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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

_____)
IN RE: PRADAXA) 3:12-md-02385-DRH-SCW
(DABIGATRAN ETEXILATE))
PRODUCTS LIABILITY ACTION) MDL No. 2385
_____)

This Document Relates to:

ALL CASES

TRANSCRIPT OF PROCEEDINGS
STATUS CONFERENCE
FEBRUARY 18, 2015
BEFORE THE HONORABLE DAVID R. HERNDON
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For the Plaintiffs: Roger C. Denton, Seth A. Katz,
Mark R. Niemeyer, Steve Davis

For the Defendant: Robert Limbacher, Paul W. Schmidt,
W. Jason Rankin

Court Reporter: Laura A. Esposito, RPR, CRR
U.S. District Court
750 Missouri Avenue
East St. Louis, IL 62201
(618) 482-9481

Proceedings recorded by mechanical stenography;
transcript produced by computer.

1 **(Court convened)**

2 **THE COURT:** Let the record reflect that we're in
3 open court. We've called the monthly conference, or the
4 status conference for the Pradaxa MDL 2385. Seth Katz is at
5 the podium for the plaintiffs. Paul Schmidt is at the
6 podium for the defendants. Gentlemen.

7 **MR. KATZ:** Good afternoon, Your Honor.

8 With regard to the first two topics in the report,
9 we received reports from both Providio and Brown & Greer
10 about the progress of the settlement. It seems it's going
11 well. There have been three waves of participating
12 plaintiffs and claimants that have been cleared for payment,
13 meaning they've received either partial or full payment on
14 their claims, which totals about 82 percent of the
15 participating people in the settlement, and the projection
16 is that by May 1, that percentage should increase to between
17 90 and 95 percent.

18 **THE COURT:** They're doing an excellent job and
19 appreciate their work. Anything else on those two items?

20 **MR. SCHMIDT:** No, Your Honor. The defense agrees
21 that the settlement is working out well.

22 **THE COURT:** Next item?

23 **MR. SCHMIDT:** Next item was simply giving the Court
24 an update on nonparticipating claimants and nonparticipating
25 plaintiffs in terms of what's out there, and I'm not sure

1 there's anything specific to say in that regard.

2 *THE COURT:* All right. And the next item?

3 *MR. SCHMIDT:* Next item is, we would like to and
4 intend to, following guidance from the Court, file motions
5 to dismiss in cases that have incomplete claims packages.
6 There's about 24 filed cases, and we'll be putting that
7 motion on file.

8 *THE COURT:* Yeah. That's fine. I don't see any
9 reason not to go forward with those motions and will be
10 looking for those motions. The next item?

11 *MR. SCHMIDT:* Next item is, we had raised with the
12 PSC and the Court whether we need to continue to preserve
13 sales rep materials that are unique to sales representatives
14 who are neither defendants nor who called on doctors in
15 pending cases. We'd ask the Court to enter a Case
16 Management Order regarding our obligation to preserve those
17 materials. We think the preservation obligation as to that
18 specific discrete universe of sales reps' specific materials
19 has passed, given that applies to litigation that implicates
20 those sales reps, but we'll look for the Court's guidance.
21 As I understand, the PSC does not have a position.

22 *MR. KATZ:* That's right, the PSC has no position.
23 Our view on it is, the law on facts of preservation are what
24 they are. We assume that Boehringer will comply with the
25 law as it interrelates with the facts.

1 MR. SCHMIDT: We will comply with the law, and
2 that's why we're coming to the Court with this issue.

3 THE COURT: I'll take a look at the issue and issue
4 appropriate order.

5 MR. SCHMIDT: Thank you, Your Honor.

6 MR. KATZ: The second to last item is the role of
7 the PSC going forward. While it's not quite the appropriate
8 time to disband the PSC, Your Honor, there will come a time
9 at some point in the hopefully not too distant future where
10 the role of the PSC can either be -- at least be modified,
11 given the resounding success of the settlement program and
12 the lack of continued litigation on a generic level by the
13 PSC. At this point in time, given the Court's orders,
14 perhaps a more limited administrative role as it relates to
15 the settlement would be appropriate but that's probably best
16 if it's decided upon at the next status conference.

17 MR. SCHMIDT: And the defense view on that is
18 simply, we're not opposed to the concept. We think that
19 should occur in a larger context of resolving returning of
20 Boehringer documents and resolving ongoing preservation
21 obligations. So I think where we landed on that issue is in
22 the next week or so members of the PSC and defense counsel
23 will confer about what makes sense in the broader context.

24 THE COURT: Well, clearly we can see light at the
25 end of the tunnel, and I think there'll be a time as the

1 months approach here when the PSC's work will be done but
2 we'll see what that -- when we get to that point. But
3 clearly it's much sooner rather than later. So we'll work
4 that out.

5 The next conference will be April the 28th. The
6 courtroom proceeding will be at 1 p.m. Anything else,
7 gentlemen?

8 MR. KATZ: Nothing for the PSC, Your Honor.

9 MR. SCHMIDT: Nothing for the defense, Your Honor.

10 THE COURT: Okay. All right. So we stand
11 adjourned.

12 **(Court adjourned)**

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REPORTER'S CERTIFICATE

I, Laura A. Esposito, RPR, CRR, CCR(MO), Official Court Reporter for the U.S. District Court, Southern District of Illinois, do hereby certify that I reported in shorthand the proceedings contained in the foregoing 5 pages, and that the same is a full, true, correct, and complete transcript from the record of proceedings in the above-entitled matter.

Dated this 23rd day of February, 2015.

LAURA A. ESPOSITO, RPR, CRR, CCR