

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE PLAVIX® PRODUCT LIABILITY
AND MARKETING LITIGATION**

**Docket No. 13-cv-02418-FLW-TJB
ALL CASES**

MDL CASE MANAGEMENT ORDER NO. 1

AND NOW, this 16th day of July 2013, upon consideration of the Order of the Judicial Panel on Multidistrict Litigation (the “Panel”) transferring federal Plavix® cases to this Court pursuant to 28 U.S.C. § 1407(a), and it appearing that the Court held an in-person status conference on July 12, 2013, wherein counsel for the parties appeared; having considered the parties’ submissions in connection with the status conference and counsel’s comments, it is hereby **ORDERED** as follows:

1. APPLICABILITY OF ORDER. This Order shall govern the practice and procedure in: (a) the actions transferred to this Court by the Panel pursuant to its order of February 12, 2013 (“Transfer Order”), (b) any “tag-along” actions transferred to this Court by the Panel, and (c) all related actions filed directly in this Court or transferred or removed to this Court (collectively, the “MDL Proceedings.”). All subsequent orders of this Court with the designation “All Cases” entered in MDL No. 2418 shall likewise apply to all cases that are, or become, part of this MDL, regardless of whether that case was part of MDL No. 2418 when the order was entered.

2. MASTER DOCKET FILE. All papers filed in these actions shall bear the identification “Docket No. 13-CV-02418-FLW-TJB” (the “Master Case File”), and when such

paper relates to all these actions, the Master Case File docket number shall be followed only by the notation "ALL CASES." If such paper does not relate to all of these actions, the individual docket numbers assigned by the Clerk of this Court of those actions to which the paper relates shall also be listed. If such paper relates to five or fewer actions, the abbreviated caption of each of the actions may be listed opposite its number. If the pleading relates to a single action, the pleading should be filed in the individual case file. If the pleading relates to two or more actions, it should also be filed in the Master Case File. Documents which relate to all cases should be filed under the Master Case File docket number and not the docket number of each individual case that is part of these proceedings.

3. ELECTRONIC FILING. All documents submitted to the Court must be electronically filed through this Court's Electronic Filing System. All counsel responsible for filing documents with this Court or who wish to receive notice of filings must register for the Electronic Filing System. All such counsel in any of the actions already before this Court must so register if they have not already done so. Counsel for any action subsequently filed in, removed, or transferred to this Court must register for the Electronic Filing System within fourteen days from the date of such filing, removal, or transfer. Courtesy copies of all motion papers should be mailed directly to chambers and marked "Courtesy Copy."

4. SERVICE. Service of all papers shall be made on Defendants' Lead Counsel and each member of the Plaintiffs' Steering Committee. Papers that relate to specific cases, as opposed to all actions or the litigation generally, shall also be served on Plaintiffs' counsel of record in such cases. Service by electronic mail shall be deemed sufficient unless any counsel affirmatively "opts out" of this provision by providing notice to Defendants' Lead Counsel and each member of the Plaintiffs' Steering Committee.

5. COUNSEL. Counsel whose law firm appeared in the transferor court prior to transfer need not enter a separate appearance before this Court. No parties to any of these actions shall be required to obtain local counsel in this district and the requirements of Local Civil Rule 101.1 are waived as to any attorney appearing in these actions who is duly admitted to practice before any United States Court.

6. PENDING DISPUTES AND DISCOVERY SCHEDULING

a. **PERSONAL INJURY CASES.** Most of the Plaintiffs in this litigation are part of multiple-plaintiff cases removed to the Northern District of California and in which remand motions are pending.

The Parties shall brief these jurisdictional issues in connection with the cases removed to the Northern District of California in accordance with the following schedule:

- Plaintiffs shall file an omnibus motion to remand no later than July 26, 2013.
- Defendants shall file an omnibus opposition to such motion no later than August 16, 2013.
- Plaintiffs may file an omnibus reply brief no later than August 21, 2013.

