

**FILED**

NOV 14 2016

<b>IN RE: REGLAN LITIGATION</b>	JUDGE JESSICA R. MAYER SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY  CASE NO.: 289 Civil Action  MASTER DOCKET: MID-L-10165-14
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**CASE MANAGEMENT ORDER NO. 25**

**Dismissal of Claims for Failure to Appear and Participate in the Litigation**

The Court has been advised that the following defendants have each entered into Master Settlement Agreements: Actavis Elizabeth LLC and Actavis, Inc. f/k/a Purepac Pharmaceuticals; Alaven Pharmaceutical LLC; ANI Pharmaceuticals Inc.; Baxter Healthcare Corporation; Beach Products Inc. and Pharmaceutical Associates, Inc.; Bristol Meyers Squibb and Apothecon, Inc.; Generics Bidco I, LLC and Vintage Pharmaceuticals LLC; Major Pharmaceuticals, Inc. d/b/a Harvard Drug Group LLC; Morton Grove Pharmaceuticals, Inc. and Wockhardt USA LLC; Mutual Pharmaceutical Company, Inc. and United Research Laboratories, Inc.; Northstar Rx LLC; Pfizer Inc., Wyeth LLC (including but not limited to its former ESI Lederle division), and Wyeth Pharmaceuticals Inc.; Qualitest Pharmaceuticals, Inc.; Ranbaxy Pharmaceuticals, Inc.; Sandoz, Inc. f/k/a Geneva Pharmaceuticals, Inc.; Silarx Pharmaceuticals, Inc.; and Schwarz Pharma, Inc. n/k/a UCB, Inc. (the "Settling Defendants"). Although the terms of each settlement are confidential, each Master Settlement Agreement seeks to include all plaintiffs who have asserted Reglan/Metoclopramide claims against one or more of the Settling Defendants, including those claims asserted in this Mass Tort Program. This Case Management Order (CMO) No. 25 sets out the procedure by which the Settling Defendants may seek the dismissal of claims

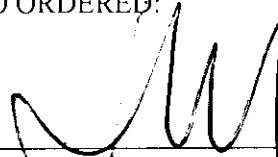
asserted in an individual action in which a plaintiff has failed to respond in any way to a settlement offer extended under the terms of one or more of the applicable Master Settlement Agreements.

1. The Settling Defendants and Plaintiffs' Liaison Counsel have advised the Court that each plaintiff listed on Exhibit A to this CMO has failed to respond in any way to the settlement offer(s) extended to that plaintiff by one or more of the Settling Defendants.
2. To promote the efficient resolution of this litigation — by trial, settlement or otherwise — within thirty (30) days of the Court's entry of this CMO, each plaintiff listed on Exhibit A must file and serve a completed Notice of Intent to Proceed (in a form substantially similar to that attached as Exhibit B to this CMO). The Notice of Intent to Proceed must be signed by the individual plaintiff and unambiguously state whether the plaintiff intends to accept or reject the settlement offer(s) extended by the Settling Defendant(s), proceed with claims against the Settling Defendants, and/or proceed with claims against defendants other than the Settling Defendants.
3. Within five (5) days of the Court's entry of this CMO, counsel for those plaintiffs shall serve a copy of this CMO on each plaintiff listed on Exhibit A by regular and certified mail, return receipt requested, accompanied by a notice specifically explaining the consequences of failing to comply with the obligations imposed by this CMO.
4. Unless good cause for other relief is shown, if any plaintiff listed on Exhibit A fails to file and serve a Notice of Intent to Proceed within the time period set forth in this CMO (the thirty (30) day notice period), the Court will dismiss, without prejudice, that plaintiff's claims against the Settling Defendant(s). Such without prejudice dismissal shall be effectuated by the filing of a stipulation executed by counsel for the plaintiff and the Settling Defendant(s).
5. To the extent any claims are dismissed pursuant to Paragraph 4 above, within five (5) days of the Court's entry of a dismissal without prejudice, counsel for those plaintiffs shall serve a copy of the order dismissing the claims without prejudice on each dismissed plaintiff by regular and certified mail, return receipt requested, accompanied by a notice specifically explaining the consequences of plaintiff's continued failure to comply with the obligations imposed by this CMO.

