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	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION: BERGEN COUNTY
	:	CIVIL ACTION
IN RE YAZ®, YASMIN®, OCELLA® LITIGATION	:	
	:	CASE CODE 287
	:	Master Docket No. BER-L-3672-10 MT
[*Applies to All Cases*]	:	**CASE MANAGEMENT ORDER NO. 25 BELLWETHER TRIAL SELECTION PLAN**
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A. The Bellwether Discovery Pool

1. The pool of cases in which discovery will be pursued for selection of bellwether trial cases will consist of eighteen cases. Nine of these cases will be selected by plaintiffs and nine will be selected by Bayer. Each side should select three cases involving an alleged pulmonary embolism (PE), three cases involving an alleged gall bladder injury (GB), and three cases involving an alleged venous thromboembolism (VTE). The parties will exchange lists of cases on July 8, 2011. Only cases for which PFSs with authorizations for release of medical records have been served as of June 17, 2010 shall be eligible for selection. Bayer shall provide a Defendant Fact Sheet (DFS) within 21 days of selection of a case for bellwether discovery or as required by CMO 8, whichever is sooner.

2. Discovery of any case included in the bellwether discovery pool shall commence August 5, 2011. In connection with any individual case, the parties may take the depositions of the named plaintiff(s)(excluding spouses), a prescribing physician, the primary treating physician, one detail representative, and one additional deposition per side. Core case-specific discovery shall be completed no later than November 23, 2011.

B. **Generic Expert Reports and Kemp Hearings in Potential Early Trial Cases**

3. The generic expert reports for the potential early trial cases shall be served in accordance with this schedule. No expert may testify at the time of trial unless his/her report is served in accordance with the terms of this Order:

Plaintiffs' generic experts for PE and VTE plaintiffs – July 29, 2011

Defendants' generic experts for PE and VTE plaintiffs – August 19, 2011

Plaintiffs' generic rebuttal experts for PE and VTE plaintiffs – September 2, 2011

Plaintiffs' generic experts for Gallbladder plaintiffs – October 28, 2011

Defendants' generic experts for Gallbladder plaintiffs – November 18, 2011

Plaintiffs' generic rebuttal experts for Gallbladder plaintiffs – December 5, 2011

4. Depositions of generic experts for the PE and VTE groups shall start on September 6, 2011 and be completed by October 14, 2011.

5, Depositions of generic experts for the Gallbladder groups shall start on December 12, 2011 and be completed by January 20, 2012.

6. Kemp briefings and hearings shall be as follows for all generic experts:

PE and VTE plaintiffs:

Generic expert motions to be filed by October 24, 2011

Responding papers by November 14, 2011
Reply papers by November 30, 2011

Gallbladder plaintiffs:

Generic expert motions to be filed by January 30, 2012

Responding papers by February 20, 2012

Reply papers by March 5, 2012

7. Kemp hearings for generic PE and VTE plaintiffs shall be held the week of December 5, 2011. Kemp hearings for generic Gallbladder plaintiffs shall be held the week of March 12, 2012.

C. Selection of Cases for Bellwether Trials

8. The parties shall meet and confer on a process for selection of cases for bellwether trials and report back to the Court by October 21, 2011. Failing agreement, the Court shall impose a plan to the end that the trial pool shall be selected on or before December 30, 2011. Whether there will be a multi-plaintiff trial, and one or more than one jury panel remains to be decided by the Court with input from the parties at the appropriate time.

9. The parties thereafter shall complete case-specific fact discovery in the selected and backup cases, as well as in the other pool cases.

10. The following sections set forth the schedule for expert discovery, expert motion practice, and dispositive motion practice in the bellwether cases. Other pretrial motion practice will be addressed in a separate order.

D. First Trial:

11. The first trial is set for September 10, 2012.

12. On March 2, 2012, plaintiffs shall submit case-specific expert reports for the potential trial cases. On March 23, 2012, defendants shall submit case-specific expert reports

or the cases. On April 6, 2012, plaintiffs shall submit case-specific rebuttal reports for the cases. Case-specific experts will be deposed from April 11 to June 6, 2012.

13. Dispositive motions and motions concerning the admissibility of case-specific expert testimony shall be served June 29, 2012. Oppositions shall be served July 25, 2012. Replies shall be served August 10, 2012. The Court anticipates hearing these motions the week of August 20, 2012.

E. Second Trial:

14. A second trial is set for November 27, 2012, without prejudice to the right of plaintiffs or defendants to seek an alternative date for the second trial or to present alternative cases to be eligible for inclusion in that trial.

15. The parties shall meet and confer concerning the second trial, including the date, the case selection process, the eligible cases for consideration, and a proposed schedule for pre-trial activities in such trial, and report back to the Court by October 21, 2011.

16. Subject to paragraphs 14 and 15 above and any further orders of the court, on May 7, 2012, plaintiffs shall submit case-specific expert reports for the potential trial pool cases. On June 1, 2012, defendants shall submit case-specific expert reports for the cases. On June 15, 2012, plaintiffs shall submit case-specific rebuttal reports for the cases. Case-specific experts will be deposed from June 25 to August 31, 2012.

17. Dispositive motions and motions concerning the admissibility of case-specific expert testimony shall be served September 28, 2012. Oppositions shall be served October 19, 2012. Replies shall be served November 2, 2012. The Court anticipates hearing these motions the week of November 12, 2012.

Date: July 8, 2011

Hon. Brian R. Martinotti, J.S.C.