

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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)	MDL Docket No. 2023
IN RE: BAYER CORP. COMBINATION ASPIRIN)	
PRODUCTS MARKETING AND SALES)	09 Md. 2023 (BMC) (JMA)
PRACTICES LITIGATION)	
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)	FILED
)	IN CLERK'S OFFICE
)	U.S. DISTRICT COURT E.D.N.Y.
THIS DOCUMENT APPLIES TO ALL CASES)	★ JUN 8 - 2009 ★
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)	BROOKLYN OFFICE

CASE MANAGEMENT ORDER NO. 1

IT IS HEREBY ORDERED THAT:

A. Organization of Plaintiffs' Counsel

1. ***Plaintiffs' Co-Lead Counsel.*** Michael A. London of Douglas & London, P.C. and Elizabeth A. Fegan of Hagens Berman Sobol Shapiro LLP shall serve as Co-Lead Counsel of the PSC. In addition, Michael A. London will also serve as Plaintiffs' liaison counsel.

2. ***Plaintiffs' Committees.*** Further, this Court hereby appoints a Plaintiffs' Executive Committee and a Plaintiffs Steering Committee ("PEC" and "PSC" respectively) which shall consist of the following attorneys and their respective law firms:

Plaintiffs Executive Committee ("PEC") Members:

Michael A. London
Douglas & London, P.C.
111 John Street, 14th Floor
New York, NY 10038
Ph: (212) 566-7500
Fax: (212) 566-7501
Email: mlondon@douglasandlondon.com

Andres F. Alonso
Parker Waichman Alonso LLP
111 Great Neck Road, 1st Floor
Great Neck, NY 11021
Ph: (516) 466-6500
Fax: (516) 466-6665
Email: aalonso@yourlawyer.com

Elizabeth A. Fegan
Hagens Berman Sobol Shapiro LLP
820 North Blvd., Suite B
Oak Park, IL 60301
Ph: (708) 776-5604
Fax: (708) 776-5601
Email: beth@hbsslaw.com

Christine M. Ford
Meiselman, Denlea, Packman,
Carton & Eberz P.C.
1311 Mamaroneck Avenue
White Plains, NY 10605
Ph: (914) 517-5000
Fax: (914) 517-5055
Email: cford@mdpcelaw.com

James G. Onder
Onder, Shelton, O'Leary & Peterson, LLC
110 East Lockwood
St. Louis, MO 63119
Ph: (314) 963-9000
Fax: (314) 963-1700
Email: onder@onderlaw.com

Daniel E. Becnel
Becnel Law Offices
106 W 7th Street
Reserve, LA 70084
Ph: (985) 536-1186
Fax: (985) 536-6445
Email: dbecnel@becnellaw.com

Plaintiffs Steering Committee ("PSC") Members:

W. Lewis Garrison
Heninger Garrison Davis
2224 1st Avenue North
Birmingham, AL 35203
Ph: (205) 326-3336
Fax: (205) 326-3332
Email: wlgarrison@hgdllawfirm.com

David J. Cohen
Saltz Mongeluzzi Barrett & Bendesky, P.C.
One Liberty Place, 52nd Floor
1650 Market Street
Philadelphia, PA 19103
Ph: (215) 575-3985
Fax: (215) 496-0999
Email: dcohen@smbb.com

Scott Wm Weinstein
Morgan & Morgan, P.A.
12800 University Drive, Suite 600
Fort Myers, FL 33907
Ph: (239) 433-6880
Fax: (239) 433-6836
Email: sweinstein@forthepeople.com

Alexander M. Schack
Law Offices of Alexander M. Schack
16870 West Bernardo Drive, Suite 400
San Diego, CA 92127
Ph: (858) 485-6535
Fax: (858) 485-0608
Email: alexschack@amslawoffice.com

Daniel J. Mogin
The Mogin Law Firm P.C.
110 Juniper Street
San Diego, CA 92101
Ph: (619) 687-6611
Fax: (619) 687-6610
Email: dan@moginlaw.com

Craig Mielke
Foote, Meyers, Mielke & Flowers, LLC
28 North First Street, Suite 2
Geveva, IL 60134
Ph: (877) 221-2511
Fax: (630) 845-8982
Email: cmielke@foote-meyers.com

