

**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-CMR**

**THIS DOCUMENT APPLIES TO:
ALL ACTIONS**

PRETRIAL ORDER NO. 6

AND NOW, this 21st day of May 2008, the Court hereby enters the following Order to memorialize certain rulings made at a Status Conference in this matter held on May 9, 2008 (the “May 9 Conference”), and to govern further proceedings in this litigation, in conjunction with the rules set forth in prior Orders not explicitly altered or modified by the terms of this or other Order.

1. DISCOVERY.

A. STAY LIFTED. As stated at the May 9 Conference, the general stay on discovery previously imposed in this matter is lifted. The parties are expected to commence with discovery in a manner that conforms with the proposed discovery plan and schedule currently being developed by the parties’ representatives for submission to the Court.

B. COMPLETION OF PROPOSED DISCOVERY PLAN. The parties have endeavored to develop a proposed discovery plan and schedule in this matter for submission to the Court for approval, and they continue to do so. The parties shall submit a proposed discovery plan and schedule to the Court on or before **Friday, June 6, 2008**. If the parties reach an impasse in the

process of developing the joint proposed discovery plan and schedule, representatives for plaintiffs and defendant each shall submit a proposed plan and schedule to the Court on or before the aforementioned date.

C. SPECIAL DISCOVERY MASTER(S). As agreed at the May 9 Conference, the parties shall submit their positions on the appointment of Mr. Jerome Shestack, Esquire, as General Discovery Special Master in this MDL to the Court on or before **May 21, 2008**. In connection with the appointment of a General Discovery Special Master, the parties will jointly prepare for the Court's review a proposed order regarding scope of governance, procedures and monetary compensation for such Master, and shall submit the same on or before **June 6, 2008**. Furthermore, the parties will report to the Court at the next status conference on their positions regarding the need for the appointment of a Special Master of Electronic Discovery in this MDL, and shall be prepared to discuss potential appointees at that time, as appropriate.

D. PROTECTIVE ORDER FOR CONFIDENTIAL DOCUMENTS. The parties continue negotiations and discussions regarding the appropriate scope of a Protective Order in this matter. The parties will submit a joint proposed Protective Order to the Court for its review on or before **June 6, 2008**. Should the parties be unable to agree on the terms of the proposed order, representatives for plaintiffs and defendant each will submit their proposed Protective Order and supporting briefs to the Court on or before the same date.

2. SUBSEQUENT STATUS CONFERENCES. The next two status conferences in this matter shall be held in this Court on the **20th** day of **June 2008**, at **10:00 AM**, and on the **17th** day of **July 2008**, at **10:00 AM**, Courtroom 12A, U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106. Pursuant to prior Order of this Court, seven days prior to each status conference the parties

shall submit a Joint Report outlining possible agenda items and including a short statement of the issues involved and the positions of the parties with respect to each such agenda item. The parties will not seek Court intervention at a status conference with regard to any issues not presented in the Joint Report submitted in advance of the conference.

In addition to the question of the need for a Special Master of Electronic Discovery, one item to be included on the proposed agenda for the June 20, 2008 Status Conference is the formation and governance of a Common Benefit Fund in this MDL.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

HON. CYNTHIA M. RUFÉ