

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

IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION

MDL 2724
16-MD-2724

HON. CYNTHIA M. RUFÉ

THIS DOCUMENT RELATES TO:

ALL ACTIONS

**PRETRIAL ORDER NO. 26
(INTERIM PROTECTIVE ORDER CONCERNING PROTECTED INFORMATION
FOR USE IN CONSOLIDATED AMENDED COMPLAINTS)**

AND NOW, this 28th day of June 2017, upon consideration of the attached stipulation of counsel, and to facilitate the filing of consolidated amended class action complaints (“CACs”) in this MDL, in which Plaintiffs wish to include allegations regarding certain prescription drug information obtained pursuant to license agreements that impose certain conditions on further disclosure, it is hereby **ORDERED** that the following Interim Protective Order is entered.

1. DEFINITIONS

1.1. Party: Any party to this MDL, including all of its officers, directors, principals, employees, consultants, retained experts, and Outside Counsel, as defined below.

1.2. Protected Information: All documents, items, or other information containing prescription drug information obtained by Plaintiffs pursuant to any license agreement that imposes certain conditions on further disclosure, regardless of the medium or manner generated, stored, or maintained, and all summaries, descriptions, derivations, and categorizations of such material.

1.3. Outside Counsel: Attorneys, as well as their regular and temporary support staffs, including but not limited to attorneys, paralegals, secretaries, law clerks, and investigators, who are not employees of a Party but who are retained to represent or advise a Party.

2. DISCLOSURE AND USE OF PROTECTED INFORMATION

2.1 Pending further Order of the Court, Protected Information disclosed to Outside Counsel under the terms of this Interim Protective Order shall be for Outside Counsel's eyes only, except that Protected Information can be shared with limited client personnel with whom Outside Counsel are required to consult in prosecuting or defending any case coordinated under this MDL. Outside Counsel is prohibited from showing or disclosing the content of Protected Information to any other person, including but not limited to any other attorneys who are not Outside Counsel or are not bound by the terms of this Interim Protective Order. Outside Counsel and any of the limited client personnel with whom Outside Counsel is required to consult in prosecuting or defending any case coordinated under this MDL shall use the Protected Information only for purposes directly related to the litigation of any case coordinated under this MDL, and shall not use such information for any other business, competitive, personal, private, or public purpose.

2.2 Outside Counsel shall store and maintain Protected Information at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order. For purposes of this Order, a secure website, or other internet-based document depository with adequate security and access limited to persons authorized under this Order, shall be deemed a secure location.

2.3 If Outside Counsel learn that, by inadvertence or otherwise, they have disclosed Protected Information to any person not authorized under this Order, they must

immediately (a) use their best efforts to retrieve all copies of the Protected Information, (b) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (c) inform Outside Counsel representing each Party, and the producing party if such producing party is not a Party, of the unauthorized disclosure.

2.4 Any CAC or other submission to the Court that references, incorporates, or quotes Protected Information shall be filed under seal, and a public version shall be filed that redacts all information referencing, incorporating, or quoting Protected Information pursuant to the sealing procedure outlined in Pretrial Order No. 7 at Section 9 [MDL Doc. No. 121].

3. OTHER PROVISIONS

3.1 Effect of other protective orders or agreements: This Order shall govern the confidentiality of Protected Information disclosed in this MDL until superseded by further order of the Court. The Parties shall attempt in good faith to negotiate terms of one Master Protective Order or other protective orders that will govern the treatment of Protected Information and supersede this Interim Protective Order. Any Protected Information disclosed under the terms of this Interim Protective Order shall be afforded the highest level of protection available under any superseding protective order. The contents of this Order are without prejudice to the Parties' negotiations of the terms of a Master Protective Order or other protective orders, and all Parties reserve their respective positions regarding such other protective order provisions.

