

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

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<b>IN RE: AVANDIA MARKETING,</b>	:	
<b>SALES PRACTICES AND PRODUCTS</b>	:	<b>MDL 1871</b>
<b>LIABILITY LITIGATION</b>	:	<b>07-md-1871</b>

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<b>THIS DOCUMENT RELATES TO</b>	:
<b>ALL ACTIONS</b>	:

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**PRETRIAL ORDER NO. 55**

**AND NOW**, this 20th day of April, 2009, pursuant to the joint submission of the parties, and after due consideration by this Court, it is hereby **ORDERED** as follows:

**AMENDED FORM OF AVANDIA TOLLING AGREEMENT**

1. The Court has been provided with an amended form of Tolling Agreement, which has been agreed upon by the PSC and counsel for GlaxoSmithKline. A copy of the amended Tolling Agreement and instructions for completing the form of amended tolling agreement, provided by counsel for the defendant, is attached to this Order. For the convenience of the parties, a version of the form of amended Tolling Agreement will be promptly posted on the website of the United States District Court for the Eastern District of Pennsylvania, at:

<http://www.paed.uscourts.gov/mdll871.asp>.

2. The Court authorizes the use of the approved Fact Sheet by claimants who agree with GlaxoSmithKline to enter such a tolling agreement, and, in the event that a claimant files suit, the Fact Sheet shall become part of the discovery record in the suit.

### **REQUIREMENT TO PRODUCE BASIC MEDICAL RECORDS**

3. Within one week of the date of this Order, GSK may produce to Plaintiffs' counsel in all cases part of Discovery Group One a list of those "basic medical records" (as defined below) that it has been unable to obtain through the medical authorizations provided with the Plaintiffs' Fact Sheet, together with a copy of this Order. Within one week of such notice, Plaintiffs' counsel shall: (1) produce "basic medical records" for the Avandia User; or (2) demonstrate that he/she has ordered "basic medical records" (by providing a copy of an order form by a medical records vendor, or a copy of the actual request made by said counsel) and confirm that the records will be provided to GSK's counsel upon receipt of same. Failure to comply with this paragraph shall constitute a "Threshold Deficiency" and, absent good cause shown, subject the case to potential dismissal under Pretrial Order No. 50.

(a) "Basic medical records" include:

(1) Proof of use in the form of pharmacy records, prescriber's medical records or in the absence of either an affidavit from the plaintiff explaining such use, and a statement of counsel of the efforts made to obtain usage records, and the reason(s) why such records are no longer available, and

(2) Medical records of the prescriber from the present back to one year before the date of injury claimed by the Avandia User, and

(3) A discharge summary or other medical record establishing and describing the claimed injury.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

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**CYNTHIA M. RUFÉ, J.**