

IN RE TAXOTERE LITIGATION

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – MIDDLESEX COUNTY
MCL CASE TYPE: 628

MASTER DOCKET NO.:
MID-L-4998-18-CM

FILED
DEC 14 2018
Judge James F. Hyland

[PROPOSED] MASTER PLEADING IMPLEMENTATION ORDER

This Multicounty Litigation having been assigned to the Honorable James F. Hyland, J.S.C., pursuant to the Supreme Court's Order of July 17, 2018, and the Parties having met and conferred regarding Long and Short Form Complaints pursuant to Case Management Order No. 1; and the Court having reviewed the joint submission by counsel; and for good cause shown;

IT IS on this 14th day of December 2018, ORDERED THAT:

PROCEDURE FOR MASTER PLEADINGS

1. This Order sets forth the Court's instructions regarding the Master Pleadings in this Multicounty Litigation (Case No. 628) ("MCL"). In light of the number of Complaints filed to date, the possibility of additional filings in the future in this MCL (No. 628), and the inefficiencies of drafting those Complaints and individual responses to those Complaints, the Parties have agreed to the following procedures for the use of Master Pleadings. Nothing in this Order is intended to (or does) alter the applicable provisions of the New Jersey Court Rules, except as otherwise provided herein or in any subsequent Order. These procedures apply to all cases pending against Defendants SANOFI S.A., AVENTIS PHARMA S.A.,¹ SANOFI U.S. SERVICES INC., formerly known as

¹ Sanofi S.A. and Aventis Pharma S.A. are named as defendants in several cases in this MCL. Sanofi S.A. and Aventis Pharma S.A. are foreign entities incorporated in France. Both entities contend that they conduct no business in the United States and have no contacts with the United States and therefore contest jurisdiction. Some individual plaintiffs contend they have served Sanofi S.A. and Aventis Pharma S.A.

SANOFI-AVENTIS U.S. INC.; SANOFI-AVENTIS U.S. LLC, separately and doing business as WINTHROP U.S.; SANDOZ INC.; HOSPIRA, INC.; HOSPIRA WORLDWIDE, LLC formerly known as HOSPIRA WORLDWIDE, INC.; ACCORD HEALTHCARE, INC.; MCKESSON CORPORATION doing business as MCKESSON PACKAGING; SUN PHARMA GLOBAL FZE ²; SUN PHARMACEUTICAL INDUSTRIES, INC. formerly known as CARACO PHARMACEUTICAL LABORATORIES, LTD.; ACTAVIS PHARMA, INC.; ACTAVIS LLC formerly known as ACTAVIS INC.; PFIZER INC. and SAGENT PHARMACEUTICALS, INC. (collectively “Defendants”) — in MCL No. 628 and to all actions against Defendant(s) that have been or will in the future be originally filed in or transferred to this MCL No. 628.

2. All claims pleaded in the Master Long Form Complaint will supersede and replace all claims pleaded in any previously filed Complaint. All Complaints in this litigation filed on or before October 31, 2018 shall be deemed amended to incorporate and conform to the Master Long Form Complaint. When a complaint is amended, Plaintiffs shall file using the Short Form Complaint. For purposes of statutes of limitations and statutes of repose, any such Plaintiff shall be deemed to have filed his or her Complaint as to the Defendant(s) named in the original Complaint as of the date he or she filed his or her original Complaint and not the date he or she filed his or her Short Form Complaint.

3. The Master Long Form Complaint and Master Short Form Complaint shall be posted on the Court’s website:
<https://www.njcourts.gov/attorneys/mcl/middlesex/taxotere.html>.

through the Hague. Sanofi S.A. and Aventis Pharma S.A. have not filed any appearance in those cases and do not waive their rights.

² Sun Pharma Global FZE is a foreign company incorporated under the laws of the United Arab Emirates and has not been served with process, has not agreed to accept service of process in this litigation and consequently, Sun Pharma Global FZE is not appearing in this matter and does not waive any rights or defenses.

