

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA**

IN RE: ACTOS (PIOGLIAZONE) PRODUCTS
LIABILITY LITIGATION

MDL NO. 6:11-md-2299

JUDGE DOHERTY

THIS DOCUMENT APPLIES TO:

MAGISTRATE JUDGE HANNA

*Allen et. al. v. Takeda Pharmaceuticals North
America Inc.et. al.*; Case No. 6:12-cv-00064-RFD-
PJH

**MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION IN LIMINE
TO EXCLUDE ANY REFERENCE
TO THE FINANCIAL STATUS OR RESOURCES OF
PLAINTIFFS' COUNSEL OR TO THEIR OTHER BUSINESSES OR CASES**

May It Please the Court:

Plaintiffs request that the Court exclude as irrelevant and prejudicial any reference to the financial status or resources of Plaintiffs' counsel or to their other business or cases. Under the Federal Rules of Evidence, only relevant evidence is admissible. Fed. R. Evid. 402. Evidence is relevant if "it has any tendency to make a fact more or less probable than it would be without the evidence" and "the fact is of consequence in determining the action." Fed. R. Evid. 401; *see also Lubbock Feed Lots, Inc. v. Iowa Beef Processors, Inc.*, 630 F.2d 250, 267 (5th Cir. 1980). And, "although relevant, evidence may be excluded if its probative value is substantially outweighed by a danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, wasting time, or needless presentation of cumulative evidence." Fed. R. Evid. 403; *see also French v. Allstate Indem. Co.*, 637 F.3d 571, 578 (5th Cir. 2011) ("A district court 'has broad discretion to weigh the relevance, probative value, and prejudice of the evidence in determining its admissibility under Rule 403.'" (quoting *U.S. v. Allard*, 464 F.3d 529, 534 (5th Cir. 2006))).

Information about the Allens' lawyers, including their financial status, resources, business and other cases, is irrelevant to the issues to be tried, including whether Defendants breached their duty to exercise reasonable care for the safety of Actos users, whether Defendants failed to adequately warn about the statistically significant increase in bladder cancer of Actos users, and whether Defendants made false and misleading representations and warranties about the effects of long-term use of Actos. This type of information about Plaintiffs' attorneys is not only irrelevant, it is also prejudicial and could be used to sway the decision of jurors who may have preconceived ideas about lawyers, and those who practice personal injury or tort law in particular. Plaintiffs therefore request that the Court exclude any reference to the financial status or resources of the Allens' counsel and their other business or cases under Rules 402 and 403.

Dated: September 20, 2013

Respectfully submitted,

Plaintiffs' Steering Committee

By: /s/ Richard J. Arsenault
Richard J. Arsenault, Co-Lead Counsel
Neblett, Beard & Arsenault
2220 Bonaventure Court
P.O. Box 1190
Alexandria, Louisiana 71301
(800) 256-1050
rarsenault@nbalawfirm.com

By: /s/ Paul J. Pennock
Paul J. Pennock, Co-Lead Counsel and
Counsel for Plaintiffs Terrence and Susan Allen
Weitz & Luxenberg, P.C.
700 Broadway
New York, NY 10003
(212) 558-5500
ppennock@weitzlux.com

CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2013, a copy of the above and foregoing Motion in Limine was sent via e-mail to the counsel listed below:

SIDLEY AUSTIN LLP
Sara J. Gourley (IL Bar No. 3127154)
Sherry A. Knutson (IL Bar No. 6276306)
1 South Dearborn Street
Chicago, IL 60603
(312) 853-7000 (Telephone)
(312) 853-7036 (Facsimile)

By: /s/ Richard J. Arsenault
Richard J. Arsenault, Co-Lead Counsel
Neblett, Beard & Arsenault
2220 Bonaventure Court
P.O. Box 1190
Alexandria, Louisiana 71301
(800) 256-1050
rarsenault@nbalawfirm.com

By: /s/ Paul J. Pennock
Paul J. Pennock, Co-Lead Counsel and
Counsel for Plaintiffs Terrence and Susan Allen
Weitz & Luxenberg, P.C.
700 Broadway
New York, NY 10003
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ppennock@weitzlux.com