

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE CELEXA AND LEXAPRO) MDL DOCKET NO. 1736
PRODUCTS LIABILITY LITIGATION) ALL CASES

SECOND NOTICE OF FILING PROPOSED
PRACTICE AND PROCEDURE ORDER
AND PROTECTIVE ORDER

Pursuant to this Court's Order dated July 7, 2006 (Dckt. 35), the parties hereby submit a second proposed Practice and Procedure Order.

Respectfully submitted,

Harris Pogust by John Ipsaro

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**IN RE CELEXA AND LEXAPRO) MDL DOCKET NO. 1736
PRODUCTS LIABILITY LITIGATION) ALL CASES**

**PRACTICE AND PROCEDURE ORDER UPON TRANSFER
PURSUANT TO 28 U.S.C. § 1407(a)**

SCOPE

This order shall govern the practice and procedure in those actions transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to its order of February 16, 2006. The actions currently comprising this MDL are listed in Schedule A attached hereto. This order also shall govern the practice and procedure in any tag-along actions transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to Rule 12 of the Rules of Procedure of that Panel subsequent to the filing of the final transfer order by the Clerk of this Court and any related actions subsequently filed in this Court or otherwise transferred or removed to this Court.

FILING AND SERVICE

1. All papers shall be filed only under the MDL docket number, "MDL Docket No. 1736." No papers shall be filed under the docket number for any individual case.
2. All papers filed in these actions shall bear the identification: "MDL Docket No. 1736." When a filing relates to all actions, the MDL docket number shall be followed only by the notation "All Cases." If such paper does not relate to all the actions, the MDL docket number shall be followed only by the notation "Pertains to" followed by the case names and individual docket numbers assigned by the Clerk of this Court to those actions to which the filing relates.
3. As provided by Rule 2.10 of the Rules of this Court, all motions and other papers required to be filed with the Court shall be filed electronically on the Court's ECF system. Counsel in tag-along actions are directed to register immediately upon notice of transfer.
4. Service of documents will be accomplished through the Court's ECF system. Those documents generally not filed with the Court (i.e., discovery) will be served pursuant to the Federal Rules of Civil Procedure.

APPEARANCE OF COUNSEL

5. Counsel who appeared in the transferor district court prior to the transfer need not enter a separate notice of appearance on behalf of his or her client before this Court.

6. An initial pleading or paper filed by counsel under the MDL docket number after transfer of an individual case and relating to that individual case will act as notice of appearance for those counsel whose names appear in the signature block of that initial pleading or paper. Appearance by one attorney of a law firm in an individual case will act as an appearance for all counsel belonging to that attorney's law firm.

7. No parties to any of the actions shall be required to obtain local counsel in this district and the requirements of Rules 12.01(A) and (E) of the Rules of this Court are waived as to any attorney appearing in these actions who is duly admitted to practice before any United States Court.

LEAD AND LIASON COUNSEL

8. Plaintiffs have designated the following attorneys to serve in the following capacities in these actions: Harris Pogust of Pogust & Braslow – Lead Counsel; Andy Vickery of Vickery & Waldner – Lead Trial Counsel; and, Christopher Coffin of Pendley, Baudin & Coffin – Liaison Counsel.

9. Plaintiffs have designated the following attorneys to serve as Plaintiffs' Steering Committee: Andy Vickery of Vickery & Waldner; Harris Pogust of Pogust & Braslow; Christopher Coffin of Pendley, Baudin & Coffin; Kent Klautd of Leiff, Cabreser, Heimann & Bernstein; and Kristin Houser of Shroeter, Goldmark & Bender. Application to add a member to Plaintiffs' Steering Committee shall be made on motion to the Court.

10. Defendants have designated John R. Ipsaro and Joseph P. Thomas of the law firm of Ulmer & Berne LLP as defendants' lead counsel. John R. Ipsaro is designated as defendants' liaison counsel.

11. Plaintiffs' and defendants' liaison counsel shall be required to maintain complete files with copies of all documents served upon them and shall make such files available to other plaintiffs' and defendants' counsel, respectively, upon request.

PLEADINGS, ORDERS, AND MOTIONS

12. The parties must advise the Court of any pending motions, filed in the transferor court, that require decision. Absent such notice, the Court will not consider motions pending at the time of transfer.

13. Any memorandum in opposition to a motion shall be filed within twenty-one (21) days from the date the motion is filed. A reply memorandum may be served within eleven (11) days from the date the memorandum in opposition is filed. Briefing deadlines for motions for summary judgment motions and motions challenging general causation and warning experts or their opinions shall be established by separate order(s).

14. Any dispositive motion, whether individual or global, and memorandum in opposition to such a motion shall each not exceed fifty (50) pages in length. Any motion challenging general causation and warning experts or their opinions and memorandum in opposition to such motion shall each not exceed fifty (50) pages in length if one expert witness is challenged. If additional expert witnesses are challenged, the page allowance may be increased by twenty (20) pages for each additional expert witness. Reply memoranda shall not exceed 25 pages in length if one expert witness is challenged. Five (5) additional pages are allowed for each additional expert witness challenged.

