

TO: CLAIMANTS' COUNSEL

INSTRUCTIONS FOR COMPLETING FORM OF AVANDIA TOLLING AGREEMENT

1. The form is in Adobe PDF format. Use the “tab” key to move to each field that must be completed.
2. The “Effective Date” will be the date indicated on page 5 of the Agreement, when executed by GSK. GSK will enter this Date and provide an executed copy of the Agreement to Claimant. GSK will review completed forms of agreement, and will use its best efforts to respond on behalf of GSK within 48 hours. If you do not receive a response from GSK within 48 hours, you must contact GSK through Pepper Hamilton.
3. The attorney for the Claimant should execute the form with a clear indication of the attorney’s name and address, including e-mail address and fax number.
4. Exhibit A should be completed in full. GSK will not execute the form of agreement without this information. At the time of the request for tolling, Claimant must also satisfy the Requirement Regarding Basic Medical Records described on page 2 of the Agreement.
5. The form of agreement must not be changed.
6. The completed form should be sent to Anthony Vale and Alice Marshall, Pepper Hamilton LLP, Two Logan Square, Philadelphia, PA 19103. The preferred method of submission is by e-mail to avandiatolling@pepperlaw.com, with a copy of the email to valea@pepperlaw.com and marshalla@pepperlaw.com, attaching 1) a PDF copy of the Agreement and 2) Exhibit A in excel format. The Agreement and Exhibit A are available for download from the Court’s website at: <http://www.paed.uscourts.gov/mdl1871.asp>.

AVANDIA TOLLING AGREEMENT

THIS AGREEMENT is by and between SmithKline Beecham Corporation d/b/a GlaxoSmithKline (“GSK”), and the individual(s) identified on Exhibit A (the “Claimant(s)”), and any person whose claim derives from the ingestion of Avandia® and/or any compound containing the active ingredient rosiglitazone maleate, including Avandamet® and Avandaryl®, by the person(s) identified on Exhibit A (collectively, “the Parties”).

1. The term “Tolling Period” shall refer to the period of time commencing on the “Effective Date” identified on page 5 hereof and continuing until 30 days after receipt by either GSK or Claimant of a written notice sent by mail and email to the address of counsel listed at the end of this Agreement that henceforth this Agreement shall not apply to the Claimant.

2. The term “Claims” shall refer to any demands, actions, causes of action, suits, debts, accounts, contracts, damages, claims, equitable remedies, statutory remedies, both in law and equity, relating to or arising out of the purchase or ingestion of Avandia, Avandamet or Avandaryl, whether or not such Claims are liquidated, unliquidated, fixed, contingent, direct, indirect, matured, unmatured, due, ripe, disputed, undisputed, legal, equitable or statutory on behalf of the Claimant and any others whose claims are derivative of the Claimant’s alleged injury from Avandia, Avandamet or Avandaryl.

3. The term “Limitations” shall mean any and all time limitations on the assertion, prosecution, or filing or service of any lawsuit in federal court only with respect to the Claims, including any and all statutes of limitations, statutes of repose, time limitations in equity, statutory time conditions on filing suits, laches, and any other time bars.

4. The Claimant warrants that the information set forth on Exhibit A is true and correct to the best of his or her knowledge, information and belief. Claimant represents that he or she has complied with the Requirement Regarding Basic Medical Records (described below).

5. Requirement Regarding Basic Medical Records.

a. At the time of the request for tolling, counsel for the claimant shall either (1) produce “basic medical records” (defined below) for the claimant at the time of the request 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 with the completed Plaintiff Fact Sheet (60 days after the entering into the Tolling Agreement) or upon receipt of same, whichever is earlier. Failure timely to do either may result in GSK terminating the previously granted Tolling Agreement.

b. “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 claimant 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 claimant; and

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

6. GSK agrees to the tolling of the Limitations during the Tolling Period with respect to all Claims held by Claimant, provided, however, that this Tolling Agreement shall not revive existing Claims, if any, that have expired under the applicable statutes of limitations prior to the commencement of the Tolling Period. As an example, if any applicable limitation period were to have expired prior to the Effective Date of this Tolling Agreement, then GSK’s right and ability to assert the statute of limitations in defense of the Claims is fully preserved.

7. This Tolling Agreement shall not be construed as an admission or indication that GSK agrees that any Claimant has meritorious claims against GSK.

8. If, after execution of this Tolling Agreement, counsel for Claimant ceases to represent a Claimant, GSK shall be notified by facsimile or email within five business days. If Claimant or Claimant's new counsel does not agree to be bound by this Tolling Agreement within ten business days after the representation terminates, this Agreement shall cease to be effective as to the Claimant.

9. The Parties agree that within sixty days of the Effective Date, each Claimant will complete the currently-approved Fact Sheet (including the authorizations) in the In Re Avandia Marketing, Sales Practice and Products Liability Litigation, MDL 1871 (E.D. Pa.), and serve the completed Fact Sheet and signed authorizations on GSK.

10. If a Claimant fails to complete and serve a Fact Sheet within sixty days, no tolling under this Tolling Agreement shall apply, and the statute of limitations shall be deemed to have run without suspension or interruption as if this Tolling Agreement did not exist. If a Claimant serves a deficient Fact Sheet, GSK at its option may terminate this Agreement pursuant to paragraph 1 above, or demand that the deficiencies be corrected promptly.

11. This Tolling Agreement shall be governed by the laws of Pennsylvania, excluding its choice of law rules, and any dispute between the parties arising out of, or as to the meaning or effect of, this Agreement shall be resolved exclusively by the MDL 1871 Court, which shall have personal jurisdiction over the Claimant.

12. If any Claimant files any lawsuit concerning a tolled claim, the Claimant shall file such lawsuit only in (i) the federal District where s/he is domiciled or was prescribed Avandia, and will consent to the transfer of the lawsuit to MDL 1871, or (ii) directly in the Eastern District of Pennsylvania. Claimant agrees that when filing a lawsuit in federal court, he or she will not name any non-diverse person as a defendant. If a Claimant files a lawsuit in state

court, or resists transfer to MDL 1871 of a case filed in federal court, no tolling under this Tolling Agreement shall apply, and the statute of limitations shall be deemed to have run without suspension or interruption as if this Tolling Agreement did not exist. This paragraph shall not apply to a Claimant who is a citizen of Pennsylvania and who files his or her lawsuit in state court in Pennsylvania.

13. The Parties have been represented by counsel of their choice. By executing this Tolling Agreement, counsel for Claimant represents that s/he has entered into a written retention agreement with the Claimant. The undersigned attorney warrants and represents that he or she has the express authority of the Claimant to enter into this Tolling Agreement.

14. This Tolling Agreement contains the entire agreement of the parties. This Tolling Agreement cannot be modified except by a writing signed by the Parties or their attorneys.

15. The Parties hereto agree that the existence and terms of this Tolling Agreement shall be deemed confidential and shall not be disclosed to anyone except as otherwise provided or required by law.

IN WITNESS WHEREOF, the parties have executed this Tolling Agreement this
day of _____, 2009.

NINA M. GUSSACK, attorney for SmithKline
Beecham Corporation d/b/a GlaxoSmithKline

Attorney for Claimant(s)

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