

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

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

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: **MDL NO. 2750**  
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: Case No. 3:16-md-2750  
:  
: **JUDGE BRIAN R. MARTINOTTI**  
: **JUDGE LOIS H. GOODMAN**  
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**THIS DOCUMENT RELATES TO: ALL CASES**

**CASE MANAGEMENT ORDER #8**

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 March 30, 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 March 22, 2017, 178 cases have been filed in this District with 160 Plaintiffs being served.
- B. The cases pending in the Eastern District of Pennsylvania have been tagged and will be reassigned here in due course.

## **II. ORDERS ENTERED SINCE CASE MANAGEMENT ORDER #3**

- A. Case Management Order #4 [ECF No. 51], on Direct Filing (entered March 10, 2017)
- B. Case Management Order #5 [ECF No. 57], regarding Science Day (entered March 21, 2017)
- C. Case Management Order #6 [ECF No. 58], establishing a Common Benefit and Expense Funds (entered March 21, 2017)
- D. Case Management Order #7 [ECF No. 59], regarding dismissal of Mitsubishi Tanabe Defendants (entered March 21, 2017)

## **III. CASE MANAGEMENT**

- A. Court Appointment – It is the Court’s 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. Counsel shall meet and confer regarding the following issues/orders:
  - 1. Plaintiffs’ and Defendants’ fact sheets
  - 2. Scope of discovery informally served on Defendants
  - 3. Discovery plan and pre-trial schedule (including the selection of bellwether cases)
  - 4. An order addressing “bundled” cases

5. A proposed order regarding Defendants' requirement to answer individual complaints and process for service of complaint

Ten (10) days before the next case management conference, Counsel shall file with the Court a submission setting forth their positions with regard to any areas of agreement and disagreement arising from the meet and confer regarding Numbers 1 through 5 above.

- D. It is the Court's intention 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.
- E. Any counsel filing an appearance in this MDL shall forward his or her contact information to liaison counsel.
- F. 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. Counsel shall continue to meet and confer regarding privilege issues. It is anticipated an order will be submitted in advance of the next conference.

**V. GENERAL/SCHEDULING**

- A. The next case management conference is scheduled for April 27, 2017 at 11:00 a.m. Lead counsel and liaison counsel shall appear 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](mailto:brian_martinotti@njd.uscourts.gov) or Judge Goodman via [lhg\\_orders@njd.uscourts.gov](mailto:lhg_orders@njd.uscourts.gov).
- D. Counsel is required to 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: March 30, 2017

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