DISCOVERY

15. Discovery requests and responses will not be filed with this Court except when specifically ordered by the court or to the extent needed in connection with a motion.

MANUAL FOR COMPLEX LITIGATION

16. The Court will be guided by the Manual for Complex Litigation, Fourth, approved by the Judicial Conference of the United States. Counsel are directed to familiarize themselves with that publication.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this ___ day of _____, 2007.

Have seen and agree,

Harris Pogust by John Ipsaro

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Lead Counsel for Defendants

SCHEDULE A

MDL-1736 – In re Celexa and Lexapro Products Liability Litigation

1. *Raymond P. Badya, as Administrator of the Estate of Raymond E. Badya, Deceased v. Forest Laboratories, Inc. d/b/a Forest Pharmaceuticals, Inc.*,
Cases No.: 4:06-CV-00725-RWS
(transferred from the United States District Court for the District of New Jersey)
2. *Mary B. Baldwin, Individually and as Personal Administrator of the Estate of Jerry W. Baldwin, Deceased v. Forest Laboratories, Inc.*
Case No.: 4:07-CV-00230-RWS
(transferred from the United States District Court for the District of New Jersey)
3. *Brett A. Bennett, Individually and as Personal Representative of the Estate of Terri Rene Bennett, Deceased v. Forest Laboratories*
Case No.: 4:06-cv-00672-RWS
(transferred from the United States District Court for the Middle District of Florida, Fort Myers)
4. *Mark Bibbee, Individually as Personal Representative of the Estates of Brian Bibbee, Deceased; and David Bibbee, Deceased v. Forest Laboratories, Inc.*
Case No.: 4:06-cv-01548-RWS
(transferred from the United States District Court for the Northern District of Ohio)
5. *Charles Callahan as Administrator of the Estate of Mary J. Callahan, Deceased v. Forest Laboratories, Inc., and Forest Pharmaceuticals, Inc.*
Case No.: 4:06-CV-00923-RWS
(transferred from the United States District Court for the District of Massachusetts)
6. *Randy Cline, As Administrator of the Estate of Christopher Cline, Deceased, v. Forest Laboratories, Inc., d/b/a Forest Pharmaceuticals, Inc.*
C.A. No.: 4:06-cv-00715-RWS
(transferred from the United States District Court for the Southern District of New York)
7. *Ella May Cross, Individually and as Personal Representative of the Estate of Leon Cross, Deceased, Ellis Donnell Cross, William L. Cross, Theodore Cross, and Sandra McFadden v. Forest Laboratories*
Case No.: 4:06-cv-00762-RWS
(transferred from the United States District Court for the Northern District of Mississippi, Eastern Division)

8. *Amanda Marie Diana, v. Pfizer, Inc., Parke-Davis, a division of Warner-Lambert Company, Warner-Lambert Company LLC, Warner-Lambert Company LLC, Forest Laboratories, Inc., and Forest Pharmaceuticals, Inc.*
Case No.: 4:06-cv-01808-RWS
(transferred from the United States District Court for the District of Minnesota, Fourth Division)
9. *Annabel Dobbs, Individually and as Personal Representative of the Estate of Terry Dobbs, Deceased, v. Forest Laboratories, Wyeth Pharmaceuticals*
Case No.: 4:06-cv-00671-RWS
(transferred from the United States District Court for the Western Division of Oklahoma)
10. *Debra Drewry, Individually and as Personal Representative of the Estate of Shawn Michael Gracen Drewry, v. Forest Laboratories, Inc.*
Case No.: 4:06-cv-00717-RWS
(transferred from the United States District Court for the Southern District of New York)
11. *Steven E. Gladsjo, Individually and as Administrator of the Estate of Lexi Cherae Gladsjo v. Forest Laboratories, Inc.*
Case No.: 4:06-cv-01619-RWS
(transferred from the United States District Court for New Jersey)
12. *Rebecca Graham, Individually and as Administrator of the Estate of Kirt M. Cenin v. Forest Laboratories, Inc.*
Case No.: 4:06-cv-01618-RWS
(transferred from the United States District Court for the District of New Jersey)
13. *Dan Henrikson, as Executor of the Estate of Danielle Henrikson v. Forest Laboratories, Inc.*
Case No.: 4:06-cv-00687-RWS
(transferred from United States District Court of Idaho)
14. *Carmen Hill, Individually and as Next Friend of Morgan Hill, a minor, and as Personal Representative of the Estate of Alan Hill, Deceased, v. Forest Laboratories, Inc.*
Case No.: 4:06-cv-01812-RWS
(transferred from the United States District Court for the Southern District of Mississippi, Hattiesburg Division)
15. *Lois Ilich, Personal Representative of the Estate of Raymond Ilich, Deceased v. Forest Laboratories, Inc., and Forest Pharmaceuticals, Inc.*
C.A. No.: 4:06-cv-00726-RWS
(transferred from the United States District Court for the Western District of Washington)

