

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

IN RE: ZOLOFT (SERTRALINE HYDROCHLORIDE) PRODUCTS LIABILITY LITIGATION	: MDL NO. 2342 12-MD-2342
	: HON. CYNTHIA M. RUFÉ
THIS DOCUMENT RELATES TO: ALL ACTIONS	:

**JOINT PRETRIAL ORDER NO. 13:
PRELIMINARY DISCOVERY PLAN AND PROCEDURES**

1. SCOPE AND APPLICABILITY OF PLAN. This Preliminary Discovery Plan and Procedures (the “Plan”) is intended to conserve judicial and party resources, eliminate duplicative discovery, serve the convenience of the parties and witnesses, and promote the just and efficient conduct of this litigation. The Plan shall apply to all cases transferred to this Court by the Judicial Panel on Multidistrict Litigation (“Panel”), pursuant to its Order of April 17, 2012, any tag-along actions transferred to this Court by the Panel, and any related actions that have been or will be originally filed in, transferred to, or removed to this Court and assigned thereto as part of this MDL proceeding.

2. DISCOVERY UNDER THE PLAN. No party may conduct any initial discovery of another party not expressly authorized by the Plan absent further Order of this Court or express agreement of the parties. This provision and this Order shall not preclude or govern third-party discovery.

3. SERVICE OF DISCOVERY. Unless otherwise directed by this Court, the parties shall serve all papers that are not to be filed with the Court, including, but not limited to, disclosures under Federal Rule of Civil Procedure 26, Fact Sheets, deposition notices, interrogatories, requests for documents, requests for admission, responses thereto, and

certificates of service thereof, by electronic mail on Plaintiffs' Liaison and Lead Counsel and Defendants' Liaison and Lead Counsel. Such papers are not to be filed with the Clerk, nor are courtesy copies to be delivered to the Court, except when specifically ordered by the Court or to the extent needed in connection with a motion, and only in accordance with the protective order governing the MDL proceedings. Where a paper is applicable to all cases or substantially all cases, or such categories of cases as may be defined in subsequent Orders, Plaintiffs' Liaison Counsel also shall electronically serve such paper on counsel of record for the individual Plaintiff(s) to whom the paper is applicable. Where a paper to be served by a Defendant is applicable to a particular case, Defendants' Liaison Counsel shall electronically serve such paper on the counsel of record for the individual Plaintiff(s) in that case as well as Plaintiffs' Liaison and Lead Counsel. Where a paper to be served by one or more Plaintiffs is applicable to a particular case and a particular Defendant other than a Pfizer entity, Plaintiffs' Liaison Counsel shall electronically serve such paper on the counsel of record for the individual Defendant(s) as well as Defendants' Liaison and Lead Counsel.

4. PROTECTIVE ORDER. The protection of confidential documents and information and the inadvertent production of confidential and/or privileged information shall be subject to the terms of Pretrial Order No. 8 (Protective Order) [Doc. 215].

5. RECORDS COLLECTION. Upon consideration of the PSC and Defendants' joint request to designate one company to manage the collection, production and organization of medical records in the Zolofit cases, the Court finds that such an appointment will aid in the efficient management of this litigation.

It is ordered that Medical Research Consultants ("MRC"), headquartered in Houston, Texas is designated the medical record management company for the Zolofit MDL. All Counsel

shall use MRC for the collection, production and organization of medical records, whenever feasible, provided that where a medical records management company has previously been used to collect records in cases involving products other than Zoloft, the parties may continue to use that company. The following protocol shall be used:

a. Within 14 days of a record request from Pfizer, a Plaintiff shall provide Pfizer with an appropriate authorization or object to such request.

b. Upon receipt of a record collected pursuant to an authorization provided by a Plaintiff, MRC shall simultaneously notify counsel for Plaintiff and Defendant.

c. MRC shall not release the records to Pfizer until the earlier of: (1) 20 days after notice of receipt or (2) notification from Plaintiff's counsel to release the records. Plaintiff's counsel has 20 days to review the records and file a Motion objecting to the release of the records or to make appropriate redactions to the records. If a Motion is filed, the records shall not be released until MRC is notified by Plaintiff's counsel that the Motion has been resolved.

d. Records will be accessible through the records collection agent, and Defendants will not be required or expected to provide separate or additional copies thereof to Plaintiffs.