If the Court wishes to hold argument on the motion, it will set an argument date following completion of briefing. Following the Court's ruling on such motion, these Parties shall meet and confer concerning discovery scheduling and present a joint proposal to the Court. As these Parties' discussions may be informed by the ruling on such motion, the Parties shall have 60 days following such ruling to present a joint proposal to the Court. If the Parties do not agree, representatives for Plaintiffs and Defendants each shall submit separate proposals on or before the aforementioned date.

In the interim, and in light of the fact that cases are pending in which jurisdiction is not contested, counsel for the opposing parties will continue to meet and confer regarding an agreement as to a document discovery protocol, Fact Sheets, and a protective order. The Parties will apprise the Court of the status of said discussions at or before the next scheduled status conference.

b. SALES AND MARKETING CASES. In the case styled *United States ex rel. Dickson v. Bristol-Myers Squibb Co. et al.*, No. 3:13-cv-1039, currently pending is a motion for reconsideration (ECF No. 72) and a fully briefed motion for suggestion of remand (ECF No. 77). Following the Court's ruling on those motions, if the case is not remanded, the Parties shall meet and confer concerning a joint proposed discovery plan and schedule and shall submit the same to the Court no later than 30 days following such rulings. If the Parties do not agree, representatives for Plaintiffs and Defendants each shall submit a proposed plan and schedule to the Court on or before the aforementioned date.

In the case styled *State of West Virginia ex rel. McGraw v. Bristol-Myers Squibb Co.*, No. 3:13-CV-1603, currently pending is a fully briefed motion for remand (ECF No. 12). Following any ruling on that motion sustaining jurisdiction, the Parties shall meet and confer concerning a joint proposed discovery plan and schedule and shall submit the same to the Court no later than 30 days following such ruling. If the Parties do not agree, representatives for Plaintiffs and Defendants each shall submit a proposed plan and schedule to the Court on or before the aforementioned date.

7. ORGANIZATION.

a. PLAINTIFFS' STEERING COMMITTEE. Following the Court's rulings on said jurisdictional issues, Plaintiffs' counsel shall confer and designate a Plaintiffs' Steering Committee or similar leadership structure of the Plaintiffs' Counsel. In the interim, Plaintiffs' Liaison Counsel, to coordinate with and facilitate communications among Plaintiffs' counsel in this litigation, shall be Robert L. Salim of Salim-Beasley, LLC, until the next scheduled status conference.

b. DEFENDANTS' LEAD COUNSEL. Defendants' Lead Counsel shall be Anand Agneshwar of Arnold & Porter LLP. Defendants' Lead Counsel will have the authority to bind and/or act on behalf of all Defendants. Should it appear necessary as proceedings progress, the Court may appoint Defendants' Liaison Counsel to coordinate with and facilitate communications among Defendants' counsel in this litigation.

8. STATUS CONFERENCES. Status conferences shall be held approximately every 6 weeks, on a date selected by the Court, or at such other time as the Court may order. The Parties shall meet and confer at least 10 days prior to each future status conference to attempt to agree upon a proposed agenda for the conference. Not fewer than 3 business days prior to the conference, the Parties shall submit to the Court letters outlining possible agenda items and include a short statement of the issues involved and the positions of the Parties with respect to each such agenda item.

WHEREFORE, IT IS ORDERED that oral argument on Defendants' motion for partial reconsideration (Doc. # 72) and Plaintiff's motion for suggestion of remand (Doc. # 77) in *United States ex rel. Dickson v. Bristol-Myers Squibb Co. et al.*, No. 3:13-cv-1039; and on Plaintiff's motion to remand in *State of West Virginia ex rel. McGraw v. Bristol-Myers Squibb*

Co., No. 3:13-CV-1603 (Doc. # 12) shall be held on the 21st day of August, 2013, at 10:00 A.M.,
Courtroom 5E, U.S. Courthouse, 402 East State Street, Trenton, NJ 08608.

It is so **ORDERED**.

BY THE COURT:

/s/ Freda L. Wolfson
HON. FRED A L. WOLFSON