

**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**

THIS DOCUMENT RELATES TO:

HON. CYNTHIA M. RUFÉ

ALL DIRECT PURCHASER ACTIONS

ALL END-PAYER ACTIONS

ALL INDIRECT RESELLER ACTIONS

**PRETRIAL ORDER NO. 40
(FILING DOCUMENTS UNDER SEAL FOR BRIEFING
OF MOTIONS TO DISMISS IN THE PRIVATE ACTIONS)**

AND NOW, this 29th day of November 2017, upon consideration of Class Plaintiffs' and Defendants' Joint Motion for Entry of a Pretrial Order to Govern the Filing of Documents Under Seal for Briefing of Motions to Dismiss [MDL Doc. No. 532], it is hereby **ORDERED** that the motion is **GRANTED**. It is further **ORDERED** that:

1. This Pretrial Order ("PTO") supersedes sections 9.2 and 9.3 of PTO No. 7 [MDL Doc. No. 121] for purposes of any filings directly relating to Defendants' motions to dismiss for Case Management Groups 1, 2 and 3. *See* PTO Nos. 28 & 35 [MDL Doc. Nos. 388, 484]. For all other filings, the filing party shall comply with section 9 of PTO No. 7, or such other subsequent Order of the Court regarding filing of Protected Material.

2. The procedure for filing any document that is required to be filed under seal¹ in a Lead Case shall be as follows:

¹ Documents required to be filed under seal include documents containing protected information as described in PTO 26 [MDL Doc. No. 373] and PTO 29 [MDL Doc. No. 414] and the protective order referenced in PTO 29.

- a. On the filing date established by the Court in PTO Nos. 28 and 35 [MDL Doc. Nos. 388, 484], the filing party shall:
 - i. serve the sealed, unredacted version via e-mail on Defendants' Liaison Counsel and Lead Counsel for Direct-Purchaser Plaintiffs, End-Payer Plaintiffs, and Indirect Reseller Plaintiffs. For documents that are too voluminous to send via e-mail, providing a secure link where the recipient may access such documents is sufficient;
 - ii. file an affidavit of service via ECF; and
 - iii. if the filing is a motion to dismiss, file the motion, but not any accompanying memoranda or exhibits, via ECF.
- b. Within 3 business days of the filing date, the filing party shall:
 - i. file an unredacted paper copy of the document with the Clerk in a sealed envelope and clearly marked:

THIS ENVELOPE CONTAINS DOCUMENTS MARKED AS CONFIDENTIAL AND/OR HIGHLY CONFIDENTIAL THAT ARE THEREFORE COVERED BY A PROTECTIVE ORDER OF THE COURT AND IS SUBMITTED UNDER SEAL PURSUANT TO THAT PROTECTIVE ORDER. THE CONFIDENTIAL CONTENTS OF THIS DOCUMENT MAY NOT BE DISCLOSED WITHOUT EXPRESS ORDER OF THE COURT.

- ii. include a CD with a copy of the unredacted document in the filing to the Clerk; and
- iii. file via ECF a redacted copy of the document omitting all confidential and/or highly confidential material; and

- iv. provide one unredacted, paper courtesy copy of the document to be submitted by Lead and Liaison Counsel to the Court as set forth in PTO 28.
- c. In order to indicate what text lies under redaction in the publicly filed version, all unredacted copies (*i.e.*, the versions filed in paper copy under seal, circulated to counsel, and provided to the Court) shall apply gray highlighting to all the redacted information, as shown here. The filing party shall also include the following footer:

**FILED WITH REDACTIONS – UNREDACTED VERSION
MDL 2724: HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER**

- d. The redacted version filed via ECF shall include the following footer:

FILED WITH REDACTIONS – PUBLIC VERSION

It is so **ORDERED**.

BY THE COURT:


CYNTHIA M. RUFÉ, J.