

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

IN RE: ABILIFY (ARIPIPRAZOLE)
PRODUCTS LIABILITY LITIGATION

This Document Relates to All Cases

Case No. 3:16-md-2734

Judge M. Casey Rodgers
Magistrate Judge Gary Jones

**ORDER REGARDING SETTLEMENT AGREEMENT
AND DEADLINES**

Plaintiffs' MDL Lead Counsel, the Plaintiffs' MDL Liaison Counsel, and the Plaintiffs' representatives on the MDL Joint Settlement Committee (collectively, "Plaintiffs' Leadership") and Defendants have entered into a Confidential Master Settlement Agreement dated February 15, 2019 (the "Agreement") to resolve Abilify compulsivity claims pending in state and federal courts throughout the United States.

The Agreement is a private settlement to resolve cases pending in the following courts and jurisdictions as of January 28, 2019: *In re: Abilify (Aripiprazole) Products Liability Litigation*, MDL No. 2734 (N.D. Fla.) (the "MDL") and all cases presently being transferred to the MDL; *In re Abilify*, MCL No. 626 (N.J. Super. Ct.) (the "MCL"); cases pending in California state courts against Defendants alleging compulsivity as an injury (including but not limited to compulsive sex, compulsive gambling, compulsive shopping, etc.) as a result of using Abilify; and cases pending in any other federal or state court in the United

States of America against Defendants alleging compulsivity as an injury (including but not limited to compulsive sex, compulsive gambling, compulsive shopping, etc.) as a result of using Abilify (collectively, the “Litigations”). For purposes of this Order, the term “Abilify” includes any aripiprazole-derived product, including but not limited to Abilify® and Abilify Maintena®.

I. AUTHORITY OF COURT TO OVERSEE SETTLEMENT

This Court encourages participation in the settlement and has the authority to enter Orders setting deadlines and managing the litigation to facilitate settlement. Fed. R. Civ. P. 16(a)(5), (d); *In re Vioxx Prods. Liab. Litig.*, 650 F. Supp. 2d 549 (E.D. La. 2009); *In re Propulsid Prods. Liab. Litig.*, 2004 WL 305816 (E.D. La. 2014). The instructions herein are to be construed as Orders of this Court.

II. NOTICE TO MDL PLAINTIFFS

Plaintiffs’ Leadership must give or cause to be given notice of this Order and of the Agreement to all Plaintiffs with cases pending in this MDL as of the date of the entry of this Order.

III. STAY PENDING RESOLUTION OF LITIGATION

At the Parties' request and in order to give the Parties time to resolve the Litigations under the terms of the Agreement, the Court hereby stays all cases pending in this MDL as of January 28, 2019 for a period of one year from the date of entry of this Order or, in the event that Defendants terminate the Agreement, until the date of that termination, whichever is earlier. This stay will be lifted as to those Eligible Claimants, as defined below, who decline to participate in the settlement, upon notification to Defendants of their intent not to participate. Defendants must advise the Court of any Eligible Claimant who notifies them of his or her intent not to participate in the settlement, within 7 days of receiving the Claimant's notification, so that the Court may enter an order lifting the stay with respect to that Claimant's case.¹ This stay does not preclude the Parties from seeking relief from the Court as otherwise provided in this Order or for the purpose of facilitating or effectuating participation by Plaintiffs in the settlement program.

IV. IDENTIFICATION OF ELIGIBLE CLAIMANTS

No later than March 6, 2019, Plaintiffs' Leadership must provide Defendants and the Court with a list, in Excel spreadsheet format, of all Plaintiffs with filed claims pending in the Litigations on or before January 28, 2019 (the "Eligible Claimants"). Spouses, children, and/or heirs, beneficiaries, agents, estates,

¹ The stay may only be lifted by Court order.

executors, administrators, personal representatives, predecessors, successors, and assigns—together with the person who ingested Abilify—will constitute a single Eligible Claimant. By the Parties’ mutual consent, which may be withheld by any Party on any or no basis, any individual who files a lawsuit in any of the Litigations after January 28, 2019 but before February 21, 2019 may be deemed an Eligible Claimant who may elect to participate in the Agreement pursuant to the requirements set forth therein.

The list of Eligible Claimants must include each Claimant’s full name, Social Security number, date of birth, state of residence, primary counsel, the court in which the Claimant’s claim is pending, and the applicable civil action or index number. Submission of the information required pursuant to this Paragraph constitutes a representation to this Court that the information is true, complete, and correct to the best of Plaintiffs’ Leadership’s knowledge.

