

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

IN RE: GENERIC DIGOXIN AND DOXYCYCLINE ANTITRUST LITIGATION	:	MDL NO. 2724 16-MD-2724
	:	
THIS DOCUMENT RELATES TO:	:	HON. CYNTHIA M. RUFÉ
	:	
<i>ALL ACTIONS</i>	:	

**PRETRIAL ORDER NO. 8
(TIME AND EXPENSE GUIDELINES AND REPORTS)**

AND NOW, this 21st day of February 2017, the Court hereby **GRANTS** Plaintiffs' Unopposed Motion for Entry of a Pretrial Order re: Time and Expense Guidelines and Reports [MDL Doc. No. 137] and enters this Pretrial Order to establish a protocol for the submission and review of attorneys' fees and expenses in the MDL by counsel for the Direct Purchaser Plaintiffs and the End-Payer Plaintiffs. Each attorney submitting a monthly time and expense report pursuant to this Order shall be considered as representing to the Court, under oath, that the time and expenses submitted meet the criteria set forth below. The following protocol shall be used by any counsel for Direct Purchaser Plaintiffs and the End-Payer Plaintiffs who intends to seek attorneys' fees and/or expense reimbursement from settlements/judgments relating to the *Digoxin* and *Doxycycline* cases.

Only time and expenses authorized by each group's respective Co-Lead Counsel and incurred on matters that advance the common benefit effort will be considered as compensable.

COMPENSABLE TIME

Compensable common benefit work done on behalf of the putative classes may include, but is not limited to:

- fact investigation and factual and legal research;

- preparation of research memoranda, pleadings and briefs;
- conducting document discovery (*e.g.*, reviewing, indexing, and coding documents);
- preparation for and attendance at depositions;
- preparation of and responding to written discovery requests;
- preparation for and attendance at hearings;
- attendance at meetings sponsored by the Plaintiffs' Steering Committee ("PSC");
- work with clients;
- work with expert witnesses;
- settlement and settlement negotiations;
- trial preparation and trial; and
- performance of administrative matters specifically related to tasks assigned by the respective Co-Lead Counsel.

NON-COMPENSABLE TIME

Common Benefit Work Does Not Include:

- work not authorized by the respective Co-Lead Counsel;
- excessive time for a particular task;
- work performed by a person more senior than necessary for the task;
- duplicative time;
- "read and review" time unless specifically related to a task assigned by the respective Co-Lead Counsel;
- clerical time, such as faxing, copying, booking travel and preparing binders;
- time for which descriptions are missing or incomplete;
- time not submitted to each group's respective Co-Lead Counsel on a timely basis;
- internal firm time for firm management; and

- time related to fee issues; time spent preparing or reviewing time and expenses, unless the fee review or time reporting review is being done by assignment or appointment on behalf of the PSC.

RECORD KEEPING

All time for each firm shall be maintained in tenth-of-an hour increments. Time entries not maintained in tenth-of-an-hour increments may be disallowed.

Counsel shall keep contemporaneous daily records of their time spent in connection with work on this litigation, clearly indicating with specificity the amount of time spent, particular activity, the source of authorization for the activity and indicating their position in the firm (Partner or equivalent, Of Counsel, Associate, Law Clerk, Paralegal or Contract Attorney). Current hourly rates are to be used in calculating time.

Full descriptions of the work performed are required. Time entries that are not sufficiently detailed will not be considered for payment. Block billing is not acceptable. The failure to secure the proper authority from the applicable Co-Lead Counsel to incur common benefit time and expenses, to maintain and timely provide such records, or to provide a sufficient description of the activity will be grounds for denying the recovery of attorneys' fees or expenses in whole or in part.

Counsel for Direct Purchaser Plaintiffs and End-Payer Plaintiffs must submit all time and expense reports monthly to their respective Co-Lead Counsel in the format supplied by their respective Co-Lead Counsel and in accordance with this Order.

COMMON BENEFIT EXPENSES

In order to be eligible for reimbursement of expenses, said expenses must meet the requirements of this section. Specifically, said expenses must be:

- for the common benefit;
- appropriately authorized by each group's respective Co-Lead Counsel;

- timely submitted;
- reasonable in amount; and
- supported by adequate documentation.

Common Benefit Expenses Include:

- assessments paid at the request of the respective Co-Lead Counsel;
- costs related to obtaining, reviewing, indexing, and paying for hard-copies of computerized images of documents;
- deposition and court reporter costs;
- costs for the electronic storage, retrieval and searches of ESI;
- Court, filing, and service costs;
- PSC group administration matters, such as meetings and conference calls;
- reasonable travel expenses including lodging and meals, and expenses incurred in connection with PSC-approved meetings and other common benefit tasks;
- expert witness and consultant fees and expenses approved in advance by the respective Co-Lead Counsel;
- investigator fees and expenses approved in advance by the respective Co-Lead Counsel;
- printing, copying, coding and scanning;
- data and materials provided by outside third-party vendors, consultants and attorneys approved in advance by the respective Co-Lead Counsel;
- witness expenses, including travel;
- translation costs; and
- bank or financial institution charges.

