

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE: CHANTIX (VARENICLINE)
PRODUCTS LIABILITY
LITIGATION

Master File No.: 2:09-CV-2039-IPJ
MDL No. 2092

This Document Relates To:

ALL CASES

**PRETRIAL ORDER NO. 4E:
FIFTH AMENDMENT TO
PRETRIAL ORDER NO. 4:
DISCOVERY PLAN (PROVISION
OF SUPPLEMENTAL
PLAINTIFFS' FACT SHEETS)**

On February 24, 2010, the Court issued Pretrial Order No. 4: Discovery Plan (Doc. No. 25). Between March 10, 2011, and September 15, 2011 the Court issued four amendments to Pretrial Order No. 4. At the request of the Defendant, the Court hereby amends and supplements Section III.A of Pretrial Order No. 4 as outlined herein. This order shall not be construed to amend Pretrial Order No. 4 or the amendments thereto (A-D) in any respect other than as specified in this order.

III. PRODUCTION OF DOCUMENTS

A. Plaintiffs' Production of Fact Sheets, HIPAA Authorizations, and Documents.

3. Supplemental Plaintiffs' Fact Sheets.

a. Plaintiffs Required to Provide Supplemental Plaintiffs' Fact

Sheet. Any Plaintiff whose case is currently on file who alleges a neuropsychiatric injury and who is not subject to an agreement in principle to settle his or her case, as well as any cases that are transferred to or filed in these proceedings in the future (collectively, "the PTO 4E Plaintiffs") shall provide a Supplemental Plaintiffs' Fact Sheet ("SPFS"), the form of which is attached hereto as Attachment A. Each SPFS must be signed by the Plaintiff and his or her counsel and must include medical and/or pharmacy records showing that the Plaintiff took Chantix and suffered an injury as a result. If the Plaintiff was being treated for a pre-existing psychiatric illness at the time he or she first started taking Chantix, such records must demonstrate the new onset of a neuropsychiatric injury or the exacerbation of an existing injury. This SPFS requirement is in addition to Plaintiffs' obligations to provide a Plaintiff Fact Sheet ("PFS"), all responsive documents (or a written notice that none are in the possession of plaintiff or plaintiff's counsel), and properly executed authorizations, as well as certain Plaintiffs' obligations to provide Additional Discovery, as outlined in Pretrial Order No. 4F.

b. Transmission of SPFSs. The PTO 4E Plaintiffs shall send their SPFSs to Defendant's counsel listed in Pretrial Order No. 4.

c. Deadlines for SPFSs. For any cases on file as of February 28, 2013, the SPFSs shall be due on March 29, 2013. For any claims filed in or transferred to these MDL proceedings in the future, SPFSs shall be due within 30

days of filing or transfer.

d. Dismissal of Plaintiffs Who Fail to Provide SPFSs. Any PTO 4E Plaintiff who fails to provide a SPFS as required by this Order within the applicable timeline will be subject to having his or her claims, as well as any derivative claim(s), dismissed with prejudice.

DONE and **ORDERED** this 4th day of March, 2013.



INGE PRYTZ JOHNSON
SENIOR U.S. DISTRICT JUDGE

ATTACHMENT A

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Master File No.: 2:09-CV-2039-IPJ
MDL No. 2092

This Fact Sheet Related To:

Plaintiff: _____
(full name)

MDL Case No. _____

SUPPLEMENTAL PLAINTIFFS' FACT SHEET

A. Chantix Use

Exact Date(s) Used: _____

Specific Bates numbers of particular pages of pharmacy or medical records relied upon (or attach actual pages if the pages are not Bates-stamped):

B. Alleged Injury

Alleged Injury: _____

Exact Date(s) of Injury: _____

Specific Bates numbers of particular pages of medical records relied upon (or attach actual pages if the pages are not Bates-stamped):

Counsel for the Plaintiff(s) certifies and affirms that, upon information and belief, the foregoing is true and complete.

[INSERT NAME OF COUNSEL], Esq.
Counsel for Plaintiff(s)

Date

I certify and affirm under penalty of perjury that the foregoing is true and complete.

[INSERT NAME OF PLAINTIFF]

Date