3.2 Other Proceedings: If, at any time, any Protected Information in the possession, custody, or control of Outside Counsel is subpoenaed or requested by any court, administrative agency, legislative body, or other person or entity, Outside Counsel shall provide prompt written notice to the designating and/or producing party at least 14 days prior to

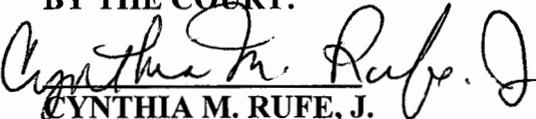
responding to such a subpoena or request. Should the request for production of Protected Information be opposed or objected to, Outside Counsel shall not produce any Protected Information until the opposition or objection is resolved, and shall not take any position concerning the propriety of the request or subpoena or discoverability of the information sought that is adverse to maintenance of confidentiality, unless otherwise ordered by a court of competent jurisdiction. Outside Counsel shall only produce Protected Information pursuant to such a subpoena or request under the highest level of confidentiality protection available in the proceeding or matter from which the subpoena or request has issued.

3.3 Objection to Confidential Treatment of Protected Information: Outside Counsel may object to the confidential treatment of any Protected Information by serving a written objection on the designating party's Outside Counsel. The Parties shall attempt to resolve by agreement any such objection. If, after reasonable effort to reach agreement, the Parties are unable to resolve their disagreement, Outside Counsel may move the Court for an order vacating the designation. While such an application is pending, the Protected Information shall be treated in accordance with Paragraph 2.

3.4 Modification: Nothing contained herein shall preclude any Party from seeking an order of the Court modifying or supplementing this Order or any sealing order issued pursuant to Paragraph 2.

3.5 Destruction: This Order shall continue to be binding, and no Protected Information shall be destroyed, pending further Order of this Court.

It is so **ORDERED**.

BY THE COURT:

CYNTHIA M. RUFÉ, J.

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

IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION

MDL NO. 2724
16-MD-2724

HON. CYNTHIA M. RUFE

THIS DOCUMENT RELATES TO:

ALL ACTIONS

**PRETRIAL ORDER NO. __
(STIPULATED INTERIM PROTECTIVE ORDER CONCERNING PROTECTED
INFORMATION FOR USE IN
PLAINTIFFS' CONSOLIDATED AMENDED COMPLAINTS)**

WHEREAS, in Pretrial Order No. 23 (ECF No. 347), this Court ordered that all consolidated amended class action complaints (“CACs”) in the actions coordinated in *In re Generic Pharmaceuticals Pricing Antitrust Litigation* (the “MDL”) be filed no later than August 15, 2017, and further ordered that discovery be stayed until September 15, 2017;

WHEREAS, Plaintiffs have advised Defendants that they wish to include in their CACs certain prescription drug information obtained pursuant to license agreements that impose certain conditions on further disclosure. Under the license agreements, all documents containing Protected Information, as defined below, must be marked in such a manner as to be identified as a document requiring the highest level of confidential treatment available under an applicable protective order;

WHEREAS, Plaintiffs and Defendants, therefore, **STIPULATE AND AGREE AS FOLLOWS:**

1. DEFINITIONS

1.1. Party: any party to this MDL, including all of its officers, directors, principals, employees, consultants, retained experts, and Outside Counsel, as defined below.

1.2. Protected Information: all documents, items, or other information containing prescription drug information obtained by Plaintiffs pursuant to any license agreement that imposes certain conditions on further disclosure, regardless of the medium or manner generated, stored, or maintained, and all summaries, descriptions, derivations, and categorizations of such material.

1.3. Outside Counsel: attorneys, as well as their regular and temporary support staffs, including but not limited to attorneys, paralegals, secretaries, law clerks, and investigators, who are not employees of a Party but who are retained to represent or advise a Party.