6. WAIVER OF INITIAL DISCLOSURES, WITHDRAWAL OF PENDING DISCOVERY. For all cases in the MDL proceedings, the parties are relieved from complying with the requirements of Federal Rule of Civil Procedure 26(a)(1). Any request for discovery or notice of deposition served in a case before it was transferred to the MDL proceedings is deemed withdrawn.

7. PROVISION OF FACT SHEET AND OTHER DOCUMENTS. The parties will submit, concurrently with this Proposed Discovery Plan and Procedures, a proposed Initial and Abbreviated Plaintiff's Fact Sheet ("Initial PFS"). The parties will continue to meet and

confer regarding the form and timing of any abbreviated Defendant Fact Sheet (“DFS”) to be provided by Pfizer. Within 60 days of entry of this Order, for each Party whose case has already been filed in or transferred to the MDL proceedings at that time, and, for all other cases, within 45 days of the transfer of the case to the MDL proceedings¹ or of the direct filing of a complaint in the MDL proceedings, a Plaintiff shall provide the following materials (hereinafter, “disclosures”) to the Defendants: (1) a completed Initial PFS, in the form attached as Exhibit A; (2) executed copies of authorizations for medical providers and other third-party custodians identified in the Initial PFS (Plaintiffs will not be required to sign blank authorizations); (3) copies of any of the Plaintiffs’ and/or Plaintiffs’ decedent’s medical records within their possession. If a Defendant wishes to obtain records from a custodian of records who will not accept the authorizations a Plaintiff has submitted, that Plaintiff will cooperate with the defendants and provide the necessary authorization(s) within 14 days of the initial request. This provision is intended to include, but is not limited to, requests for proprietary authorization and for authorizations involving records related to military service, Social Security, and Medicare records. Plaintiffs’ Liaison Counsel will notify each new Plaintiff of his/her obligations under this paragraph. All responses in an Initial PFS or an amendment thereto are binding on the Plaintiff as if they were contained in answers to interrogatories. Each Initial PFS and amendment thereto shall be signed and dated by the Plaintiff or the proper Plaintiff representative under penalty of perjury.

¹ A case shall be deemed transferred to the MDL proceedings either: (a) on the date that the certified copy of the Conditional Transfer Order issued by the JPML is entered in the docket of this Court; or (b) where transfer is contested, the date of transfer in any subsequent order from the JPML.

Procedures for Plaintiffs who do not timely serve required disclosures and for more in-depth discovery in certain select cases will be addressed by subsequent Order of the Court.

8. INITIAL MASTER WRITTEN DISCOVERY BY PLAINTIFFS.² Plaintiffs have served Initial Master Requests for Production on Pfizer. Defendants commenced production of responses to said 45 requests for production on August 13, 2012, and provided written responses and objections on September 21, 2012. Unless otherwise agreed by the parties or ordered by this Court, after the entry of this Order, the Plaintiffs may serve Master Interrogatories, and Master Requests for Admission on Pfizer and Initial Master Requests for Production, Master Interrogatories, and Master Requests for Admission on any other Defendant. These initial requests are not to exceed: 50 requests for production, 50 interrogatories, and 50 requests for admission, including all discrete subparts, except by leave of this Court upon good cause shown. Defendants' responses and objections shall be served within 60 days of service of the requests.

9. COURT REPORTER FOR DEPOSITIONS. Unless otherwise agreed to by the parties, Golkow Technologies will be used for court reporter and videographer services at depositions in the MDL proceedings. Golkow Technologies may also provide additional services to aid in the scheduling of and payment related to depositions on a case-by-case basis as agreed to in advance by the parties.