3. ***Duties of Co-Lead Counsel.*** It shall be Co-Lead Counsel's duty to coordinate the responsibilities of the PEC and PSC, schedule PEC and PSC meetings, keep minutes or transcripts of these meetings, appear at periodic court noticed status conferences, and to perform other necessary administrative or logistic functions to ensure the functions of the PEC and PSC are conducted in an efficient and professional manner or any other duty as the Court may order. Co-Lead counsel duties include coordinating the efforts of the PEC and PSC in conducting the litigation, including but not limited to the following:

Discovery

- a. Initiate, coordinate, and conduct all pretrial discovery on behalf of all Plaintiffs who file civil class actions in this Court or that are transferred to this Court pursuant to 28 U.S.C. § 1407 related to Bayer Aspirin with Heart Advantage and/or Bayer Women's Low-Dose Aspirin, Plus Calcium.
- b. Develop and propose to the Court schedules for the commencement, execution, and completion of all discovery on behalf of all Plaintiffs and the putative Class.
- c. Initiate, coordinate, and cause to be issued in the name of all Plaintiffs and the putative Class the necessary discovery requests, motions, and subpoenas pertaining to any witness and documents needed to properly prepare for class

certification and the pretrial of relevant issues found in the pleadings of this litigation.

- d. Conduct all discovery in a coordinated and consolidated manner on behalf of and for the benefit of all Plaintiffs and the putative Class.

Motion Practice and Hearings

- e. Submit any motions presented to the Court or Magistrate on behalf of all Plaintiffs and the putative Class as well as oppose when necessary any motions submitted by the Defendant or third parties.
- f. Examine or designate other counsel to examine witnesses and introduce evidence at hearings on behalf of Plaintiffs and the putative Class.
- g. Act or designate other counsel to act as spokesperson(s) for Plaintiffs and the putative Class at pretrial proceedings and in response to any inquiries by the Court.

Contact with Defense Counsel

- h. Initiate, coordinate and conduct the requisite meet and confers with Defendant, confer with Defendant regarding procedural matters, and negotiate and enter into stipulations with Defendant regarding this litigation.
- i. Explore or designate other counsel to explore, develop, and pursue settlement options with Defendant on behalf of Plaintiffs and the putative Class.

Oversight of the PEC and PSC

- j. Call meetings of counsel for Plaintiffs for any appropriate purpose.

- k. Monitor the activities of the PEC, the PSC and other co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided.

4. All communications from Plaintiffs or the putative Class with the Court should be through Co- Lead Counsel or Liaison Counsel. If circumstances require direct correspondence with the Court by an individual counsel, copies of any said communications shall simultaneously be served upon Plaintiffs' Co-Lead Counsel and Liaison Counsel.

5. ***Plaintiffs' Liaison Counsel.*** The responsibilities of Plaintiffs' Liaison Counsel shall be the following:

- a. To serve as the recipient for all Court Orders;
- b. To coordinate services and filings;
- c. To maintain and distribute to co-counsel and to Defendant's Counsel an up-to-date service list;
- d. To make himself available for any telephone conferences convened by the Court and to communicate the substance of any such conference to all other Plaintiffs' counsel;
- e. To receive and distribute pleadings, Orders, and motions;
- f. To maintain and make available to all Plaintiffs' counsel of record at reasonable hours a complete file of all documents served by or upon each party (except such documents as may be available at a document depository); and
- g. To carry out such other duties as the Court may Order.

B. Organization of Defense Counsel

6. *Defendants' Lead Counsel.* Adam L. Hoeflich of Bartlit Beck Herman Palenchar & Scott, LLP, located at 54 West Hubbard Street, Suite 300, Chicago, Illinois 60654, is hereby designated Lead Counsel for Defendants. Mr. Hoeflich's phone number is (312) 494-4473 and his email address is adam.hoeflich@bartlit-beck.com.

7. *Defendants' Liaison Counsel.* Scott M. Zimmerman at Heidell, Pittoni, Murphy & Back, LLP, located at 99 Park Avenue, New York, NY 10016, is hereby designated Liaison Counsel for Defendants. Mr. Zimmerman's phone number is (212) 471-4682 and his email address is szimmerman@hpmb.com.

SO ORDERED.

s/BMC

U.S.D.J.

Dated: Brooklyn, New York
June 5, 2009