2. DISCLOSURE AND USE OF PROTECTED INFORMATION

2.1 Pending further Order of the Court, Protected Information disclosed to Outside Counsel under the terms of this Interim Protective Order shall be for Outside Counsel's eyes only, except that Protected Information can be shared with limited client personnel with whom Outside Counsel are required to consult in prosecuting or defending any case coordinated under this MDL. Outside Counsel is prohibited from showing or disclosing the content of Protected Information to any other person, including but not limited to any other attorneys who are not Outside Counsel or are not bound by the terms of this Interim Protective Order. Outside Counsel and any of the limited client personnel with whom Outside Counsel is required to consult in prosecuting or defending any case coordinated under this MDL shall use the Protected Information only for purposes directly related to the litigation of any case coordinated under this

MDL, and shall not use such information for any other business, competitive, personal, private, or public purpose.

2.2 Outside Counsel shall store and maintain Protected Information at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order. For purposes of this Order, a secure website, or other internet-based document depository with adequate security and access limited to persons authorized under this Order, shall be deemed a secure location.

2.3 If Outside Counsel learn that, by inadvertence or otherwise, they have disclosed Protected Information to any person not authorized under this Order, they must immediately (a) use their best efforts to retrieve all copies of the Protected Information, (b) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (c) inform Outside Counsel representing each Party, and the producing party if such producing party is not a Party, of the unauthorized disclosure.

2.4 Any CAC or other submission to the Court that references, incorporates, or quotes Protected Information shall be filed under seal, and a public version shall be filed that redacts all information referencing, incorporating or quoting Protected Information in accordance with the sealing procedure outlined in Pretrial Order No. 7 at Section 9 (ECF No. 121).

3. OTHER PROVISIONS

3.1 Effect of other protective orders or agreements: This Order shall govern the confidentiality of Protected Information disclosed in this MDL until superseded by further order of the Court. The Parties shall attempt in good faith to negotiate terms of one Master Protective Order or other protective orders that will govern the treatment of Protected Information and supersede this Interim Protective Order. Any Protected Information disclosed

under the terms of this Interim Protective Order shall be afforded the highest level of protection available under any superseding protective order. The contents of this Order are without prejudice to the Parties' negotiations of the terms of a Master Protective Order or other protective orders, and all Parties reserve their respective positions regarding such other protective order provisions.

3.2 Date of Effectiveness: The Parties agree to be bound by the terms of this stipulated Interim Protective Order until such time as the Court shall rule thereon.

3.3 Other Proceedings: If, at any time, any Protected Information in the possession, custody, or control of Outside Counsel is subpoenaed or requested by any court, administrative agency, legislative body, or other person or entity, Outside Counsel shall provide prompt written notice to the designating and/or producing party at least 14 days prior to responding to such a subpoena or request. Should the request for production of Protected Information be opposed or objected to, Outside Counsel shall not produce any Protected Information until the opposition or objection is resolved, and shall not take any position concerning the propriety of the request or subpoena or discoverability of the information sought that is adverse to maintenance of confidentiality, unless otherwise ordered by a court of competent jurisdiction. Outside Counsel shall only produce Protected Information pursuant to such a subpoena or request under the highest level of confidentiality protection available in the proceeding or matter from which the subpoena or request has issued.

3.4 Objection to Confidential Treatment of Protected Information: Outside Counsel may object to the confidential treatment of any Protected Information by serving a written objection on the designating party's Outside Counsel. The Parties shall attempt to resolve by agreement any such objection. If, after reasonable effort to reach agreement, the

Parties are unable to resolve their disagreement, Outside Counsel may move the Court for an order vacating the designation. While such an application is pending, the Protected Information shall be treated in accordance with Paragraph 2.

3.5 Modification: Nothing contained herein shall preclude any Party from seeking an order of the Court modifying or supplementing this Order or any sealing order issued pursuant to Paragraph 2.

3.6 Destruction: This Order shall continue to be binding, and no Protected Information shall be destroyed, pending further Order of this Court.

IT IS SO STIPULATED.

April 22, 2017

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Defendants' Liaison Counsel

**Approved and So Ordered:
this ___ day of June, 2017
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CYNTHIA J. RUFÉ