

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE: BENICAR (OLMESARTAN)  
PRODUCTS LIABILITY LITIGATION

MDL No. 2606

HON. ROBERT B. KUGLER

Civil No. 15-2606 (RBK)(JS)

CASE MANAGEMENT ORDER NO. **14**  
(Defendant Fact Sheet)

This Order governs the form and schedule for service of Defendant Fact Sheets (“DFS”) to be completed by each served Defendant in all individual cases that were: (1) transferred to this Court by the Judicial Panel on Multidistrict Litigation, pursuant to its Order of April 3, 2015; (2) subsequently transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to Rule 7.4 of the Rules of Procedure of that Panel; and (3) originally filed in this Court or transferred or removed to this Court.

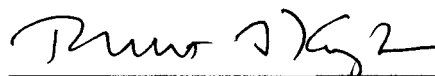
DEFENDANT FACT SHEETS

1. Each served Defendant shall complete a DFS for each received Plaintiff Fact Sheet (“PFS”) using the form set forth in Attachment A hereto.
2. Each served Defendant shall submit a DFS to the Plaintiff within 60 days of the date the Defendants receive a substantially completed and verified PFS from a Plaintiff. Defendants will not be required to serve a DFS in any case until Plaintiff supplies a substantially

complete PFS, which must provide all the Information requested in Section I of the PFS, including copies of prescription and/or pharmacy records demonstrating use of an olmesartan product (Benicar®, Benicar HCT®, Azor®, or Tribenzor®) as well as medical records and/or a certification under oath demonstrating that he or she sustained “serious gastrointestinal injury, including sprue-like enteropathy, lymphocytic colitis, microscopic colitis, and collagenous colitis.” If plaintiff does not presently have contemporaneous medical records demonstrating “serious gastrointestinal injury, including sprue-like enteropathy, lymphocytic colitis, microscopic colitis, and collagenous colitis,” then a certification under oath describing same shall be permitted.

3. Plaintiffs’ responses on a PFS and Defendants’ responses on a DFS shall be treated as answers to interrogatories under Fed. R. Civ. P. 33 and responses to requests for production of documents under Fed. R. Civ. P. 34 and shall be supplemented in accordance with Fed. R. Civ. P. 26.

Dated: 11/17/15



Hon. Robert Kugler  
United States District Judge

EXHIBIT A

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE: BENICAR (OLMESARTAN)  
PRODUCTS LIABILITY LITIGATION

HON. ROBERT B. KUGLER

Civil No. 15-2606 (RBK)(JS)

**DEFENDANTS' FACT SHEET**

**Plaintiff:** \_\_\_\_\_  
Name of Plaintiff

**Individual Case Docket No.** \_\_\_\_\_

For each case, each served Defendant must complete this Defendant Fact Sheet (DFS). Each response must either provide the substantive information requested (and documents, as applicable).

In accordance with Case Management Order No. \_\_, within 60 days of receiving a substantially completed and verified Plaintiff Fact Sheet ("PFS"), Defendants must complete and serve this DFS on each Plaintiff's counsel identified in the PFS. Defendants will not be required to serve a DFS on each Plaintiff's counsel until Plaintiff supplies a substantially complete PFS, which must provide all of the information requested in Section I of the PFS, including copies of prescription and/or pharmacy records demonstrating use of an olmesartan product (Benicar®, Benicar HCT®, Azor®, or Tribenzor®) as well as medical records and/or a certification under oath demonstrating that he or she sustained "serious gastrointestinal injury, including sprue-like enteropathy, lymphocytic colitis, microscopic colitis, and collagenous colitis." If plaintiff does not presently have contemporaneous medical records demonstrating "serious gastrointestinal injury, including sprue-like enteropathy, lymphocytic colitis, microscopic colitis, and collagenous colitis," then a certification under oath describing same shall be permitted.

I. CASE INFORMATION

This defendant fact sheet pertains to the following case:

Case Name and Docket Number:

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II. CONTACTS WITH PRESCRIBING PHYSICIAN(S)

A. Prescribing Physician

1. Please indicate if the Prescribing Physician(s) identified in Section I (C) of the PFS has/have contacted the company through the call or contact centers within the five years before Plaintiff's first prescription for Benicar®, Benicar HCT®, Azor®, or Tribenzor®, through the time Plaintiff stopped using any of the products, by identifying the name and address of the prescribing physician, the date of the contact, the name and address of the recipient, nature of contact, and whether a response was sent.

Prescribing Physician: \_\_\_\_\_

Date of Contact: \_\_\_\_\_

Recipient Name and Address: \_\_\_\_\_

Nature of Contact: \_\_\_\_\_

Response Sent: \_\_\_ Yes \_\_\_ No.

B. Consulting Relationships

1. If Plaintiff's Prescribing Physician(s) identified in Section I (C) of the PFS has/have been retained and/or compensated by Defendants as a speaker or consultant relating to any Daiichi or Forest products, please identify whether the Prescribing Physician(s) was/were retained or compensated and the nature of the affiliation.

