

**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 #3

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 February 23, 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 February 17, 2017, 135 cases have been filed in this District with 118 Plaintiffs being served.

B. At the January CMC, Counsel informed the Court of a Motion to Remand pending in the Eastern District of Pennsylvania where 106 cases have been filed.

A hearing was held on January 11, 2017, and on February 22, 2017, Judge

Goldberg denied the motion.

II. ORDERS ENTERED SINCE CASE MANAGEMENT ORDER #1

- A. Case Management Order #2 [ECF No. 28], appointing Plaintiffs' Steering Committee
- B. Letter Order [ECF No. 29], setting 2017 conference dates and regarding electronic filing

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 – Counsel shall continue to meet and confer to schedule a date for a Science Day and the parameters concerning the presentations. The Court intends to invite state court judges presiding over Invokana cases to this Science Day. Counsel has provided the following proposed dates: May 25, 2017; June 28, 2017; June 29, 2017. Counsel shall advise the Court of the exact date by March 3, 2017 and submit a case management order governing the parameters of Science Day.
- C. Counsel shall continue to meet and confer to prepare a plaintiffs' fact sheet, defendants' fact sheet, discovery plan, and pre-trial schedule.
- D. The parties have agreed upon a Direct Filing Order, which shall be filed by Monday, February 27, 2017.

- E. A Common Benefit Order will be circulated amongst the leadership, shared with defense counsel, and filed upon agreement.
- F. Any counsel filing an appearance in this MDL shall forward his or her contact information to liaison counsel.
- G. 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

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.

V. GENERAL/SCHEDULING

- A. The next case management conference is scheduled for March 30, 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 or Judge Goodman via 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: February 23, 2017

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