6. Unless good cause for other relief is shown, if any plaintiff thereafter fails to file and serve a Notice of Intent to Proceed within the time period set forth in this CMO (within sixty (60) days of the Court's entry of this CMO), the Court will dismiss that plaintiff's claims against the Settling Defendant(s) with prejudice. Such with prejudice dismissal shall be effectuated by the filing of a stipulation executed by counsel for the plaintiff and the Settling Defendant(s). The consent of any non-settling defendant shall not be necessary to effectuate the dismissal of a Settling Defendant from the action with prejudice.
7. Upon dismissal as provided in Paragraphs 4 and/or 6 above, the Settling Defendant(s) shall not remain in the action or be required to attend or participate in any subsequent proceeding or trial involving such action, subject only to third party discovery and subpoena rights of remaining parties. This provision is not intended to limit or restrict such discovery rights or subpoena power of any party under applicable law.
8. The dismissal of a Settling Defendant as a party to an action shall not constitute a waiver of or otherwise limit or impair whatever right and ability a non-settling defendant would have had absent the dismissal of a Settling Defendant to place a Settling Defendant on the verdict sheet or jury interrogatories, for the purpose of obtaining an apportionment of liability and/or allocation of fault, and/or reduction of the verdict, by the court or jury at any trial of such action, as between and among a Settling Defendant and any non-settling defendant, or to obtain appropriate offset, as determined by applicable law. This CMO does not constitute a determination as to the availability of any non-settling defendant's rights or abilities in this regard. Nothing in this CMO shall abrogate CMO Nos. 3 or 13. Dismissal of a Settling Defendant shall not be deemed a bar to the admissibility of evidence that a Settling Defendant is solely liable or a joint tortfeasor in such action.
9. For plaintiffs who are minors, deceased, or incompetent/incapacitated, additional steps may be necessary before the case can be officially concluded. Notwithstanding anything to the contrary in this CMO, any actions involving such plaintiffs that require additional court approval shall be dismissed with prejudice only upon receipt of such approval from a court of appropriate and competent jurisdiction.

10. The terms of this CMO have been reached upon notice to all parties and with all parties having had sufficient opportunity to object.

SO ORDERED:



HONORABLE Jessica R. Mayer, J.S.C.  
Multicounty Litigation Center

NO OPPOSE

NO OBJECTION TO THE FORM OF  
COMMUNICATION RECEIVED PER E. 4:42-11.4

# **EXHIBIT A**

PLAINTIFF NAME	FIRM	Case No.	Amount
Bradley, Judy	Arias Sanguinetti Stahle Torrijos	L-10407-14	L-1334-11
Corbin, Angela	Arias Sanguinetti Stahle Torrijos	L-10406-14	L-1326-11
Creighton, Wandra and Walter Creighton	D'Arcy Johnson Day Motley Rice	L-10274-14	L-1348-11
Dickerson, Carmen	Tracey Law Firm	L-10287-14	L-0395-11
Dodson, Deborah Jo	Oshman & Mirisola, LLP	L-10338-14	L-1920-11
Gideon, Tonya	Oshman & Mirisola, LLP	L-10133-14	L-1968-11
Henson, Eileen	Childers, Schlueter & Smith, LLC	L-10316-14	L-1125-11
Kirk, Kathryn	Bern Ripka LLP	L-10278-14	L-1692-11
Miller, Debra	Parker Waichman	L-10280-14	L-1028-11
Nantz, Savannah	Sanders Phillips Grossman, LLC	L-10571-14	L-1819-11
Norris, Justin	Sanders Phillips Grossman, LLC	L-10569-14	L-1843-11
Pannachia, Debbie	Sanders Phillips Grossman, LLC	L-10604-14	L-1710-11
Rea, Cynthia	Sanders Phillips Grossman, LLC	L-10653-14	L-1801-11
Rich, Judy M	Weitz & Luxenberg	L-10114-14	L-1894-11
Roby, Janet	Sanders Phillips Grossman, LLC	L-10538-14	L-1609-11
Spillers, Clyde	Oshman & Mirisola, LLP	L-10065-14	L-1080-11

# **EXHIBIT B**

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**IN RE: REGLAN LITIGATION**

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MIDDLESEX COUNTY

CASE NO.: 289  
Civil Action

MASTER DOCKET: MID-L-10165-14

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**NOTICE OF INTENT TO PROCEED**

[Insert name of Plaintiff] hereby notifies the Court and [insert name of applicable Settling Defendant(s)] of [his/her] intent to [[litigate his/her claims against] [accept the settlement offer(s) extended by] the Settling Defendant(s)] and/or [pursue his/her claims against all other defendants].

Dated: \_\_\_\_\_

\_\_\_\_\_  
[Signature of plaintiff]