

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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**IN RE: PROTON-PUMP INHIBITOR  
PRODUCTS LIABILITY LITIGATION**

**2:17-MD-2789 (CCC)(MF)  
(MDL 2789)  
and all member and related cases**

**This Document Relates to: ALL ACTIONS**

**Judge Claire C. Cecchi**

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**CASE MANAGEMENT ORDER NO. 35**

The Court, after having held a case management conference on December 17, 2019 and having heard from the parties, enters the following ORDER:

1. The first bellwether trial shall commence on November 15, 2021. For the first 6 bellwether cases, there shall be a generic discovery deadline of September 15, 2020. There will be soft caps of four depositions per side for bellwether discovery. The parties shall meet and confer on a pre-trial schedule incorporating these provisions and report back to the Court by January 10, 2020.

2. The parties have met and conferred on the List of Eligible Cases from which the bellwether pool will be selected and believe they are close to agreement or will only have a small number of cases in dispute. The parties shall continue to meet and confer and provide a status update to the Court on January 7, 2019.<sup>1</sup> For any cases in dispute, the parties shall submit their respective positions simultaneously on January 8, 2019, at 5:00 pm Eastern.

3. The parties have agreed in principle on a cost-sharing procedure to share medical records for those cases on the Eligible Case List and the parties are negotiating a proposed case

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<sup>1</sup> The parties provided an initial update to the Court on December 20, 2019, and agreed to provide further update to the Court on December 23, 2019, which by further agreement was extended until December 30, 2019, and then again to January 7, 2020, and finally with competing submissions for any cases in dispute to be filed on January 8, 2020.

management order to address same.

4. The parties shall meet and confer to categorize, as discussed on the record, those cases that have been subject to Motions to Dismiss for purported failure to comply with the tolling agreement (“Motions to Dismiss”). Defendants may present suggested categories to the Plaintiffs on which the parties may meet and confer. By January 17, 2020, either each plaintiffs’ firm with cases subject to Motions to Dismiss shall submit an annotated report to the Court identifying each Plaintiff subject to the Motions to Dismiss and what category(ies) they fall within, whether each has cured, and when the cure occurred (or advise if Plaintiff is unable to identify the date of cure) and/or a report on the progress of placing cases into buckets related to the motions to dismiss. Additionally, Plaintiffs should proceed to voluntarily dismiss cases as they are able by January 17, 2020. Defendants may also report to the Court on by January 17, 2020 as to the status.<sup>2</sup>

5. Defendants are to identify for the PSC the Plaintiffs’ firms with cases subject to the Motions to Dismiss. The PSC will advise counsel with cases subject Motions to Dismiss who were not in attendance at the December 17, 2019 Status Conference of the deadline and requirements set forth in Paragraph 4.

6. The Court has scheduled case management conferences on: February 20, 2020 at 10 a.m.; April 2, 2020 at 11 a.m.; May 20, 2020 at 11 a.m.; and July 14, 2020 at 11 a.m.

SO ORDERED:

Dated: Newark, New Jersey

January 10, 2020



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CLAIRE C. CECCHI  
United States District Judge

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<sup>2</sup> The Court initially ordered a status update on January 10, 2020, but with permission of the Court, this deadline will be extended until January 17, 2020.