

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

IN RE: AVANDIA MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION	:	
	:	
	:	MDL No. 1871
	:	07-md-01871

THIS DOCUMENT APPLIES TO: ALL ACTIONS	:
	:
	:

PRETRIAL ORDER NO. 40

AND NOW, this 14th day of November 2008, after a status conference held on November 10, 2008, with the parties' steering committees and Liaison Counsel, the Court hereby enters the following Order with respect to certain matters discussed at said conference.

1. MDL 1871 WEBSITE

The Court will establish and maintain a website with the purpose of making information on and orders from this multi-district litigation ("MDL") readily and publicly available. The Court will establish this website with the input and participation of the parties' Steering Committees and Liaison Counsel in a manner to be determined.

2. COORDINATION WITH STATE COURTS

In the interests of efficiency the Court will endeavor to coordinate certain judicial efforts with the several courts handling Avandia-related litigation at the state level. The Court may be aided in this effort by counsel for the parties, who in many instances are engaged in such litigation in both federal and state court. To this end, the parties, through Liaison Counsel, shall provide any information or views they wish the Court to consider on said undertaking **on or before Monday, November 24, 2008**, by submitting letters directly to the Court.

3. CATEGORIZATION OF CASES INVOLVING REMAND MOTIONS

Numerous cases with motions to remand pending in their transferor courts have been and continue to be transferred into this MDL from various federal districts. Where possible, the Court will seek to group such cases for purposes of consideration and disposition, with groupings predicated on materially significant commonalities in underlying facts, circumstances, claims, parties and jurisdictional features. The Court recognizes that the parties are well positioned to perceive and suggest criteria for the categorization and grouping of such cases so as to achieve appropriate efficiencies. In furtherance of this aim the parties may submit proposed grouping criteria to the Court **on or before Tuesday, December 2, 2008**, by submitting letters directly to the Court, through Liaison Counsel.

4. WITHDRAWAL MOTIONS

Counsel for Plaintiffs in numerous cases have moved to withdraw. In some cases, the plaintiffs are already represented by other counsel. In others, if withdrawal were to occur, the plaintiffs would be left unrepresented, at least temporarily. The Court will establish protocols to govern when and how withdrawal of counsel will be permitted in this MDL. The protocols will be informed by the unique characteristics of this litigation and must be compatible with the major procedural rules and agreements which have already been established by the Court and the parties. The parties, through Liaison Counsel, may submit their positions on appropriate withdrawal procedures and criteria to the Court **on or before Monday, November 24, 2008**, by filing reports of record.

5. FUTURE STATUS CONFERENCES

No Status Conference will be scheduled for December, 2008. Counsel shall report **on or before Monday, December 29, 2008** as to the need for a Status Conference in January, 2009.

If such is not requested for January, 2009, the Court will thereafter establish a date for a Status Conference to be held in February, 2009. At any time, if it appears reasonably necessary, the Court may, on its own or at party request, reconsider this schedule.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.