16. *Susan Janusheshke, as Administrator of the Estate of David A. Janusheshke, Deceased v. Forest Laboratories, Inc. and Forest Pharmaceuticals, Inc.*
Case No.: 4:06-cv-00883-RWS
(transferred from the United States District Court for the District of New Jersey)
17. *Lynne Kim and Kandice Kim, Individually and as Administrators of the Estate of Alex Kim v. Forest Laboratories, Inc.*
Case No.: 4:06-cv-00929-RWS
(transferred from the United States District Court for the Northern District of Georgia)
18. *William Manning and Susan Michele Manning v. Forest Laboratories, Inc. d/b/a Forest Pharmaceuticals, Inc.*
C.A. No.: 4:06-cv-00712-RWS
(transferred from the United States District Court for the Southern District of New York)
19. *Robert Maslanka and Lee Anne Maki, as Parents and Natural Guardians of Corey Maslanka, Deceased v. Forest Laboratories, Inc., and Forest Pharmaceuticals, Inc.,*
Case No.: 4:06-cv-01794-RWS
(transferred from the United States District Court for the District of New Jersey)
20. *Michael S. Rust and Kim J. Rust, as Personal Representatives of the Estate of Philip M. Rust and in their Individual Capacities v. Forest Laboratories, Inc., Forest Pharmaceuticals, Inc., and Does 1 through 50*
C.A. No.: 4:06-cv-00706-RWS
(transferred from the United States District Court for North Dakota)
21. *Elaine Shipley, Individually as Personal Representative of the Estate of Kurt Philip Shipley, Deceased, and as Next Friend of Jordan John Shipley, Brynn Shipley, Jason Kent Shipley, Jensen Kurt Shipley, Minors, v. Forest Laboratories*
Case No.: 4:06-cv-00950-RWS
(transferred from the United States District Court for the Central District of Utah)
22. *Ashley Smith v. Forest Laboratories, Inc. d/b/a Forest Pharmaceuticals, Inc.*
C.A. No.: 4:06-cv-00714-RWS
(transferred from the United States District Court for the Southern District of New York)
23. *Earnest Ray Smith, Sr., Individually and as Personal Administrator of the Estate of Ruth Elizabeth Smith, Deceased v. Forest Laboratories, Inc.*
Case No.: 4:07-cv-00081-RWS
(transferred from the United States District Court for the District of New Jersey)

24. *Ralph Gregory Stanley, Individually and as Administrator of the Estate of Brandi Leann Stanley, Deceased v. Forest Laboratories, Inc.*
Case No.: 4:06-cv-01810-RWS
(transferred from the United States District Court for the District of New Jersey)
25. *Daniel and Celeste Steubing, Individually and as Personal Representatives of the Estate of Matthew Steubing, Deceased, v. Forest Laboratories*
Case No.: 4:06-cv-00684-RWS
(transferred from the United States District Court for the District of South Carolina, Charleston Division)
26. *Rene Thomas, as Personal Representative of the Estate of Jesse Karimpour, Deceased, v. Forest Laboratories, Inc.*
Transfer is final but the certified docket sheet has not arrived and no case number has been assigned by this Court.
(transferred from the United States District Court for the Southern District of New York)
27. *Terry Thorne v. Forest Laboratories, Inc. and Forest Pharmaceuticals, Inc.*
Transfer is final but the certified docket sheet has not arrived and no case number has been assigned by this Court.
(transferred from the United States District Court for the Southern District of New York)
28. *James Torlakson, as Administrator of the Estate of Elizabeth Brennan Leary Torlakson, Deceased v. Forest Laboratories, Inc. and Forest Pharmaceuticals, Inc.*
Case No.: 4:06-cv-00718-RWS
(transferred from the United States District Court for the Southern District of New York)
29. *Linda Vasquez, Individually and as Administratrix of the Estate of Kathleen Vasquez v. Forest Laboratories, Inc.*
Case No.: 4:06-cv-01229-RWS
(transferred from the United States District Court for New Jersey)
30. *Rachel Weiss v. Forest Laboratories, Inc.*
Case No.: 4:06-cv-00716-RWS
(transferred from the United States District Court for the Southern District of New York)

Cases Consolidated with MDL-1736 – In re Celexa and Lexapro Products Liability Litigation

1. *Melinda Cowell v. Forest Laboratories, Inc.*
Case No.: 4:06-cv-01847-RWS

2. *Kathleen Higgins, Individually and as Personal Representative of the Estate of Francis Krivicich, Deceased, v. Forest Laboratories*
Case No.: 4:06-cv-01098-RWS

3. *Jolie Simmons, Individually and as Personal Representative of the Estate of Rachel K. Caddy, Deceased, v. Forest Laboratories, Inc.*
Case No.: 4:06-cv-01849-RWS