

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

**IN RE: ABBOTT LABORATORIES, ET
AL., PRETERM INFANT NUTRITION
PRODUCTS LIABILITY LITIGATION**

This Document Relates to All Actions

MDL No. 3026

Master Docket No. 1:22-CV-00071

Judge Rebecca R. Pallmeyer

**CASE MANAGEMENT ORDER NO. 13: Reappointment of
Plaintiffs' Leadership Committee**

Upon its independent review and for good cause shown, the Court reappoints leadership for this MDL as detailed below.

I. Applicability of this Order

This Order shall govern practice and procedure before this Court regarding *In re: Abbott Laboratories, et al., Preterm Infant Nutrition Products Liability Litigation*, MDL No. 3026 and all related actions that have been or will be filed in, transferred to, or removed to this Court and assigned to this MDL. This Order is binding on all parties and their counsel in all cases that are or will be made part of this MDL.

II. General Provisions and Responsibilities of Counsel

All appointments to the Plaintiffs' Leadership Committee ("PLC") made in this Order are personal to the individual attorney appointed. While the Court has considered the PLC's members' resources and expects that they will draw upon their firms and co-counsel to assist them with their duties and funding obligations, each member is personally responsible for those duties and obligations.

It is intended and expected that—as to all matters common to the coordinated cases, and to the fullest extent consistent with the independent fiduciary obligations owed by all Plaintiffs' counsel to their respective clients—pretrial proceedings shall be conducted by and through the appointed leadership. No pleadings or other papers shall be filed, or discovery conducted concerning liability, on behalf of all Plaintiffs except as prepared by or on behalf of the PLC as set forth in this Order.

Counsel are directed to familiarize themselves with the Manual for Complex Litigation (Fourth), so they may suggest procedures that will facilitate the just, speedy, and inexpensive determination of this litigation. *See* Fed. R. Civ. P. 1. Counsel are also directed to familiarize themselves with the local rules for this District and the Case Management Orders entered in this MDL.

The Court recognizes that cooperation by and among Plaintiffs' counsel is essential for the orderly and expeditious resolution of this litigation. The communication of information among and between Plaintiffs' counsel shall not be deemed a waiver of attorney-client privilege or the attorney-work-product doctrine. Cooperative efforts by Plaintiffs' counsel to advance the litigation, either before or during the proceedings of this MDL, shall in no way be used against any Plaintiff by any Defendant.

III. Plaintiffs' Leadership Committee Appointments

The Court previously reviewed the application materials of counsel seeking to serve in leadership positions and the update it directed Co-Lead Counsel to provide at the December 19, 2024 status hearing. The Court makes the following appointments based on the criteria set forth in the Manual for Complex Litigation, specifically: (a) willingness and availability to commit to a time-consuming project; (b) ability to work cooperatively with others; (c) professional experience in this type of litigation; and (d) access to sufficient resources to advance the litigation in a timely manner.

A. Plaintiffs' Co-Lead Counsel

Timothy J. Becker
Johnson // Becker, PLLC

C. Andrew Childers
Levin, Papantonio, Proctor,
Buchanan, O'Brien, Barr &
Mougey, P.A.

Diandra S. Debrosse
DiCello Levitt

Wendy Fleishman
Lieff, Cabraser, Heimann &
Bernstein, LLP

José M. Rojas
Levin, Rojas, Camassar & Reck,
LLC

The Co-Leads are responsible for coordinating Plaintiffs' activities during these consolidated proceedings and shall:

1. Structure the leadership through formal or informal committees, subcommittees, and working groups as they deem appropriate and adjust the structure as the litigation develops over time;
2. Call meetings of the PLC and/or non-PLC Plaintiffs' counsel for any appropriate purpose;
3. Provide periodic updates to non-PLC Plaintiffs' counsel concerning the status of the litigation as needed;
4. Respond to inquiries from non-PLC Plaintiffs' counsel regarding this litigation;
5. Monitor the activities of the PLC and other co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;
6. Consult upon and determine the Plaintiffs' position on all matters arising during these consolidated proceedings;
7. Sign and file all pleadings that relate to all actions and/or direct other members for the PLC to file on its behalf;
8. Coordinate the scheduling and conduct of all pretrial discovery on Plaintiffs' behalf including issuing in the name of all Plaintiffs the necessary discovery requests, motions, and subpoenas pertaining to witnesses and documents needed to properly prepare for the pretrial discovery of relevant issues;
9. Prepare protocols and schedules for discovery and the develop platforms to allow for equitable and efficient use of discovery secured through this MDL;
10. Initiate, coordinate, and conduct (or designate others to do so) the requisite meet and confers with Defendants, confer with Defendants regarding procedural matters, and negotiate stipulations with Defendants regarding this MDL;
11. Identify witnesses to be noticed for deposition and determine the lead examiner(s) for each noticed deposition;
12. Suggest, in consultation with Defendants, the ordering, priority, and response to all motions and other case-management issues;
13. Establish and maintain a depository for orders, pleadings, hearing transcripts, and all documents served upon the PLC, and make such papers available to non-PLC Plaintiffs' counsel (or any *pro se* Plaintiffs) upon reasonable request;
14. Establish a common-benefit assessment to fund the litigation from the attorneys appointed to leadership and serve as treasurer for common-benefit assessments and

