

**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. 4F:
SIXTH AMENDMENT TO
PRETRIAL ORDER NO. 4:
DISCOVERY PLAN
(ADDITIONAL DISCOVERY
FOR NEWLY FILED CASES)**

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.

4. Additional Discovery in Newly Filed Cases.

a. Plaintiffs Subject to Additional Discovery. The following plaintiffs (collectively, “the PTO 4F Plaintiffs”) shall be subject to the additional discovery required by this order: (1) any plaintiff who files a case directly in this MDL on or after February 28, 2013; and (2) any plaintiff whose case is transferred to this MDL on or after February 28, 2013. This Order shall not be construed to preclude Pfizer from later requesting that this Order apply to plaintiffs whose cases are currently on file in this MDL, or to waive any opposition by such plaintiffs.

b. Content of Additional Discovery. In addition to each plaintiff’s obligation under Pretrial Order No. 4 to serve 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, and to provide a Supplemental Plaintiffs’ Fact Sheet under Pretrial Order No. 4E, each PTO 4F Plaintiff also shall serve a Rule 26(a)(2) case-specific expert report regarding specific causation signed by a physician or other medical expert (“the Additional Discovery”). In addition to the requirements of Rule 26(a)(2), each such report also shall include: (a) a list of the plaintiff’s medical and other records reviewed by the expert prior to the preparation of the report; (b) the dates during which the plaintiff used Chantix and references to the

Bates numbers of the particular pages relied upon as evidence of such use (or the actual pages if the pages are not Bates stamped); (c) the injury plaintiff allegedly suffered, the date of the alleged injury, and references to the Bates numbers of the particular pages relied upon as evidence of such injury (or the actual pages if the pages are not Bates stamped); and (d) whether the expert has an opinion to a reasonable degree of medical certainty that the plaintiff's alleged injury was caused by plaintiff's use of Chantix and, if so, the medical and scientific bases for such an opinion.

c. Transmission of Additional Discovery. The PTO 4F Plaintiffs shall send the Additional Discovery to Defendant's counsel listed in Pretrial Order No. 4.

d. Deadlines for Additional Discovery. The Additional Discovery shall be due 30 days from the date on which the PTO 4F Plaintiff filed his or her complaint (if directly filed in this MDL) or from the date on which the PTO 4F Plaintiff's complaint is posted on this Court's docket (if not directly filed in the MDL).

e. Dismissal of Plaintiffs Who Fail to Provide Additional Discovery. Any PTO 4F Plaintiff who fails to provide the Additional Discovery 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 12th day of March, 2013.

A handwritten signature in black ink, reading "Inge Prytz Johnson". The signature is written in a cursive style with a long, sweeping tail on the "n" of Johnson.

INGE PRYTZ JOHNSON
SENIOR U.S. DISTRICT JUDGE