10. PRODUCTION AND DISCOVERABILITY OF EXPERT MATERIALS.
Each expert will produce his or her final report and a copy of all documents that the expert has


² Documents shall be produced pursuant to a Document Production Protocol agreed to by the parties or as Ordered by the Court. However, the fact that such a Protocol is not yet agreed to, filed or entered shall not delay the production of the above-described documents nor shall the production format of documents produced in accordance with this Order act as a waiver or be binding regarding any party's positions with regard to an appropriate Protocol.

considered in preparing and/or rendering the expert's opinion. No other documents relating to expert reports will be produced, provided, however, that nothing in this agreement is intended to bar discovery of documents that are otherwise discoverable from a party or third party outside of the context of expert discovery. No party will seek discovery of any experts' notes, drafts of expert reports, or communications with counsel, provided, however, that counsel may inquire at a deposition about any facts, data, or assumptions provided to the expert by counsel and upon which such expert is relying in expressing the expert's opinions. Each party also agrees to bear its own expert costs.

11. DISCOVERY DISPUTES. Unless the Court requests formal briefing, any discovery dispute – other than a dispute arising in the course of a deposition or involving invocation of a privilege or work product protection – will be submitted to the Court by letter as follows: (1) The movant will email to the Court and to Lead and Liaison Counsel for the opposing side a letter of not more than 7 doubled-spaced pages setting forth its position and certifying that the movant has in good faith conferred or attempted to confer with the party or person failing to make discovery in an effort to obtain it without court action; (2) The responding party may submit a responsive letter of no more than 7 doubled-spaced pages within 10 business days with a copy to opposing counsel; and (3) The movant may submit a reply of no more than 5 double-spaced pages within 7 business days of the responding letter.

IT IS SO ORDERED.

Dated:

October 17th, 2012 
HON. CYNTHIA M. RUFÉ

Through the undersigned counsel, the parties consent to entry of this Order:

Dated: October 15, 2012

/s/ Dianne M. Nast

Dianne M. Nast, Esquire
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Plaintiffs' Co-Lead Counsel

/s/ Mark P. Robinson

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Plaintiffs' Co-Lead Counsel

Dated: October 15, 2012

/s/ Mark S. Cheffo

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Defendants' Lead Counsel

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

IN RE: ZOLOFT (SERTRALINE
HYDROCHLORIDE) PRODUCTS : MDL NO. 2342
LIABILITY LITIGATION : 12-MD-2342
: HON. CYNTHIA M. RUFÉ

THIS DOCUMENT RELATES TO: :
MDL Case No. _____ :
Case Name: _____ :

INITIAL PLAINTIFF FACT SHEET

A. CASE INFORMATION - Please state the following for the civil action you filed:

- 1. Case caption: _____
- 2. Court in which case was originally filed: _____
- 3. MDL Case Number: _____
- 4. Principal Attorney name: _____
Firm: _____
Telephone number: _____ Fax number: _____
E-mail address: _____

B. PERSONAL INFORMATION FOR BIRTH PARENTS

- 1. Mother's Current full name: _____
First Middle Last
- 2. Mother's other names, including maiden names, nicknames, and aliases, you have used or by which you have been known, and the date(s) of use:

First Middle Last Date(s)

First Middle Last Date(s)
- 3. Mother's social security number (including any previous SSNs if applicable):

- 4. Mother's Date of Birth: _____
- 5. Father's Current full name: _____
First Middle Last

7. **Daycare Facilities or Schools.** For each daycare facility, school or similar facility or institution the Minor Plaintiff has attended, please complete:

D. FAMILY INFORMATION

1. To your knowledge, have any of the following **biologically-related** relatives of the Minor Plaintiff had a congenital birth defect or abnormality:

Mother		
Father		
Siblings or half-siblings		
Grandparents		
Aunts and uncles		
First cousins		
Nieces and nephews		

