

**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. 29
(INTERIM PROTECTIVE ORDER CONCERNING ECRM PROTECTED
INFORMATION FOR USE IN CONSOLIDATED AMENDED COMPLAINTS)**

AND NOW, this 31st day of July 2017, upon consideration of the stipulation of counsel, and to facilitate the filing of consolidated amended class action complaints (“CACs”) in this MDL, and having taken note that non-party Efficient Collaborative Retail Marketing Company, LLC (“ECRM”)¹ produced information pursuant to a subpoena *duces tecum* under the terms of a Protective Order entered in *In re Propranolol Antitrust Litigation*, C.A. No. 1:16-09901 (S.D.N.Y. ECF No. 79), which has since been transferred to this Court, it is hereby **ORDERED** that use of the documents ECRM produced in *In re Propranolol* and designated as “Confidential – Subject to Protective Order,” shall be under the following terms.

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. **ECRM Protected Information:** all documents, items, or other information produced by ECRM under the terms of a Protective Order entered in *In re Propranolol Antitrust*

¹ ECRM is represented by Andrew G. Fiorella of Benesch, Friedlander, Coplan & Aronoff LLP, 200 Public Square, Suite 2300, Cleveland, Ohio 44114. Phone: (216) 363-4453. Email: afiorella@beneschlaw.com. Liaison Counsel shall provide a copy of this Order to Mr. Fiorella.

Litigation, C.A. No. 1:16-09901 (S.D.N.Y. ECF No. 79), 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, ECRM 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 ECRM 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 ECRM Protected Information only for purposes directly related to any Lead Case in which the ECRM Protected Information is included or referenced in the CAC for the Lead Case, or any of its constituent Class Cases or Individual Cases, and shall not use such information for any other business, competitive, personal, private, or public purpose.

2.2 If Outside Counsel learn that, by inadvertence or otherwise, they have disclosed ECRM Protected Information to any person not authorized under this Order, they must immediately (a) use their best efforts to retrieve all copies of the ECRM 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 ECRM as the producing party, of the unauthorized disclosure.

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

3. OTHER PROVISIONS

3.1 Effect of other protective orders or agreements: This Order shall govern the confidentiality of ECRM Protected Information disclosed in this MDL pending further order of the Court. On July 11, 2017, the Parties submitted to the Court competing proposed protective orders, each of which is intended to supersede this Interim Protective Order and apply to the MDL and all of its constituent cases, including the ECRM Protected Information that is the subject of this Interim Protective Order. Any ECRM 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' respective positions regarding the terms of the proposed protective orders submitted to the Court on July 11, 2017, and to negotiations of any 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 ECRM 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 counsel for ECRM 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 ECRM Protected Information until the opposition or objection is resolved, unless otherwise ordered by a court of competent jurisdiction. Outside Counsel shall only produce ECRM 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 ECRM Protected Information:

Outside Counsel may object to the confidential treatment of any ECRM Protected Information by serving a written objection on ECRM's 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 ECRM 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 ECRM Protected Information shall be destroyed, pending further Order of this Court.

It is so **ORDERED**.

BY THE COURT:

CYNTHIA M. RUFÉ, J.