

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION**

IN RE: ABILIFY (ARIPRAZOLE)  
PRODUCTS LIABILITY LITIGATION

Case No. 3:16md2734

Chief Judge M. Casey Rodgers  
Magistrate Judge Gary Jones

This Document Relates to All Cases

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**CASE MANAGEMENT ORDER NO. 17**

The Court held the Seventeenth Case Management Conference in this matter on November 27, 2018. This Order serves as a non-exhaustive recitation of the key points of discussion during the conference.

**I. Formal Deficiency Process**

The parties have advised the Court of their positions regarding uncured core deficiencies in the Supplemental Plaintiff Profile Forms, Fact Sheets, and records authorizations for the individual plaintiffs in the fast-track and second discovery pool cases. For the reasons stated on the record during the case management conference, Defendants' motion on this matter, ECF No. 1046, is **GRANTED IN PART** and **DENIED IN PART**. More specifically, Defendants' motion to dismiss the cases of Shirley Mei Chow, Christopher Drummond, and Todd Weitzman is **DENIED**. Defendants' motion to compel more substantive responses to the questions on the Plaintiff Profile Forms, Supplemental Plaintiff Profile Forms, and Fact Sheets is also **DENIED**. Individual plaintiffs will be held to their responses on these forms and must

accept the consequences that any discrepancies may have on the strength of their respective cases.

Defendants' motion to compel verifications and usable records authorizations is **GRANTED**. All Plaintiff Profile Forms, Supplemental Plaintiff Profile Forms, and Fact Sheets, as well as amended versions of these forms, must be accompanied by verifications that are current as of the date each form is/was submitted. Additionally, Defendants are entitled to usable authorizations that will enable them to gather relevant medical, financial, and/or gambling records. Show cause orders will be entered in the individual cases that have been identified as lacking current verifications and/or usable records authorizations.

## **II. Credit Reports**

Defendants' request for individual plaintiffs' credit reports is granted. Credit report information is relevant in this case because most plaintiffs have placed their financial standing in issue by alleging injuries to their financial condition. Credit reports will also help gauge the accuracy of plaintiffs' responses on the profile forms and fact sheets.

At this time, the fast-track and second discovery pool plaintiffs only are directed to provide Defendants with one of the following by **December 21, 2018**: (1) a current copy of their credit report; or (2) an authorization for Defendants to obtain a copy of the plaintiff's credit report. A credit report is current where it is dated within **30 days**

of this Order. Individual plaintiffs whose cases are not in the fast-track or second discovery pools will be required to produce credit reports at a later time.

### **III. Fast-Track and Second Trial Pool Cases**

The previously imposed stay on formal discovery in the fast-track and second discovery pool cases is now lifted. In the fast-track cases, fact discovery must recommence in **January 2019** and be completed by **March 15, 2019**.<sup>1</sup> Expert depositions will proceed thereafter and must be completed within **45 days**. The Court will enter separate orders setting a schedule for formal discovery, pretrial deadlines and trial dates for these cases, and ruling on several discovery issues raised at the 17th case management conference.

Regarding the second discovery pool, by **December 14, 2018**, each side will strike four cases, taking the total second trial pool to 11 cases. The parties are directed to confer and submit a joint proposed discovery schedule (*i.e.*, fact discovery, the timing and scope of expert discovery, and pretrial deadlines) to the Court before the next case management conference. Trials will be held in the cases selected for the second trial pool either at the end of 2019 or in early 2020.

Absent leave of Court and a showing of good cause, no more than six fact witnesses may be deposed in any individual case: the plaintiff, one family member or

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<sup>1</sup> As will be further explained in a subsequent order, the Court will permit limited written discovery by Defendants to begin immediately.

friend, two treating physicians, prescribers, or other health care providers, and two sales representatives. However, the parties may, without leave of Court, also depose any other fact witness the other side indicates will be called as a witness at trial. To the extent additional depositions of an individual plaintiff's prescribers are relevant to Defendants' learned intermediary defense, the parties must confer on the issue and advise the Court of any agreement that is reached. If the parties cannot agree, then they must so advise the Court and, if necessary, the Court will resolve the dispute. No time limit is imposed on depositions in this case beyond that established in the Federal Rules of Civil Procedure.

#### **IV. Upcoming Case Management Conferences**

The 18th case management conference will be held on **December 18, 2018 at 9:30 a.m. (CST)** in Pensacola, FL. The Court will hold a pre-conference meeting at **8:30 a.m. (CST)** with those attorneys permitted to attend under Case Management Order No. 9, ECF No. 548.

The 19th case management conference will be held on **January 25, 2019 at 9:30 a.m. (CST)** in Pensacola, FL. The preconference meeting will be held at **8:30 a.m. (CST)**.

**DONE and ORDERED**, on this 4th day of December, 2018.

*M. Casey Rodgers*

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**M. CASEY RODGERS**  
**UNITED STATES DISTRICT JUDGE**