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Judge Jamie D. Happas

IN RE: RISPERDAL/SEROQUEL/ ZYPREXA LITIGATION	:	SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MIDDLESEX COUNTY
	:	
	:	Case No. 274
	:	
APPLICABLE TO ALL CASES	:	CIVIL ACTION
	:	
	:	CASE MANAGEMENT ORDER NO. 12
	:	
	:	Amendment to Case Management Order No. 4 Regarding Case-Specific Discovery and Selection of Bellwether Cases
	:	

THIS MATTER having been opened to the Court jointly by counsel for Ortho-McNeil-Janssen Pharmaceuticals, Inc. and Johnson & Johnson (hereinafter “the Janssen defendants”) and counsel for plaintiffs regarding bellwether case selection and bellwether case specific discovery, and the parties having consented to the form and substance of this Order, and for good cause shown,

IT IS ON THIS 3rd DAY OF FEBRUARY, 2009

ORDERED that initial case-specific Group 1 and Group 2 discovery shall continue. Deadlines for initial case-specific Group 3 and Group 4 fact discovery shall be addressed at the February 26, 2009 Case Management Conference.

IT IS FURTHER ORDERED that bellwether case selection in the Janssen only cases shall proceed as follows:

1. Counsel for plaintiffs has stated their intention to dismiss multiple cases from the Janssen docket, with prejudice, including Group 1 and Group 2 cases eligible for selection as bellwether cases, and counsel for plaintiffs shall do so within fifteen (15) days of this Order.

2. The case pool for the selection of Janssen bellwether cases shall consist of (a) all of the remaining Group 1 and Group 2 Janssen only cases, (b) the two (2) Janssen only New Jersey resident plaintiffs outside Groups 1 and 2 (Jeffrey Griggs and Maria Stanton), and (c) one Janssen only gynecomastia case to be selected by plaintiffs' counsel.

3. Long Form Fact Sheets for plaintiffs Griggs and Stanton and the gynecomastia plaintiff shall be served within fifteen (15) days of this Order.

4. Within twenty (20) days of this Order, plaintiffs shall select six (6) bellwether cases from the case pool including one (1) case in which plaintiff is a resident of New Jersey.

5. Within thirty (30) days of this Order, the Janssen defendants shall select eight (8) bellwether cases from the case pool including one (1) case in which plaintiff is a resident of New Jersey.

6. Counsel shall use their best efforts to choose bellwether cases that are a good mix of the types of injuries alleged and the firms representing plaintiffs. Bellwether selection shall be completed within thirty (30) days of this Order. The cases so selected shall be the pool of bellwether cases from which trial plaintiffs will be chosen.

7. In the event that any bellwether case selected by the Janssen defendants is voluntarily dismissed for any reason prior to April 1, 2009, the Janssen defendants may substitute that dismissed case with another from the case pool.

IT IS FURTHER ORDERED that bellwether case specific discovery shall proceed as follows:

1. Commencing fourteen (14) days after the date of this Order, each bellwether case shall be subject to complete fact deposition discovery to the extent permitted by the New Jersey Rules of Court except as limited by this Order.

2 (a). The parties have consented that they shall be permitted to take up to six (6) fact depositions in each case. To the extent that any fact depositions have been taken in a bellwether case prior to this Order, those depositions shall be included among the six (6) permitted depositions.

2 (b). Nothing in this Order shall preclude Plaintiffs from noticing fact depositions different from and in addition to those noticed by the Janssen defendants in each of the bellwether cases.

3. The parties have consented that plaintiffs shall be permitted to take the depositions of up to two (2) Janssen sales representatives per trial-set case after the close of fact discovery but before the close of expert discovery. Disclosure by the Janssen defendants relevant to the sales representatives shall be pursuant to prior Court rulings of the Court and/or agreements among counsel, including agreements applicable in other jurisdictions involving related litigation. In the event of any disagreement concerning this disclosure, the parties shall seek assistance from the Special Master to resolve those disagreements before any application for relief from the Court.

4. The parties have consented that nothing in this Order shall prevent the parties from agreeing to depositions of additional fact witnesses, or in the absence of agreement, from seeking permission from the Court or the Special Master to take reasonably necessary additional depositions (including a continued deposition of a witness previously deposed) in any bellwether cases.

5. In any case set for trial, any party may take the deposition reasonably in advance of trial of a person identified as a fact witness for trial by the other party but not previously deposed.

6. Nothing in this Order shall prevent any party from taking depositions for the purposes of obtaining trial testimony de bene esse, or videotape depositions of treating physicians pursuant to N.J. Ct. R. 4:14-9.

7. All fact discovery in the bellwether cases is to be completed by October 1, 2009 unless otherwise Ordered by the Court.

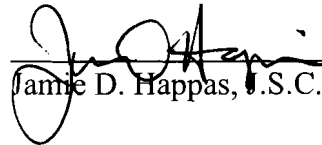
IT IS FURTHER ORDERED that on dates to be determined by future Orders of the Court the parties will submit to the Court, either in the form of agreements or when there is disagreement in the form of a joint submission specifying the opposing positions of the parties, proposals on the following pre-trial issues:

- A. The procedure that the parties propose to the Court for selecting and scheduling trials of cases from among the bellwether cases.
- B. The procedure and schedule for expert discovery to be conducted after the close of fact discovery in any bellwether case set for trial.

- C. The procedure and schedule for all pre-trial motions and submissions, including without limitation pre-trial orders, witness lists and exhibit lists;

IT IS FURTHER ORDERED that the first trial of a bellwether case shall commence on or after January 11, 2010; and

IT IS FURTHER ORDERED that the bellwether cases shall alternate between law firms representing plaintiffs so that in the event of simultaneous trials, there shall be no conflict asserted by designated trial counsel.



Jamie D. Happas, U.S.C.