

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

	Case Nos.
SHERYL MCCALL and DAVID MCCALL,	: 3:20-cv-08074; 3:20-cv-12605;
	: 3:20-cv-07758; 3:20-cv-07756;
	: 3:20-cv-09530; 3:20-cv-10080;
<i>Plaintiffs,</i>	: 3:20-cv-07753; 3:20-cv-12328;
	: 3:20-cv-11913; 3:20-cv-11912;
<i>v.</i>	: 3:20-cv-12608; 2:20-cv-07079;
	: 3:20-cv-10341; 3:20-cv-11921;
JANSSEN PHARMACEUTICALS, INC., et al.,	: 3:20-cv-12421; 3:20-cv-10342;
	: 3:20-cv-07750; 3:20-cv-12547;
	: 3:20-cv-10966; 3:20-cv-11919;
<i>Defendants.</i>	: 3:20-cv-10968; 3:20-cv-12264;
	: 3:20-cv-06070; 3:20-cv-10960
<i>This Document Relates to All Cases¹</i>	: JUDGE BRIAN R. MARTINOTTI JUDGE ZAHID N. QURAIISHI

¹ (1) *Rebecca Anthony and Carlie Anthony v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-12605-BRM-ZNQ (2) *Lynn Brewer and William Brewer v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-07758-BRM-ZNQ; (3) *Harriet Comstock v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-07756-BRM-ZNQ; (4) *Sherry Dobbins and James Dobbins v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-09530-BRM-ZNQ; (5) *Carol Dubois v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-10080-BRM-ZNQ; (6) *Deborah Edwards v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-07753-BRM-ZNQ; (7) *Margaret Emmons v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-12328-BRM-ZNQ; (8) *Marilyn J. Evans v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-11913-BRM-ZNQ; (9) *Iris Groudan v. Janssen Pharmaceuticals Inc., et al.*, 3:20-cv-11912-BRM-ZNQ; (10) *Carol Hardy and Roger Hardy v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-12608-BRM-ZNQ (11) *Valerie Hull and Edward Hull v. Teva Pharmaceuticals, Inc., et al.*, 2:20-cv-07079-BRM-ZNQ; (12) *Clara Johns v. ALZA Corp., et al.*, 3:20-cv-10341-BRM-ZNQ; (13) *Tiffany Kotz v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-11921-BRM-ZNQ (14) *Elizabeth Lafave v. Teva Branded Pharmaceutical Products R&D, Inc., et al.*, 3:20-cv-12421-BRM-ZNQ; (15) *Shirley Ruth Levy v. ALZA Corp., et al.*, 3:20-cv-10342-BRM-ZNQ; (16) *Barbara Mayou and Keith Mayou v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-07750-BRM-ZNQ; (17) *Sheryl McCall and David McCall v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-08074-BRM-ZNQ; (18) *Loretta Reid v. Janssen Pharmaceutical, Inc., et al.*, 3:20-cv-12547-BRM-ZNQ; (19) *Maria A. Rodgers v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-10966-BRM-ZNQ; (20) *Michelle Scott v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-11919-BRM-ZNQ (21) *Heather Shaffer v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-10968-BRM-ZNQ; (22) *Cynthia Vescio v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-12264-BRM-ZNQ; (23) *Becky Worden v. Janssen Pharmaceuticals, Inc., et al.* 3:20-cv-06070-BRM-ZNQ; (24) *Ronna York v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-10960-BRM-ZNQ.

**CASE MANAGEMENT ORDER TO GOVERN
PRIVILEGED MATERIALS AND PRIVILEGE LOGS**

The undersigned counsel for Defendants and Plaintiffs (collectively, the “Parties” and each, a “Party”) in the above captioned action agree that the Parties and non-parties will be required to produce or disclose in this proceeding certain information and documents that are subject to claimed privileges under applicable law. Such documents, described in more detail below, include information that is protected by attorney work-product, attorney-client or other applicable privilege that might exist.

I. PRIVILEGE LOGGING PROTOCOL

A. **General Principles. Privilege logs shall comply with Fed. R. Civ. P. 26(b)(5), which requires a party to:**

1. Expressly identify the privilege asserted; and
2. Describe the nature of the documents, communications, or tangible things not produced or disclosed . . . in a manner that, without revealing information itself privileged or protected, will enable other parties to assess this claim. Fed. R. Civ. P. 26(b)(5).

