

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE: TESTOSTERONE REPLACEMENT
THERAPY PRODUCTS LIABILITY
LITIGATION

Case No. 1:14-cv-1748
MDL No. 2545

Hon. Matthew F. Kennelly

THIS DOCUMENT RELATES TO ALL
CASES

**JOINT STATUS REPORT
FOR THE DECEMBER 8, 2014 CASE MANAGEMENT CONFERENCE**

The Court's October 24, 2014 case management conference and corresponding minute entry directed liaison counsel for Plaintiffs and Defendants to file this joint report regarding the status of the parties' discussions, agreements, and disagreements on the proposed agenda items for the December 8, 2014 case management conference. Since the last case management conference, the parties conferred and made progress toward agreement on the agenda items, as follows:

Status of AbbVie/Abbott document productions: Pursuant to CMO 13, AbbVie has produced nearly 500,000 pages of NDA/IND related regulatory materials, which commenced on November 14, 2014. The balance of the NDA/IND related regulatory materials will be produced on or before December 15, 2014. AbbVie is also producing certain corporate organization and retention-related documents responsive to both Plaintiffs' First Request for Production and 30(b)(6) deposition production requests. Though AbbVie's search term negotiations with Plaintiffs in this litigation is still ongoing, AbbVie expects to commence on December 12, 2014 a rolling production of certain custodial files subject to search terms that have been agreed upon in other state court litigations.

Status of non-AbbVie/Abbott defendant document productions: The five non-AbbVie defendants (Auxilium, Eli Lilly, Pfizer, Actavis, and Endo Pharmaceuticals) have also begun their rolling productions of NDA/IND related regulatory materials.

Medical Mutual of Ohio class case: The MDL PSC has filed a Third Party Payor case against most, but not all, of the MDL Defendants based on the federal RICO statute. Some but not all of the Defendants have been served.

Proposals for the State-Federal Coordination Order: Since the last case management conference, Defendants and Plaintiffs exchanged revised drafts of their orders but were not able to reach agreement. The parties filed their submissions, as well as their proposed orders, on December 3, 2014.

Status of deposition protocol: The parties have exchanged drafts of the proposed Deposition Protocol Order and have held multiple meet and confers regarding the issues in dispute. The parties have made some progress and believe further meet and confers will further narrow the issues in dispute. To the extent disputed issues remain after these further meet and confers, the parties expect to present those issues to the Court shortly after the December 8 case management conference.

Status of search term negotiations: On November 1, AbbVie made an initial search term proposal which was based on the implementation of a context-sensitive search structure that would target documents containing any one of 22 product identifiers (broadly defined) and any one of 38 terms relating to Plaintiffs' alleged adverse events.¹ On November 4, Plaintiffs made their initial search term proposal, which included 631 search terms and categories of search terms, each of which would be run independently. On November 19, the parties exchanged revised search term proposals. On November 24, the parties held a meet and confer. The parties agreed that AbbVie would craft a response to Plaintiffs' revised proposal that would broadly identify AbbVie's concerns about certain categories of terms that remain in Plaintiffs' revised proposal. AbbVie's response is forthcoming.

Master complaint/answer: In the event the Court denies part or all of Defendants' motion to dismiss, the parties intend to discuss the possibility of using a master complaint and master answer.

Status of case management order on service: The parties are close to an agreement and hope to submit a case management order to the Court by the date of the status conference.

Non-AbbVie Case Management Plan: The PSC and defendants Auxilium Pharmaceuticals, Inc. ("Auxilium"); Eli Lilly and Company and Lilly USA, Inc. (collectively "Lilly"); Actavis, Inc., Actavis Pharma, Inc., Anda, Inc., Watson Laboratories, Inc., a Nevada corporation, and Watson Laboratories, Inc., a Delaware corporation (collectively "Actavis"); Pfizer Inc and Pharmacia & Upjohn Company LLC (collectively "Pfizer") and Endo Pharmaceuticals, Inc. ("Endo") (collectively, the "Principal Non-

¹ This search term structure and set of terms were subsequently adopted by an attorney for the Cook County Plaintiffs.

AbbVie Defendants”) are negotiating a case management plan governing merits discovery by Plaintiffs against the Principal Non-AbbVie Defendants. The parties are optimistic they will either reach an agreement or narrow the issues in dispute before the December 8, 2014 status conference.

Status of Court website: Counsel for the parties have conferred on the potential revisions to the Court’s website. After careful review, the parties only have one requested change to the website: for PDFs of all orders to be available directly on the website, which will make it much easier for any non-participants that are tracking the lawsuit or who do not have Pacer accounts to get access to these materials.

Dated: December 4, 2014

Respectfully submitted,
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CERTIFICATE OF SERVICE

I, Marissa S. Ronk, hereby certify that on December 4, 2014, the foregoing document was filed via the Court's CM/ECF system, which will automatically serve and send email notification of such filing to all registered attorneys of record.

/s/ Marissa S. Ronk