V. IDENTIFICATION OF EXCLUDED CLAIMANTS

No later than May 17, 2019, Eligible Claimants’ counsel must provide Defendants and the Court with a list, in Excel spreadsheet format, of all Eligible Claimants who they represent who either (a) are deceased, (b) are currently in bankruptcy, (c) became legally incapacitated after filing suit and do not currently have the legal capacity to execute a Release, or (d) cannot be located after a diligent good faith search has been conducted (the “Excluded Claimants”). Submission of

the information required pursuant to this Paragraph constitutes a representation to this Court that the information is true, complete, and correct to the best of Eligible Claimants' counsel's knowledge.

VI. IDENTIFICATION OF NON-PARTICIPATING CLAIMANTS

No later than August 30, 2019, Plaintiffs' Leadership must provide Defendants and the Court with a list, in Excel spreadsheet format, of all Eligible Claimants who (a) are not Excluded Claimants, and (b) have failed to submit a facially valid claim form to the Claims Administrator and/or have indicated that they do not intend to participate in the settlement.

VII. REQUIREMENTS OF PARTICIPATING CLAIMANTS AND COUNSEL

Eligible Claimants who choose to participate in the Agreement (the "Participating Claimants") must submit a fully executed release, as well as a fully executed stipulation for and/or proposed order of dismissal with prejudice for any action filed by the Participating Claimant.

If a Participating Claimant is represented, counsel for the Participating Claimants must provide a fully executed certification that counsel acknowledges that they have read the Agreement and that they agree to abide and be contractually bound by the terms, conditions, and representations of the Agreement.

VIII. RESCISSION OF ORDER REGARDING ABBREVIATED SERVICE PROCEDURE

The Court's Amended Stipulated Order Regarding Abbreviated Service Procedures (ECF 579), which permitted service by email within 60 days after the date a case is first docketed any U.S. District Court, so long as it is subject to transfer to this MDL, is hereby rescinded.

IX. CASE REVIEW ORDER FOR INELIGIBLE AND NON-PARTICIPATING PLAINTIFFS

As further described in this Court's Order Regarding Case Review Process (ECF 1136), filed concurrently herewith, for any cases that are filed in this MDL by any Plaintiffs who are ineligible to participate in the Agreement by reason of filing their Complaint after January 28, 2019 ("Ineligible Plaintiffs") and any Plaintiffs who are eligible to participate in the Agreement but decline to do so ("Non-Participating Plaintiffs"), to the extent those Plaintiffs are represented by counsel, Plaintiffs' counsel must provide a timely certification as described in that Order (ECF 1136) or be subject to Defendants' submission of an order to show cause why such Plaintiff's claims should not be dismissed with prejudice for failure to comply with the Order.

X. AMENDMENT OF ORDERS REGARDING PPFs AND SUPPLEMENTAL PPFs

This Order amends the Stipulated Order Establishing Case Management Schedule (ECF 273) and Case Management Order No. 15 (ECF 993) with respect to

the deadlines for the submission of Plaintiff Profile Forms (“PPFs”) and Supplemental Plaintiff Profile Forms (“SPPFs”). All Ineligible Plaintiffs must, to the extent they have not already done so, submit PPFs and SPPFs within thirty (30) days of the entry of this Order or thirty (30) days of the filing of a Complaint, whichever is later. All Non-Participating Plaintiffs must, to the extent they have not already done so, submit a PPF and SPPF within thirty (30) days of notification to Defendants that Plaintiff has declined to participate in the Agreement. Failure to comply with these requirements may result in sanctions, up to and including dismissal of a case.

XI. ADDITIONAL ORDER APPLICABLE TO INELIGIBLE AND NON-PARTICIPATING PLAINTIFFS PROCEEDING *PRO SE*

All Ineligible and Non-Participating Plaintiffs who are proceeding *pro se* must comply with the requirements of this Court’s Order Regarding *Pro Se* Plaintiffs, filed concurrently herewith. As further detailed in that Order, failure to comply with the Order’s requirements will result in sanctions, up to and including dismissal of a case.

XII. ABILIFY SETTLEMENT DEADLINES

The deadlines set forth below may be further extended by written agreement of Plaintiffs’ Leadership and Defendants.

March 6, 2019 (the “Eligible Claimants Deadline”)	Date by which Plaintiffs’ Leadership shall provide Defendants with a list of all Eligible Claimants.
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May 17, 2019 (the “Excluded Claimants Deadline”)	Date by which Eligible Claimants’ counsel shall provide Defendants with a list of Excluded Claimants.
August 30, 2019 (the “Non-Participating Claimants Deadline”)	Date by which Plaintiffs’ Leadership shall provide Defendants with a list of all Eligible Claimants who (a) are not Excluded Claimants, and (b) have failed to submit a facially valid claim form to the Claims Administrator and/or have indicated that they do not intend to participate in the settlement.

DONE and **ORDERED** on this 25th day of February, 2019.

M. Casey Rodgers

M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE