

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: AVANDIA MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION	: : : : : : : : : : : : : : : : : :	AVANDIA MDL No. 1871 2007-MD-1871
--	--	--

THIS DOCUMENT RELATES TO ALL ACTIONS	: : : : : : : :
---	--------------------------------------

PRETRIAL ORDER NO. 236

AND NOW, this 16th day of April 2015, upon consideration of Defendant’s Motion for a Case Management Order [Doc. No. 4391], responses from two Plaintiffs’ counsel, and Defendant’s reply, and finding that case-specific expert reports are necessary for resolution of the few remaining personal injury cases in this litigation, and in order that the Court may set a schedule for the filing of motions for summary judgment, and then hold trials (or remand transferred cases to their sending courts for timely resolution), it is hereby **ORDERED** that the Motion is **GRANTED**. Accordingly, the Court **ORDERS** as follows:

1. Applicability of this Order

- a. For all cases listed on Exhibit A, this Order replaces and supersedes Pretrial Orders Nos. 121 and 155. This Order also applies to all cases that are filed originally in, transferred to, or removed to this Court and assigned to MDL 1871 on or after the date of this Order, alleging that the plaintiff experienced an Avandia-related personal injury.

- b. This Order does not change or extend existing Pretrial Order No. 155 deadlines in previously-designated trial pool cases.

2. Provision of Rule 26 Expert Reports

In addition to the existing pre-trial disclosure obligations required by Pretrial Order Nos. 7, 50, and 86, each plaintiff (who has not previously complied with Pretrial Order No. 155), including

each personal representative of any state of any deceased or incompetent user of Avandia, shall, within the time limits set forth below, serve upon counsel for Defendant a case-specific expert report that complies with the requirements of Federal Rule Civil Procedure 26(a)(2), signed and sworn by a licensed physician, and medical records in support thereof ("Rule 26 Report and Documents").

3. Content of Case-Specific Expert Reports

Each Rule 26 Report shall include:

- a. The plaintiff's name, address and date of birth;
- b. The name, complete professional address, license number, and curriculum vitae of the expert;
- c. The name, professional address, and license number of any physician(s) who prescribed Avandia to the plaintiff or treated plaintiff for the specified, alleged Avandia-related injuries;
- d. The complete dates on which the plaintiff used Avandia, along with copies of all records relied upon as evidence of use;
- e. A determination that the plaintiff suffered an injury during or after cessation of Avandia usage and identification and description of the specific injury allegedly sustained; the expert shall support his or her determination that such an injury occurred by listing all records reviewed and providing copies of the records relied upon;
- f. The complete dates of onset of the Avandia-related injuries, the dates of all records that document onset of the injuries, and copies of those records;
- g. The expert's opinion that, to a reasonable degree of medical certainty, each alleged injury was caused by Plaintiff's ingestion of Avandia, along with the basis and reasons for holding that opinion and copies of records relied upon; and

h. All grounds for opinions expressed by the expert and any supporting documents.

4. Schedule for Serving Case-Specific Rule 26 Expert Reports

a. All plaintiffs on Exhibit A show were subject to Pretrial Order No. 121 prior to entry of this Order, other than those subject to a pending dispositive motion, are required to produce the Rule 26 Report and Documents within 60 days of the date of this Order.

b. All plaintiffs who are subject to a pending dispositive motion as of the date of this Order are required to produce the Rule 26 Report and Documents within thirty (30) days should the Court deny that motion.

c. All plaintiffs who file in, are transferred to, or are removed to this Court and assigned to MDL 1871 on or after the date of this Order are required to serve the Rule 26 Report and Documents within sixty (60) days of the date of filing, transfer, or removal.

5. Dismissal of Plaintiffs Who Fail to Provide Required Case-Specific Rule 26 Reports

If any plaintiff fails to timely provide the required Rule 26 Report and Documents, Defendant may send a Notice of Deficiency to the plaintiff's attorney. The deficiency letter shall state that the plaintiff has fourteen (14) days to cure the deficiency, and that Defendant will move for dismissal of the plaintiff's claims if the deficiency is not cured.

6. Case-Specific Fact Discovery

a. Case-Specific fact discovery will not begin in any case unless and until the plaintiff produces a fully compliant Rule 26 Report and Documents.

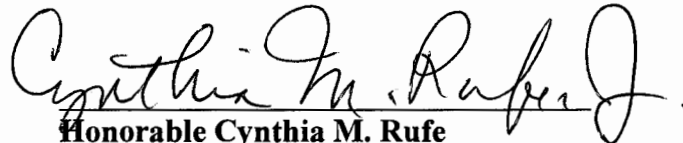
b. In the cases listed on Exhibit A which the plaintiff has produced a compliant Rule 26 Report and Documents by the deadline established in either this Order or Pretrial Order No. 155, case-specific fact discovery shall begin sixty (61) days after the date of this Order. The deadline for completing case-specific fact discovery in the cases listed on Exhibit A is ninety (90) days from the commencement of case-specific fact discovery.

7. Dispositive Motion Deadlines

Any dispositive motions must be filed thirty (30) days after the close of case-specific fact discovery.

IT IS SO ORDERED on this 16th day of April 2015.

BY THE COURT:


Honorable Cynthia M. Rufe
United States District Judge

PLAINTIFF	DOCKET NO.
Arnold, Charles	14-3446
Bade, Marlena (Estate of Elsie Moulder)	14-3330
Brown, Chaffie	14-1619
Corley, Susan	14-3552
Crawford, Hal	13-4645
Crawford, Jean	13-4646
Donald, Linda	14-3295
Emmert, Ann	14-517
Flowers, Ethel	14-3664
Friemark, Betty (Estate of Alvin Friemark)	14-3304
Green, Stanley	14-3585
Hardin, Joyce	14-3310
Hassan, Lucinda	11-1029
Henderson, Inez	14-3463
Kane, David (Estate of Chauncey Kane)	14-3465
Lee, Charles	14-3465
Miller, Hugh	14-3475
Oles, Douglas	14-3502
Rice, William	14-3604
Sanders, Marie	14-3627
Schuman, Amber (Estate of Annie Bolden)	14-2093
Shamberger, Evelyn	14-3342
Williams, Tara (Estate of Patricia Tyler)	13-5260
Ford, Jeannette	14-6297