

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

**IN RE: GENERIC PHARMACEUTICALS  
PRICING ANTITRUST LITIGATION**

**MDL 2724  
16-MD-2724**

**THIS DOCUMENT RELATES TO:**

**HON. CYNTHIA M. RUFÉ**

***ALL ACTIONS***

**PRETRIAL ORDER NO. 59  
(REFERRAL OF PROPOSED ESI PROTOCOL)**

The parties have submitted proposals for a Pretrial Order Regarding the Search for and Production of Discovery Material (the “ESI Protocol”) [MDL Doc. No. 583]. Although the parties have reached agreement on many elements of the ESI Protocol, certain disagreements remain. These include highly technical and related legal issues concerning the production of emails from multiple custodians when all emails are included in an email thread, (i.e., thread suppression or thread de-duplication), the redaction of non-responsive information, and the treatment of email threads in privilege logs. Comprehensive resolution of these issues requires the expertise of a Special Discovery Master – ESI to advise the Court and aid in balancing the burdens and efficiencies of competing approaches as the Court rules on the legal questions.<sup>1</sup>

To facilitate this process, it is hereby **ORDERED** this 19<sup>th</sup> day of November 2018, that the parties are directed to meet and confer to agree upon a mutually acceptable Special Master – ESI. In the interim, so that the dispute moves toward resolution, the ESI Protocol proposals are

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<sup>1</sup> The Court notes that since the disputes were briefed and argued, the protective order has been modified in Pretrial Order No. 53 to create a category of “Outside Counsel Eyes Only” discovery material that should allay certain concerns regarding certain commercially sensitive information.

**REFERRED** to Special Master David Marion, who may seek assistance from counsel experienced in electronic discovery as required.

It is so **ORDERED**.

**BY THE COURT:**

*/s/ Cynthia M. Rufe*

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**CYNTHIA M. RUFÉ, J.**