expenditures, maintaining records of receipts and disbursements advanced, received, or paid;

15. Delegate specific tasks to the appointed leadership or to other non-PLC counsel to ensure that pretrial preparation for Plaintiffs is conducted efficiently and effectively, including selection of trial team(s) for bellwether cases;
16. Consult with and employ consulting and testifying experts as necessary;
17. Suggest, in consultation with Defendants, the appointment of special master(s) under Rule 53;
18. Conduct settlement negotiations on Plaintiffs' behalf;
19. Determine whether changes to the leadership structure are appropriate as the litigation progresses; and
20. Perform such other duties as may be necessary for effective and efficient coordination of Plaintiffs' pretrial activities or authorized by further order of the Court.

Co-Lead Counsel shall also have the authority to retain the services of any attorney not part of the leadership to perform any common-benefit work, provided the attorney so consents and is bound by the PLC's compensation structure.

Determination of any matter falling within the scope of Co-Lead Counsel's duties shall be through mutual consultation. If efforts to align positions fail, final decisions shall be by a majority vote of the Co-Leads.

B. Plaintiffs' Executive Committee

The Court appoints the following attorneys to serve on the Plaintiffs' Executive Committee:

David P. Matthews
Matthews & Associates

James R. Ronca
Anapol Weiss

Matthew J. Sill
Fulmer Sill

Ashlie Case Sletvold
Peiffer Wolf Carr Kane
Conway & Wise

Diane K. Watkins
Wagstaff & Cartmell

The Executive Committee shall consult regularly with the Co-Leads to suggest and advise on strategy and priorities for advancing the litigation. The members of the Executive Committee shall carry out all work assigned to them by the Co-Leads.

C. Plaintiffs' Steering Committee

The Court appoints the following attorneys to serve on the Plaintiffs' Steering Committee:

Russell T. Abney
Watts LLP

Alyson Steele Beridon
Herzfeld Suetholz Gastel
Liniski & Wall, PLLC

Gerald J. Diaz, Jr.
Diaz Law Firm

Deborah S. Dixon
The Dixon Firm

James R. Dugan, II
Dugan Law Firm, APLC

Elizabeth A. Kaveny
Kaveny & Kroll

Kristine K. Kraft
Schlichter Bogard LLP

Noah C. Lauricella
Goldenberg Lauricella PLLC

Ellen A. Presby
Ferrer Poirot Feller

Pearl A. Robertson
Irpino Avin & Hawkins

John F. Romano
Romano Law Group

The members of the Steering Committee shall carry out all work assigned to them by the Co-Leads.

IV. Additional Provisions

All timekeepers carrying out work for Plaintiffs' common benefit who may look to any common-benefit fund or agreement for reimbursement or compensation are subject to the provisions of Case Management Order No. 9 (ECF No. 200). The Court is mindful that counsel within the PLC will fund the common-benefit litigation and that each of the members of the PLC have warranted their ability and willingness to fund the litigation as determined by the Co-Leads. The failure of any member of the PLC to meet any of the advance-funding obligations as determined by the Co-Leads may constitute grounds for removal from the PLC.

If circumstances warrant, the Court may add or replace members of the leadership at any time upon its own motion or request from a majority of the Co-Leads. Unless otherwise modified by the Court, all appointments are for one year and subject to annual renewal. Should the Co-Leads determine that modifications to the PLC are not needed in a given year, they shall submit a notice to that effect. Should the Co-Leads determine that members should be added to or removed from the slate, they shall submit, *in camera*, a brief description of the basis for the alterations along with a

proposed order. Any such submissions shall be made at least two weeks before the annual renewal date.

SO ORDERED.

Dated: January 13, 2025



REBECCA R. PALLMEYER
United States District Judge
Northern District of Illinois