B. **Specific Principles.**

1. **Asserting Privilege or Protection.** A party who withholds or redacts documents on the grounds of attorney-client privilege and/or work product protection shall provide:
 - a. a listing of such documents in electronic spreadsheet format providing the following objective metadata fields (“objective metadata” does not include substantive content from, or a subjective description of, the document being withheld or redacted):
 - i. the Bates number of the document (if redacted);
 - ii. the nature of the privilege asserted (e.g., “attorney-client privilege” or “attorney work product”);

- iii. the name(s) and email addresses of the author(s) of the document, (if known) (to the extent a document is comprised of an email chain, the name of the author on the most recent email in the chain will be identified);
 - iv. the name(s) and email addresses of the recipient(s) of the document, including anyone who was sent the document as a “CC” or a “BCC,” (if known) (to the extent a document is comprised of an email chain, the name(s) of the recipient(s) on the most recent email in the chain will be identified);
 - v. the name(s) and email addresses of the email thread participant(s), including anyone who was sent the document as a “CC” or a “BCC,” (if known) (to the extent a document is comprised of an email chain, the name(s) of all recipients throughout the entirety of the chain will be identified);
 - vi. the custodian(s) of the document;
 - vii. the document type, including, for example, whether the document is an email, paper file, a meeting presentation, a spreadsheet, or other descriptive identifier of the document type;
 - viii. the date the document was created (if known), sent (if applicable); and last modified (if applicable).
- b. The withholding/redacting party need not provide an individualized or subjective description of the privilege or protection claimed for documents corresponding to the following categories:
- i. Communications including outside counsel;
 - ii. Emails from an attorney and attachments;
 - iii. Emails sent to an attorney (attorney in the TO field) and attachments;
 - iv. Emails copied to an attorney (attorney in the CC field) and attachments;
 - v. Documents prepared or edited by an attorney (not attached to emails);

- vi. Documents prepared or edited for review by an attorney (not attached to emails);
 - vii. Emails between non-lawyers conveying legal advice;
 - viii. Documents with reference to legal advice; and
 - ix. Status of legal matters, legal settlements.
- c. The withholding/redacting party shall specify the category to which a privileged or protected document corresponds.
 - d. The withholding/redacting party shall provide individualized descriptions for documents that it asserts are privileged or protected but that do not correspond to a category listed above.
2. **Documents presumptively not to be logged on Privilege Log.** The following documents presumptively need not be included on a privilege log:
 - a. Written or electronic communications regarding this action exclusively between a party and its trial counsel after commencement of this action; and
 - b. work product solely related to this action created by trial counsel after commencement of the action.
 3. **Privilege Log descriptions of email threads.** A party may use electronic email threading to identify emails that are part of the same thread and need include only an entry for the most inclusive email thread on the log to identify withheld or redacted emails that constitute an email thread; provided, however, that no emails within the thread are sent or received by, or forwarded to, third parties Disclosure must be made that the e-mails are part of an email thread.
 4. **Privilege Log descriptions of exact duplicates.** A party need include only one entry on the log to identify withheld documents that are exact duplicates.
 5. The privilege log should indicate which individuals listed on the log are attorneys.

II. PRIVILEGE LOGGING PROTOCOL

- A. **Challenging Asserted Privilege and Protection.** If a party challenges in writing an assertion of privilege or protection from discovery then the parties shall meet and confer and make a good faith effort to cooperatively classify the challenged documents into categories that are subject to common factual and legal issues in so far as practicable and shall attempt to resolve the privilege challenges. If thereafter, the parties are unable to resolve any of the privilege challenges, either party may request a conference with the Court to set processes for resolving the challenges, which normally will include:
1. a schedule for briefing the legal issues relevant to each category or setting argument;
 2. a ruling date for issues that can be resolved on the briefs alone; and/or
 3. a schedule for providing representative, rationale-based and/or random samples for the Court's review in camera with respect to any categories that cannot be resolved by the parties or by the Court before briefing; and/or
 4. a schedule for the parties to meet and confer to attempt in good faith to apply the Court's rulings on the samples to whole categories or within categories insofar as possible; and/or
 5. a schedule for repeating this process as needed.

Plaintiffs may challenge privilege designations either document-by-document or in clusters of documents

Nothing herein shall shift or in any way alter the burden on establishing privilege protections by the party asserting privilege protections.

Although the Parties are encouraged to meet-and-confer over any challenge being asserted to a privilege designation before bringing the privilege challenge to the Court's attention for resolution and adjudication, nothing herein shall be construed to serve as a delay or obstacle for any party who might seek to challenge a claim of privilege per this section.

Dated: October 7th, 2020



The Hon. Brian Martinotti, U.S.D.J.