

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

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<b>IN RE: AVANDIA MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION</b>	:	
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	:	<b>MDL No. 1871</b>
	:	<b>07-md-01871</b>

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<b>THIS DOCUMENT APPLIES TO: ALL ACTIONS</b>	:
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**PRETRIAL ORDER NO. 28**

In Pretrial Order No. 8 [Doc. No. 136], regarding the appointment and functions of the Special Discovery Master in this litigation, the Court stated:

. . . it is likely that matters will develop from time to time concerning the content of discovery that will require the resolution of disputes. Much of this can be promptly resolved at the time and at the place of its occurrence if there is available a capable, competent and dedicated neutral party in the person of a Special Discovery Master. While it is true that the parties can be expected to do their best to resolve these differences without judicial intervention, there will nevertheless be those instances when a more formal presentation to the Court will appear to be the only avenue to resolve differences. It is the Court's belief that the introduction of a General Discovery Special Master, who will be in a position to promptly and informally consider the views of the parties and attempt to mediate them, will be an invaluable aid to the overall administration of the case. If he is unable to succeed informally, he will be authorized to render a written decision and recommendation to the Court forthwith. This more formal second step will allow the parties to secure a written decision from the master after a fair and full review of the parties' respective positions, with either party thereafter having the right within ten (10) calendar days to appeal such ruling to the Court which will promptly consider the matter *de novo*.

As the foregoing framework suggests, it is the Court's intention that the parties will attempt to resolve discovery disputes by informally availing themselves of the services and resources provided by the Special Master in the first instance.

However, after a conference with Liaison Counsel and the Plaintiffs' Steering Committee on September 26, 2008, wherein counsel requested clarification of the procedures to be

followed in discovery motions practice, the Court agrees that establishing a process to govern discovery disputes which require more formal treatment is necessary. Accordingly, it is hereby **ORDERED** that the following procedures shall govern the filing of discovery motions in this MDL:

1. In accordance with the dictates of Pretrial Order No. 8 as set forth above, the parties shall first present any discovery disputes which they are unable to resolve to the Special Master for informal mediation efforts;

2. If, however, such efforts do not resolve a particular discovery dispute and a party wishes to submit the matter to the Special Master for a Report and Recommendation to the Court, the party may also, as it deems appropriate, file a discovery motion to the master docket in this MDL in accordance with the relevant Federal and Local Rules of Civil Procedure. Such filing will serve to notify the Court of the dispute and will also begin the standard response period of fourteen (14) days provided under the motions practice policies of this Court;

3. In the event a discovery motion is filed, if the parties eventually resolve the dispute through their efforts before the Special Master without need of a Report and Recommendation or other formal treatment of the related discovery motion, the party that filed the relevant motion shall withdraw it as moot forthwith;

4. However, if no such resolution is achieved, after the filing of a response in opposition to the motion, the matter will be considered submitted to the Special Master, who in due time will file his Report and Recommendation to the master docket in this MDL;

5. The filing of the Report and Recommendation will begin the parties' objection period pursuant to Pretrial Order No. 8 and Fed. R. Civ. P. 53, at the conclusion of which, the Court will consider all filings and make its ruling as to the Report and Recommendation.

It is so **ORDERED**.

**BY THE COURT:**

/s/ Cynthia M. Rufe

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**CYNTHIA M. RUFÉ, J.**