EXPENSE LIMITATIONS

Travel Expense Limitations

Only reasonable expenses will be reimbursed. Except in extraordinary circumstances approved by Co-Lead Counsel, all travel reimbursements are subject to the following limitations:

- Airfare: Only the price of a coach seat for a reasonable itinerary will be reimbursed. Business/First Class Airfare will *not* be fully reimbursed. Use of a private aircraft will not be reimbursed. If Business Class/First Class Airfare is used on domestic flights, then the difference between the Business Class/First Class Airfare and coach fare must be shown on the travel reimbursement form, and only the coach fare will be reimbursed.
- Hotel: Hotel room charges for the average available room rate of a business hotel, including the Hyatt, Westin, and Marriott hotels, in the city in which the stay occurred will be reimbursed. Unless a special discounted rate is negotiated, luxury hotels will not be fully reimbursed but will be reimbursed at the average available rate of a business hotel.
- Meals: Meal expenses must be reasonable. Alcohol is not a reimbursable expense.
- Cash Expenses: Miscellaneous cash expenses for which receipts generally are not available (tips, luggage handling, short taxi rides etc.) will be reimbursed up to \$50.00 per day, as long as the expenses are properly itemized.
- Rental Automobiles: Luxury automobile rentals will not be reimbursed. If luxury automobiles are selected when non-luxury vehicles are available, then the difference between the luxury and non-luxury vehicle rates must be shown on the travel reimbursement form, and only the non-luxury rate may be claimed, unless such larger sized vehicle is needed to accommodate several people.
- Mileage: Mileage claims must be documented by stating origination point, destination, total actual miles for each trip, and the rate per mile paid by the member's firm. The maximum allowable rate will be the maximum rate allowed by the IRS (currently \$0.53.5 per mile).

Non-Travel Expense Limitations

- Long Distance and Cellular Telephone: Long distance and cellular telephone charges must be documented.
- Shipping, Courier, and Delivery Charges: All such claimed expenses must be documented.
- Postage Charges: A contemporaneous postage log or other supporting documentation must be maintained and submitted. Postage charges are to be reported at actual cost.
- Telefax Charges: Contemporaneous records should be maintained and submitted showing faxes sent and received. The per-fax charge shall not exceed \$1.00 per page.

- In-House Photocopy: A contemporaneous photocopy log or other supporting documentation must be maintained and submitted. The maximum copy charge is \$0.25 per page.
- Computerized Research: Claims for LEXIS or Westlaw, and other computerized legal research expenses should be in the exact amount charged to the firm for these research services by LEXIS or Westlaw.

Verification of Expenses

Attorneys shall keep receipts for all expenses. Credit-card receipts or monthly credit card statements are an appropriate form of verification. Hotel and restaurant costs must be proven by credit card statements, hotel invoice or restaurant bill. The description of unclaimed expenses on the statement or invoice may be redacted. Receipts need not be submitted on a monthly basis, but shall be maintained by the attorneys and may be requested later by Co-Lead Counsel or the Court as a condition of payment.

TIMING AND GENERAL INFORMATION

The first time and expense report must be submitted to the respective Co-Lead Counsel on or before March 15, 2017, and must include all time and expense entries from the inception of the case through January 31, 2017. Direct Purchaser Counsel and End-Payer Counsel shall maintain and submit their time and expense reports separate from one another.

Thereafter, Counsel shall submit time and expense reports on a monthly basis. Such reports shall be submitted no later than the last day of the month following the end of the month being reported. For example, February reports are due no later than March 31.

Each submission must include a certification by a senior partner or shareholder in the firm, attesting to the accuracy of the submission as to both time and expenses.

SUMMARY REPORTS

Each time and expense report submission should include a summary report, using the format applicable to Direct Purchaser or End-Payer Plaintiffs. The report should not be converted to any other format.

DETAILED REPORTS

Each monthly submission should include a detailed time report with:

- (1) the name and title of each person who performed common benefit work for the litigation during the reporting period;
- (2) an itemization of the number of hours each person worked each day during the reporting period, in tenth-of-an-hour increments, separated by task category; and
- (3) a detailed description of the work performed in relation to each task category on each day.

Each monthly submission should also include a detailed expense report that itemizes each expense incurred on each date, separated by expense category. Time and expense entries that are not sufficiently detailed will not be considered for payment.

It is so **ORDERED**.

BY THE COURT:


CYNTHIA M. RUFÉ, J.