

FILED
OCT 26 2010
JUDGE JESSICA R. MANER

**IN RE: RISPERDAL / SEROQUEL /
ZYPREXA LITIGATION**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: MIDDLESEX COUNTY

CIVIL ACTION

Case Code: 274

**CASE MANAGEMENT ORDER NO. 38
AS TO RISPERDAL® ONLY**

THIS MATTER having been opened to the Court jointly by counsel for defendants Ortho-McNeil-Janssen Pharmaceuticals, Inc. and Johnson & Johnson (hereinafter the "Janssen defendants") and counsel for plaintiffs to select bellwether trials for the Risperdal® only cases; and counsel for the parties having conferred as to form and substance of this Order; and counsel for the parties having agreed to some aspects of this Order; and the court having considered the written submissions of the parties as to other aspects of this Order; and the court having heard from counsel at a case management conference conducted on October 21, 2010 as to the proposed Order; and good cause having been shown;

IT IS on this 21st day of October, 2010,

ORDERED as follows:

1. No later than **October 29, 2010**, counsel for plaintiffs shall select seven (7) cases for trial from the remaining pool of Group 1, Group 2, Group 3 and Group 4 cases, including all or some of the previously selected bellwether cases.

2. No later than **October 29, 2010**, counsel for the Janssen defendants shall select seven (7) cases for trial from the remaining pool of Group 1, Group 2, Group 3 and Group 4 cases, including all or some of the previously selected bellwether cases.

3. The cases selected by counsel for trial shall fall within the following criteria determined by the court to be representative of the inventory of cases pending before the Court:

- (a) Dose ingested by plaintiffs: **1-4 mgs.**
- (b) Age of plaintiffs during ingestions: **32-52.**
- (c) Duration of ingestion: **Any duration.**
- (d) Date of ingestion: **Prior to January 2004.**
- (e) Alleged Injury: **Diabetes Mellitus**

4. On or before **November 19, 2010**, the court shall select seven (7) out of the fourteen (14) cases presented by counsel for trial to undergo discovery as set forth in paragraphs 5 through 7 of this Order.

5. For the seven (7) selected cases, the Janssen defendants shall serve the ten (10) categories of information previously agreed upon by the parties as to each prescribing healthcare professional, principal treating physician, and any other healthcare professional whom the parties wish to depose, for a total of five (5) healthcare professionals per case. The information required pursuant to this paragraph shall be provided to plaintiffs by the Janssen defendants no later than fourteen (14) days prior to the deposition of each healthcare professional.

6. For the seven (7) selected cases, the Janssen defendants shall provide eight (8) categories of sales representative information previously agreed upon by the parties limited to two (2) sales representatives per case. The sales representative information shall be provided by

the Janssen defendants to counsel for plaintiffs no later than fourteen (14) days prior to the deposition of the sales representative.

7. Counsel shall be permitted the following discovery in each of the seven (7) selected cases: depositions of each plaintiff and plaintiff's spouse and where indicated, a significant other, guardian, and/or primary care provider; depositions of not more than five (5) prescribing healthcare professionals and/or treating physicians; and depositions of not more than two (2) sales representatives. Discovery for the seven (7) selected cases shall be completed by **March 25, 2011**.

8. Upon completion of the discovery specified in paragraph 7, counsel shall provide the court with a written analysis of the seven (7) selected trial cases assessing each case based upon the criteria set forth in paragraph 3 of this Order as well as the criteria for selection of bellwether cases set forth in the Manual for Complex Litigation. Counsel's written analysis shall be served by **April 8, 2011**.

9. On or before **May 6, 2011**, the court, in its discretion, shall select four (4) cases for trial.

10. Plaintiffs' expert reports in the four (4) court-selected cases for trial shall be provided no later than **May 27, 2011**.

11. Janssen defendants' expert reports in the four (4) court-selected trial cases shall be provided no later than **June 17, 2011**.

12. Depositions of experts in the four (4) court-selected trial cases shall be completed no later than **August 5, 2011**.

13. Expert discovery shall be conducted pursuant to the “Joint Stipulation Regarding Expert Discovery.”

14. All dispositive motions and motions relating to the admissibility of expert testimony (Kemp/Rule 702) in the four (4) court-selected trial cases shall be filed and served according to the following schedule:

- (a) Motions: no later than **September 2, 2011**.
- (b) Oppositions: no later than **September 16, 2011**.
- (c) Replies: no later than **September 23, 2011**.
- (d) Oral argument: to be scheduled by the court.
- (e) Any Kemp/Rule 702 hearings deemed necessary by the court to be held on dates to be scheduled **during October 31, 2011 through November 18, 2011**.

15. All in limine motions in the four (4) court-selected trial cases shall be filed and served according to the following schedule:

- (a) Motions: no later than **November 30, 2011**.
- (b) Oppositions: no later than **December 8, 2011**.
- (c) Oral argument: to be scheduled by the court if deemed necessary.

16. The schedule for the exchange and submission of deposition designations in the four (4) court-selected trial cases shall be as follows:

- (a) Counsel to exchange proposed deposition designations by **October 31, 2011**.

(b) Counsel to exchange objections to deposition designations and counter designations by **November 7, 2011**.

(c) Counsel to meet and confer regarding deposition designations during the week of **November 14, 2011**

(d) Counsel to submit written objections to the court as to unresolved deposition designations no later than **November 28, 2011**.

17. The schedule for the exchange and submission of proposed exhibit lists and witness lists for the four (4) court-selected trial cases shall be as follows:

(a) Counsel to exchange proposed exhibit lists and witness lists no later than **December 19, 2011**.

(b) Counsel to serve objections to proposed exhibit lists and witness lists no later than **January 6, 2012**.

(c) Counsel to submit final exhibit lists and witness lists to the court no later than **January 13, 2012**.

18. A one page joint statement of the case for the jury pool, joint submissions of questions for the jury voir dire, proposed jury charges and proposed verdict sheet shall be submitted to the court no later than **January 20, 2012**.

19. All of the aforementioned documents to be filed with the Court shall be filed by **12:00 p.m.** on the due date.

20. Trial in the first selected case will commence on **January 30, 2012**.

21. A copy of this Order shall be posted by the court within seven (7) days of the date of this Order.



JESSICA R. MAYER, J.S.C.