

IN RE: DIGITEK LITIGATION

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION

BERGEN COUNTY

Case No. 283

CIVIL ACTION

**CASE MANAGEMENT ORDER #4**

All previous Orders remain in full force and effect except as modified by this Order.

**FILED**

**JAN 21 2010**

**BRIAN R. MARTINOTTI  
J.S.C.**

**THIS MATTER** having been come before the Court for a case management conference pursuant to the Court's order of December 2, 2009, all counsel appearing, for good cause shown and for the reasons set forth on the record.

**IT IS** on this 21st day of January, 2010,

**ORDERED,**

**I.**

**Compliance with Case Management Order #3**

1. The complaint of Plaintiff *Scannapieco*, Case # 283, BER-L-7213-09 is hereby dismissed, with prejudice and without costs.
2. The following are designated as "Selected Cases":

By Plaintiff:

- 1) *Rose Addeo, et al. v. Actavis Totowa LLC, et al.*  
Docket No.: BER-L-005718-09 MT
- 2) *Regina Estepp v. Actavis Totowa LLC, et al.*  
Docket No.: BER-L-001323-09 MT

- 3) *Carole Milroad v. Actavis Totowa, LLC., et al.*  
Docket No.: BER-L-001289-09 MT

By Defendant:

- 1) *Eugene Heffner, et al. v. Actavis Totowa LLC., et al.*  
Docket No.: BER-L-2786-09
- 2) *Larry Landis, et al. v. Actavis Totowa, LLC., et al.*  
Docket No.: BER – L-4845-09

## II.

### Case Management

1. The following cases, *Shakett*, BER-L-6348-09, *Shetterly*, BER-L-764-09, *Arrington*, BER-L-5041-09 and *Sims*, BER-L-5723-09 are hereby dismissed.
2. Plaintiff's counsel shall advise as to the status of Brown BER-L-6485-09, within the next fourteen (14) days; and shall investigate the factual basis for the *Milroad* BER-L- 001289-09 within the next thirty (30) days.
3. The Court has spoken to Judge Goodwin and with his consent, PTO #22, Paragraph G shall be deemed complied with regard to any deposition which is to be held within the next thirty (30) days. New Jersey Counsel is permitted to serve a cross notice of deposition which will be deemed in compliance with PTO #22, Paragraph G. Plaintiff's counsel is directed to confirm with Judge Goodwin, by letter, this "modification" of PTO #22.
4. The Defendant's proposed consent order on ex parte contact with treating physicians, is denied, without prejudice. Counsel shall meet and confer within the next forty-five (45) days to address "*Stempler*" authorizations and issues.

5. All Plaintiffs (except for Newly Joined Plaintiffs) shall be deposed by February 28, 2010. [Depositions for Newly Joined Plaintiffs will be addressed at a subsequent case management conference]
7. All outstanding Requests for Admissions to be responded to by February 28, 2010.
8. COORDINATION WITH MDL: On December 21, 2009 this Court had a conference with Judge Goodwin and all the other Judges handling Digitek® matters in other venues. It was agreed upon by and between the Judges that there will be a joint *Daubert* hearing on October 13<sup>th</sup> and October 14<sup>th</sup> in West Virginia. Counsel shall meet and confer and prepare a discovery schedule in accordance and in coordination with the MDL discovery order soon to be issued.
9. The discovery end date on all matters is December 15, 2010.
10. A Case Management Conference shall be held on March 18, 2010 at 1:30 p.m.
11. A copy of this Order to be served upon all parties and posted on the Court's web site.



**BRIAN R. MARTINOTTI, J.S.C.**