Prescribing Physician: \_\_\_\_\_

Compensation: \_\_\_\_\_

Nature of Affiliation: \_\_\_\_\_

C. Other Contacts

1. For the Prescribing Physician(s) identified in Section I (C) of the PFS, please identify by name any of the Defendants' Detail Representatives

("Representative") who called on the Prescribing Healthcare Provider(s) in the five years before Plaintiff's first prescription for Benicar®, Benicar HCT®, Azor®, or Tribenzor®, through the time Plaintiff stopped using any of the products, and attach the call notes that related in any way to Benicar®, Benicar HCT®, Azor®, or Tribenzor®.

Prescribing Physician: \_\_\_\_\_

Detail Representative: \_\_\_\_\_

Company Name: \_\_\_\_\_

Current or Former Employee: \_\_\_\_\_

- 2. For the five-year time period before Plaintiff's first prescription for Benicar®, Benicar HCT®, Azor®, or Tribenzor® through the time Plaintiff stopped using any of the products, have Defendants or their representatives provided any olmesartan product samples to Plaintiff's Prescribing Physician(s) identified in Section I (C) of the PFS?

To be answered only if Plaintiff answers in the affirmative to Section I of the PFS.

Yes \_\_\_\_\_ No \_\_\_\_\_ Not Applicable \_\_\_\_\_

- a. If the answer is "Yes," for the Prescribing Physician(s) identified in Section I (C) of the PFS who received the samples, state: the dates on which such samples were provided; the amount, and dosage of such samples; and the name of the Representative(s) who provided the samples.

Prescribing Physician: \_\_\_\_\_

Dates Samples Provided: \_\_\_\_\_

Product, Amount and Dosage: \_\_\_\_\_

Detail Representative: \_\_\_\_\_

III. INFORMATION REGARDING THE PLAINTIFF

- A. Have you been contacted through the call or contact centers by Plaintiff, or anyone acting on behalf of Plaintiff (other than Plaintiff's counsel)?

Yes \_\_\_\_\_ No \_\_\_\_\_ Don't Know \_\_\_\_\_

1. If yes, please state the name of the person(s) who contacted you and the name and address of the person(s) who responded to the contact on your behalf, and produce any documents relating to the contact or response.
- B. Please produce a copy of any MedWatch form which relates to the Plaintiff. Any MedWatch form produced shall be redacted as necessary per federal law.
- C. If you contend that any person, entity, medical condition, food, medication, or product, other than the Defendants and the Olmesartan Product(s) is a cause of the plaintiff's injuries ("Alternate Cause") (to be provided with Defendants' expert reports):
  1. Identify the Alternate Cause with specificity.
  2. Set forth the date(s) and mechanism of alternate causation.

**DEFENDANT'S CERTIFICATION**

I am employed by \_\_\_\_\_, one of the Defendants in this litigation. I am authorized by \_\_\_\_\_ [names of other Defendants] to execute this certification on each corporation's behalf. I hereby certify that the information provided in the accompanying Response to Defendants' Fact Sheet is not within my personal knowledge, but the facts stated therein have been assembled by authorized employees and counsel, upon which I relied. I hereby certify, in my authorized capacity, that the responses to the aforementioned Defendants' Fact Sheet are true and complete to the best of my knowledge on information and belief.

\_\_\_\_\_  
Name:

Date: \_\_\_\_\_

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November 16, 2015

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\* Certified by the Supreme Court of  
New Jersey as a Civil Trial Attorney

**VIA ECF**

Honorable Robert B. Kugler  
United States District Court  
Mitchell H. Cohen Building and  
U.S. Courthouse  
4<sup>th</sup> and Cooper Streets  
Camden, New Jersey 08101

Honorable Joel Schneider, U.S.M.J.  
United States District Court  
Mitchell H. Cohen Building & U.S. Courthouse  
4th & Cooper Streets Room 1050  
Camden, New Jersey 08101

Re: In re: Benicar (Olmesartan) Products Liability Litigation  
Master Docket No. 15-2606 (RBK/JS)

Dear Judge Kugler and Judge Schneider:

Enclosed is my prior letter of September 23, 2015, and the proposed Order and DFS, for filing.

Please advise if you require anything further.

Respectfully,



ADAM M. SLATER

cc: All Counsel (via ECF)



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September 23, 2015

**VIA ECF**

Honorable Robert B. Kugler  
United States District Court  
Mitchell H. Cohen Building and  
U.S. Courthouse  
4<sup>th</sup> and Cooper Streets  
Camden, New Jersey 08101

Honorable Joel Schneider, U.S.M.J.  
United States District Court  
Mitchell H. Cohen Building & U.S. Courthouse  
4th & Cooper Streets Room 1050  
Camden, New Jersey 08101

Re: In re: Benicar (Olmesartan) Product Liability Litigation  
Master Docket No. 15-md-2606 (RBK)(JS)

Dear Judge Kugler and Judge Schneider:

Plaintiffs hereby submit the proposed Case Management Order and final form of the DFS, pursuant to Case Management Order No. 9. We have conferred with defense counsel, who have agreed to the filing in this form.

Please advise if you require anything further.

Respectfully,



ADAM M. SLATER

cc: All Counsel (via ECF)