

**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 #9

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 April 27, 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 April 21, 2017, 295 cases have been filed in this District with 256 Plaintiffs being served.

II. ORDERS ENTERED SINCE CASE MANAGEMENT ORDER #8

- A. None.

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. To date, the Mitsubishi Defendants have not been dismissed from all Plaintiffs’ member dockets. Plaintiffs are reminded to dismiss the Mitsubishi Defendants pursuant to Case Management Order #7.
- D. Counsel shall meet and confer regarding the issues/orders listed below and shall submit a joint submission outlining areas of disagreement and proposed orders as necessary by May 3, 2017. Subject to the Judges’ review, a telephone conference may be scheduled prior to the next case management conference.
 - 1. Plaintiffs’ and Defendants’ fact sheets and implementing orders
 - 2. Scope of discovery informally served on Defendants
 - 3. Proposed order regarding Defendants’ requirement to answer individual complaints and process for service of complaints
 - 4. Proposed Case Management Order addressing Severance of Multi-Plaintiff Complaints. Counsel shall contact Melissa Rhoads in the Clerk’s Office regarding quality control and a preferred form of severance order.
 - 5. Proposed Case Management Order regarding privilege logs

6. Proposed Case Management Orders governing *ex parte* contact with current and former company employees and *ex parte* contact with healthcare providers

E. 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.

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 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.

V. GENERAL/SCHEDULING

A. The next case management conference is scheduled for June 1, 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 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: April 27, 2017

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