4. Service of the Master Long Form Complaint on Defendants shall be deemed sufficient by virtue of service upon defense liaison counsel in accordance with the Rules of Court, or by such other informal means as agreed to by the parties.³

5. Any Complaint filed after October 31, 2018, shall use the Short Form Complaint. If any Plaintiff fails to do so, he/she will be notified by Liaison Counsel and will be required to file a Short Form Complaint within thirty (30) days of being notified. For purposes of statutes of limitations and statutes of repose, any such Plaintiff shall be deemed to have filed his or her Complaint as of the date he or she filed his or her first Complaint as to (a) the Defendant(s) named in the original Complaint, and (b) fictitious Defendant(s) named in the original Complaint pursuant to Rule 4:26-4 and applicable law.

6. If a Defendant is named on an original filed Complaint and not named on a subsequently filed Short Form Complaint, all claims against that Defendant are deemed dismissed.

7. Any Plaintiff who files a Complaint that is transferred to MCL No. 628 on or after the date of this Order must file a Short Form Complaint within thirty (30) days of the date of notification of the transfer. For purposes of statutes of limitations and statutes of repose, any such Plaintiff shall be deemed to have filed his or her Complaint as of the date he or she filed his or her original Complaint in a different judicial district as to the Defendant(s) named in the original Complaint and not the date he or she filed his or her Short Form Complaint.

8. All answers to Complaints filed prior to October 31, 2018 are deemed to conform to and adopt the Master Long Form Answer referenced in Case Management Order No. 1.

³ See *supra* 1, 2.

9. The Court, at a later date, in connection with the selection of bellwether cases and/or scheduling of motion practice unrelated to discovery issues, will establish a procedure for the assertion of case-specific defenses.

10. Each Short Form Complaint shall be served in accordance with the Rules of Court on each Defendant named in the Short Form Complaint. To the extent any Defendant has agreed to waive or streamline formal service of the Master Complaint or a Short Form Complaint, separate Orders will be entered for these procedures.

11. To the extent any Defendant does not agree to waive or streamline formal service, that Defendant shall file a Notice of Appearance within thirty-five (35) days of the service of each Summons and Short Form Complaint, or thirty-five (35) days from the filing of the Master Complaint, whichever date is later. The filing of a Notice of Appearance shall be deemed to incorporate that Defendant's Answer or response to the Master Complaint.

12. Any Defendant may respond to any Short Form Complaint by way of motions permissible under Rule 4:6-2. Defenses available under New Jersey Court Rule 4:6-2(b), (c) and (d) shall not be deemed waived for any individual case under R. 4:6-3, 6-6, or 6-7 if such defenses are not raised in a motion to dismiss the Master Complaint or by virtue of a Defendant's joinder in a motion to dismiss the Master Complaint. Defendants may also file counterclaims, cross-claims and/or third-party claims, pursuant to the New Jersey Court Rules.

13. As set forth in Case Management Order No. 1, Defendants shall answer, plead, move, or otherwise respond to the Master Complaint by December 5, 2018.

14. Service of a Defendant's response to the Master Complaint shall be deemed sufficient by virtue of service upon Plaintiffs' liaison counsel in accordance with the Rules of Court, or by such other informal means as agreed to by the parties.

15. Except as set forth herein, to the extent any Defendant files a motion to dismiss the Master Complaint, such motion to dismiss shall constitute that Defendant's response to the Master Complaint as well as its response in each individual case. A Defendant who moves to dismiss shall not be required to file a Master Answer until 30 days after the Court rules on such a motion, or as otherwise set forth by Court Order. If and when any Defendant files a Master Answer, this Master Answer shall constitute that Defendant's Answer to the Master Complaint, except that a Defendant's Master Answer is not intended to and shall not waive any applicable defenses available to any Defendant, including any objections to service, jurisdiction or venue, and any defenses to any state law claims not otherwise set forth in the Master Complaint, which any Defendant may raise pursuant to Paragraph 12 of this Order.

IT IS SO ORDERED.



Honorable James F. Hyland, J.S.C.