E. ALLEGED INJURIES AND DAMAGES

1. For each injury that you believe the Minor Plaintiff sustained as a result of the Mother Plaintiff's ingestion of Zoloft or sertraline hydrochloride, please provide the following and attach all medical records related to the injuries (you may not rely on your provision of authorizations for records and must either respond fully below or attach all records):

2. List each procedure or operation that has been undertaken or scheduled to correct or treat any of the injuries alleged in the immediately preceding section and attach all medical records related to the procedures (you may not rely on your provision of authorizations for records and must either respond fully below or attach all records):

F. HEALTH AND MEDICAL HISTORY FOR MOTHER PLAINTIFF

1. **Zoloft/sertraline hydrochloride – Prescribing Healthcare Providers.** Identify each Healthcare Provider who ever prescribed (or provided samples of) Zoloft or sertraline hydrochloride to the Mother Plaintiff. If you do not know the name of the Healthcare Provider, please identify the Healthcare Facility. Attach additional pages as necessary.

2. **Zoloft Monograph.** If you are asserting any claim based upon any Zoloft patient education monograph information that you received (e.g., a leaflet provided with your prescription or written information provided by your doctor or nurse), either: (a) provide copies of any such information you received, or (b) describe the information, including number of pages, whether it included your name or your healthcare provider’s name, any statements it included that you believe were inaccurate or incomplete, and why you believe Wolters Kluwer Health wrote or published the information.

3. **Healthcare Providers.** Identify each Healthcare Provider (not listed above) with whom the Mother Plaintiff consulted or who examined the Mother Plaintiff for any mental or physical illness, injury, condition, or disability from two years prior to the birth at issue through the birth. If you do not know the name of the Healthcare Provider, please identify the Healthcare Facility. Attach additional pages as necessary.

4. **Pharmacies.** Provide the following information for all pharmacies at which the Mother Plaintiff filled prescriptions for medications, specifically including but not limited to those pharmacies at which the Mother Plaintiff filled prescriptions for Zoloft or sertraline hydrochloride, from two years prior to the birth of the Minor Plaintiff through one year after the birth. This includes all drug stores, supermarkets, hospital pharmacies, or any other location from which medications were purchased or obtained. Attach additional pages as necessary (alternatively, provide all pharmacy records described).

5. **Medications.** Please provide the following information for any type of non-prescription medication, drug, or dietary supplement, either prescribed, including vitamins, herbal preparations, and prenatal vitamins (collectively, "Medication"), that the Mother Plaintiff took from two years prior to the Minor Plaintiff's birth through the birth. Attach additional pages as necessary.

[Redacted]	

6. **Mental Health Issues.** Please provide the following information for the Mother Plaintiff's mental health issues from two years prior to the birth at issue through the birth. Attach additional pages as necessary.

[Redacted]			

7. **Pregnancies.** For each and every pregnancy the Mother Plaintiff has ever had, regardless of whether the pregnancy resulted in birth, provide the following. Attach additional pages as necessary.

[Redacted]		
[Redacted]		
[Redacted]		
[Redacted]		
[Redacted]		

8. **Diabetes** – Was the Mother Plaintiff ever diagnosed with or treated for diabetes?

Yes ___ No ___

If YES, when: _____

Who made the diagnosis: _____

Address: _____

I declare under penalty of perjury that all of the information provided in this Plaintiff Fact Sheet is true and correct to the best of my knowledge, information, and belief, and that I have supplied all the documents requested in this Plaintiff Fact Sheet, to the extent that such documents are in my possession or in the possession of my lawyers, and that I have supplied the authorizations attached to this declaration.

Further, I acknowledge that I have an obligation to supplement the above responses if I learn that they are in some material respects incomplete or incorrect.

Further, by signing below, I waive notice under the Federal Rules of Civil Procedure, or other applicable law or rule, of subpoenas or other requests for production of medical records directed to Healthcare Providers identified in this Plaintiff Fact Sheet.

Plaintiff's Name (Signature)

Date

Plaintiff's Name (Printed)