well as Magistrate Judge Hanna, will be available to assist the parties in such scheduling should it prove necessary. Moreover, if a separate Order is necessary, counsel should notify this Court, through the Special Masters.

<sup>6</sup> The parties shall have 10 days following "service" of all reply briefs 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).

<sup>7</sup> The parties shall have 10 days following "service" of all opposition briefs 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).

<sup>8</sup> This Court will make a determination as to whether a second expert roundtable will be necessary – and, if so, the rules and procedures that will apply to the second roundtable – *after* the first one is completed and its usefulness has been evaluated.

**3/20/2014:** Final *identification* of **will-call witnesses** (and the substance of their testimony) and *identification and exchange* of all **exhibits** (and the purpose for which they are offered).

**3/24/2014:** Deadline for completing *Trial Depositions*

In an effort to streamline trial preparation as much as possible, the *Court expects the parties to make significant efforts to produce witnesses for trial* rather than relying on deposition testimony. To the extent that trial depositions are necessary, they must be completed by this date.

**3/24/2014:** *Pre-trial order*

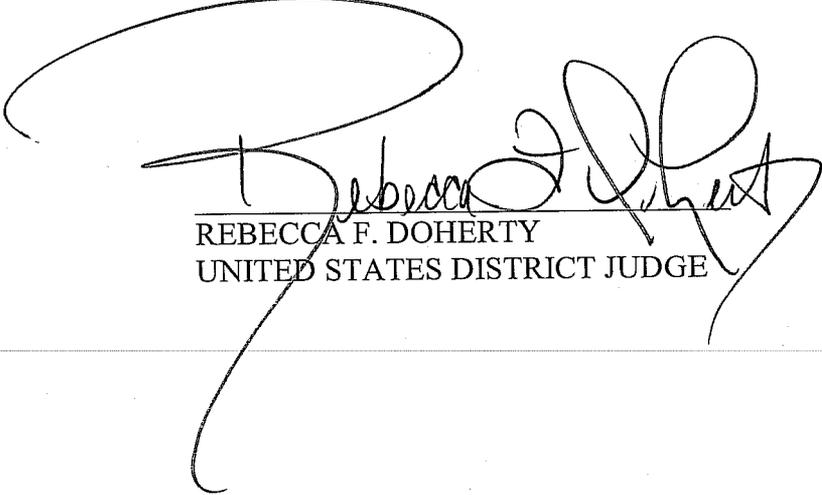
The Court will amend its standard pre-trial order form and will provide the new form to counsel no later than **4/1/2013**.

**3/31/2014:** *Pre-trial conference*

**4/7/2014:** *Bench books*  
*Glossary*  
*Training for electronic courtroom.*<sup>9</sup>

**4/14/2014:** *Trial* of the second bellwether case.

SO ORDERED, this 4 day of October, 2013.



REBECCA F. DOHERTY  
UNITED STATES DISTRICT JUDGE

<sup>9</sup> This is the deadline by which training must be completed, but counsel who have not done so are encouraged to schedule such training earlier than April 7, 2014. Counsel must bring to the training the laptops that they intend to use for the presentation of exhibits.