

**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:
ALL ACTIONS**

HON. CYNTHIA M. RUFÉ

**PRETRIAL ORDER NO. 71
(BRIEFING ON MOTIONS TO DISMISS)**

AND NOW, this 8th day of February 2019, as Plaintiffs and Defendants have met and conferred regarding appropriate page limitations and procedures for motion to dismiss briefing in all Lead Cases, and have reached a stipulation, it is hereby **ORDERED** that:

1. Teligent's Motions to Dismiss the Amended Econazole Complaints

a. On or before February 21, 2019, Teligent may file a single memorandum of law not to exceed 20 pages in support of its motions to dismiss the Direct-Purchaser Plaintiffs' ("DPP"), End-Payer Plaintiffs' ("EPPs") and Indirect-Reseller Plaintiffs' ("IRPs") Amended Econazole Complaints.

b. On or before May 2, 2019, the DPPs, EPPs and IRPs shall file a single, joint-memorandum of law not to exceed 20 pages in opposition to Teligent's motions to dismiss the Amended Econazole Complaints.

c. On or before June 13, 2019, Teligent shall file a single reply memorandum of law not to exceed 10 pages in further support of its motions to dismiss the Amended Econazole Complaints.

2. Defendants' Motions to Dismiss the Group 2 and 3 Complaints

a. On or before February 21, 2019, for each Group 2 and 3 drug, individual Defendants may file a single memorandum of law not to exceed 25 pages in support of their motions to dismiss the DPP, EPP and IRP complaints.

b. On or before May 2, 2019, the DPPs, EPPs and IRPs shall file joint-memoranda of law not to exceed 25 pages each in opposition to each of Defendants' individual motions to dismiss.

c. On or before June 13, 2019, Defendants shall file reply memoranda of law not to exceed 15 pages each in further support of each individual motion to dismiss.

3. Defendants' Common Motion to Dismiss the Sherman Act Claims in All Multi-Drug Complaints

a. On or before February 21, 2019, Defendants may file a single, joint-memorandum of law not to exceed 70 pages in support of their Common Motion to dismiss the Sherman Act claims in each of the States, DPP, EPP, IRP, Kroger, Humana and Marion Diagnostic multi-drug Complaints in accord with the requirements of paragraph 1(c) of PTO 61.

b. On or before May 2, 2019, Plaintiffs shall file oppositions to Defendants' Common Motion as follows:

i. The States, DPPs, EPPs, IRPs, Kroger and Humana shall file a single, joint memorandum of law not to exceed 25 pages that sets forth the applicable law; *and* each of the States, DPPs, EPPs, IRPs, Kroger and Humana shall file an additional memorandum not to exceed 25 pages to address each of their Complaints.

ii. Marion Diagnostic shall file a memorandum of law not to exceed 40 pages in opposition to Defendants' motion to dismiss.

c. On or before June 13, 2019, Defendants shall file reply memoranda of law as follows:

i. Defendants shall file either (1) a single, joint-reply memorandum of law not to exceed 35 pages in further support of their motions to dismiss; or (2) a single, joint-reply memorandum of law not to exceed 15 pages that sets forth the applicable law, *and*, single joint-reply memoranda of law not to exceed 15 pages each in response to each of the oppositions filed by the States, DPPs, EPPs, IRPs, Kroger and Humana.

ii. Defendants shall file a single, joint-reply memorandum of law not to exceed 25 pages in further support of their motion to dismiss the Marion Diagnostic Complaint.

4. Defendants' Additional Motion to Dismiss the States' Complaint

a. On or before February 21, 2019, Defendants may file a single, joint-memorandum of law not to exceed 30 pages in support of their motion to dismiss that addresses all matters relating to the States' federal claims other than the plausibility of the States' allegations. All argument relating to the plausibility of the States' allegations must be included in Defendants' Common Motion as provided in paragraph 3 above. Briefing on Count 19 of the States' Complaint (relating to state law claims) shall be deferred and coordinated with the EPP and IRP state law briefing, a schedule for which shall be set as contemplated in paragraph 1(e) of PTO 61.

b. On or before May 2, 2019, the States shall file a memorandum of law not to exceed 30 pages in opposition to Defendants' motion to dismiss that addresses all matters relating to the States' federal claims other than the plausibility of the States' allegations.

c. On or before June 13, 2019, Defendants shall file a joint-reply memorandum of law not to exceed 15 pages in further support of their motion to dismiss that addresses all matters relating to the States' federal claims other than the plausibility of the States' allegations.

5. Defendants' Individual Motions to Dismiss the Multi-Drug Complaints

a. On or before February 21, 2019, each Defendant may file a single, Individual Motion as contemplated in paragraph 1(d) of PTO 61 that is directed at one or more of the multi-drug Complaints. Memoranda of law in support of Individual Motions shall not exceed 15 pages.

b. On or before May 2, 2019, Plaintiffs shall file oppositions to Defendants' Individual Motions as follows:

i. The States, DPPs, EPPs, IRPs, Kroger and Humana shall be allowed 15 pages per Individual Motion that may be (1) combined in a joint-memorandum of law in opposition to the Individual Motion; or (2) divided at the discretion of the Plaintiffs and used for individual oppositions. In the event that the States, DPPs, EPPs, IRPs, Kroger or Humana elects to respond to the Individual Motions within their respective oppositions to the Common Motion they must clearly demarcate a section that responds to each Individual Motion and

any pages allocated for a response to a Defendant's Individual Motion cannot be used to respond to Defendants' Common Motion.

ii. Marion Diagnostic shall file memoranda of law not to exceed 8 pages per opposition to Defendants' Individual Motions.

c. On or before June 13, 2019 Defendants shall file reply memoranda not to exceed 10 pages in further support of each Individual Motion.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.