

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE: INVOKANA (CANAGLIFLOZIN)
PRODUCTS LIABILITY LITIGATION**

:
: **MDL NO. 2750**
:
: Case No. 3:16-md-2750
:
: **JUDGE BRIAN R. MARTINOTTI**
: **JUDGE LOIS H. GOODMAN**
:

THIS DOCUMENT RELATES TO: ALL CASES

CASE MANAGEMENT ORDER #15

These matters, having been transferred to this Court by order of the Judicial Panel on Multidistrict Litigation pursuant to its order of December 7, 2016, merit special attention as complex litigation, the Court having entered an Initial Case Management Order [ECF No. 8] on December 21, 2016, setting forth the Court's parameters and expectations of counsel during the course of this litigation and having scheduled this initial case management conference, the Court having held a case management conference on June 1, 2017, with the Honorable Lois H. Goodman, U.S.M.J., also presiding, for good cause shown and for the reasons set forth on the record, the Court enters the following Order:

I. STATUS OF LITIGATION

A. As of May 26, 2017, 453 cases have been filed in this District with 382 Plaintiffs being served.

II. ORDERS ENTERED SINCE CASE MANAGEMENT ORDER #9

A. Case Management Order #10 [ECF No. 135] on Initial Discovery Plan, entered May 1, 2017;

B. Case Management Order #11 [ECF No. 141] on Multi-Plaintiff Complaints,

- entered May 5, 2017, along with related Severance Orders [ECF Nos. 142-48];
- C. Case Management Order #12 [ECF No. 164] on Protocol for Treatment of Privileged and Work Product Material, entered May 30, 2017;
 - D. Case Management Order #13 [ECF No. 165] on *Ex Parte* Communications with Healthcare Providers, entered May 30, 2017; and
 - E. Case Management Order #14 [ECF No. 166] on Notices of Appearance and Answers, entered May 30, 2017.

III. CASE MANAGEMENT

- A. Court Appointment – It is the Court’s continued intention to appoint a special master. Counsel shall continue to meet and confer regarding this appointment and shall report as to the status of same at the next case management conference.
- B. Science Day is scheduled for July 19, 2017, in accordance with ECF No. 57. The Court intends to invite state court judges presiding over Invokana cases to this Science Day.
- C. To date, the Mitsubishi Defendants have not been dismissed from all Plaintiffs’ member dockets. Plaintiffs are again reminded to dismiss the Mitsubishi Defendants pursuant to Case Management Order #7.
- D. At the last case management conference, counsel was instructed to meet and confer regarding the issues/orders listed below and submit a joint submission outlining areas of disagreement and proposed orders. The following issues were not resolved by Case Management Order Nos. 12-14:
 - 1. Plaintiffs’ and Defendants’ fact sheets and implementing orders –
Counsel shall meet and confer and, based on the discussions with the

Court, resubmit new implementing orders.

2. Production timeline – Counsel shall meet and confer and revise deadlines for waves of custodial production to be produced on a rolling basis by November 30, 2017. Non-custodial production shall be produced on a separate timeline regarding which counsel shall continue to meet and confer.

3. Proposed Case Management Orders governing *ex parte* contact with current and former company employees - Counsel shall meet and confer to develop a script that Plaintiffs' counsel will utilize when contacting all current and former company employees. Counsel shall submit a proposed order and script to the Court for approval.

E. Counsel will submit to the Court a revised Protective Order [ECF No. 5] and ESI Order [ECF No. 6] with the MDL caption for formal conversion into MDL case management orders. As with all case management orders, these will be posted on CM/ECF and the Court's public website for the parties' convenience and ease of reference.

F. The Court maintains its expectation to have the first trial scheduled for September 2018. The parties are ordered to use this proposed trial date when scheduling discovery and pre-trial orders.

G. Any counsel filing an appearance in this MDL shall forward his or her contact information to liaison counsel.

H. Telephonic Appearances – Counsel shall provide the court with a call-in number which the Court will activate prior to the conference. Counsel shall call in 10

minutes prior to the conference and keep their phone on mute.

IV. DISCOVERY AND PRE-TRIAL

- A. Judge Goodman shall preside over all discovery matters. Pursuant to Local Civil Rule 5.3, all motions to seal shall be filed as omnibus motions.
- B. Status of Discovery - *See* Section III(D) above.

V. GENERAL/SCHEDULING

- A. Science Day is scheduled for July 19, 2017, at 9:30 a.m. The next case management conference is scheduled for July 20, 2017 at 11:00 a.m. Lead counsel and liaison counsel shall appear for the case management conference at 10:00 a.m.
- B. Counsel is required to submit via email a joint agenda five (5) days prior to the next scheduled conference, which shall include an up to date list of Invokana cases pending in this Court. If there are any disagreements as to the agenda, counsel shall set forth each party's position.
- C. Counsel may contact *ex parte*, for the purpose of settlement discussions only, Judge Martinotti via email at brian_martinotti@njd.uscourts.gov or Judge Goodman via lhg_orders@njd.uscourts.gov.
- D. Counsel shall abide by Judge Martinotti's and Judge Goodman's submission and communication procedures, respectively, unless and until the Court so orders superseding rules for this litigation.

Dated: June 1, 2017

/s/Brian R. Martinotti
BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE