

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

IN RE: ABILIFY (ARIPIPRAZOLE)  
PRODUCTS LIABILITY  
LITIGATION

Case No. 3:16-md-2734

Chief Judge M. Casey Rodgers  
Magistrate Judge Gary Jones

This Document Relates to All Cases

**ORDER ESTABLISHING COUNSEL LEADERSHIP STRUCTURE<sup>1</sup>**

The court is soliciting applications for the positions described below. These applications must be submitted within fourteen days of entry of this order using the form included here as Attachment A. Applications should be sent to [fnd\\_rodgers@fnd.uscourts.gov](mailto:fnd_rodgers@fnd.uscourts.gov)—they should not be filed in the docket of any case. Due to the nature of the information being solicited, these applications will be reviewed *in camera*.

**I. Plaintiffs' Committee Structure**

A. Plaintiffs' Lead or Co-Lead Counsel

Lead or Co-Lead Counsel will be generally responsible for coordinating activities on behalf of all Plaintiffs during pretrial proceedings. Specifically, Lead or

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<sup>1</sup> This Order applies automatically to all actions listed in the JPML's Transfer Order, ECF No. 1, the first Conditional Transfer Order, ECF No. 7, and the second Conditional Transfer Order, ECF No. 11, as well as any other actions subsequently transferred to, removed to, or initiated in this MDL court, without the necessity of future motions or orders.

Co-Lead Counsel will:

1. Present to the court and opposing parties the position of the Plaintiffs on all matters arising during pretrial proceedings;
2. Coordinate the initiation and conduct of discovery on behalf of Plaintiffs and in conjunction with the Joint Discovery Committee;
3. Delegate specific tasks to other counsel or committees of counsel, as authorized by the court, in a manner to ensure that pretrial preparation for the Plaintiffs is conducted efficiently and effectively;
4. Enter into stipulations with opposing counsel as necessary for the conduct of the litigation;
5. Consult with and employ expert witnesses;
6. Prepare and distribute periodic status reports to the court and parties;
7. Meet with the court and opposing counsel in advance of Case Management Conferences;
8. Monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided;
9. Chair the Plaintiffs' Executive Committee; and
10. Carry out such other duties as the court may authorize or direct.

B. Plaintiffs' Liaison Counsel

Liaison counsel will:

1. Maintain and distribute to co-counsel and to Defendants' liaison counsel an up-to-date service list;
2. Receive and, as appropriate, distribute to co-counsel orders from the court and documents from opposing parties and counsel;
3. Serve as a member of the Plaintiffs' Executive Committee;
4. Present, in conjunction with the Lead or Co-Lead Counsel, the position of Plaintiffs on any matter arising during pretrial proceedings;
5. Meet with the court and opposing counsel in advance of Case Management Conferences; and
6. Assist Lead or Co-Lead Counsel in the discharge of his/her/their duties.

C. Plaintiffs Executive Committee

The Plaintiffs Executive Committee ("PEC") will be chaired by Plaintiffs' Lead or Co-Lead Counsel, and Plaintiffs' Liaison Counsel will be a member. The PEC will be comprised of five members in total. The PEC will:

1. Coordinate and oversee the responsibilities of the PEC and the Plaintiffs' Steering Committee set forth below;

2. Schedule meetings and maintain minutes or transcripts of these meetings;
3. Appear at periodic court noticed status conferences and hearings;
4. Sign and file pleadings relating to all actions; and
5. Perform any task authorized or directed by the court for the PEC to accomplish its responsibilities.

D. Plaintiffs' Steering Committee

The Plaintiffs' Steering Committee ("PSC") will be comprised of seven members. The members of the PEC are not necessarily members of the PSC unless so appointed. The PSC will:

1. Call meetings of counsel for Plaintiffs for any relevant purpose, including coordinating responses to questions of other parties or of the court;
2. Initiate proposals, suggestions, schedules, or joint briefs, and any other matter(s) pertaining to pretrial proceedings;
3. Cause to be issued in the name of all Plaintiffs the necessary discovery requests and subpoenas pertaining to any witnesses and documents needed to properly prepare for the pretrial of relevant issues found in the pleadings of this litigation;

4. Prepare periodic status reports summarizing the PSC's work and progress, which are to be submitted to the Plaintiffs' Liaison Counsel who will promptly distribute copies to co-counsel and the court; and
5. Perform any task authorized or directed by the court for the PSC to accomplish its responsibilities.

E. Plaintiffs' Federal/State Liaison Counsel

The Federal/State Liaison Counsel must be an attorney of record in the related New Jersey litigation, as well as this MDL action. The Federal/State Liaison Counsel will be required to attend all scheduled conferences and hearings in both courts, either in person or by telephone (as permitted by the respective court). The Federal/State Liaison Counsel must keep co-counsel and the court apprised of any motions, orders, or other significant developments in the New Jersey litigation. The Federal/State Liaison Counsel will be required to provide this court with pertinent filings and all orders in the New Jersey litigation and to provide the presiding judge in New Jersey (currently Judge Jim Deluca) with pertinent filings and all orders in the MDL action.

**II. Defendants' Committee Structure**

Due to the limited number of Defendants currently party to this action and the apparent alignment of their interests, the court does not see a need at this time to

appoint any committees of Defendants' counsel. Rather, the court will appoint a Defendants' Liaison Counsel only. Should the interests of the Defendants become materially adverse in the future, they should promptly so inform the court and propose an appropriate leadership structure.

A. Defendants' Liaison Counsel

Defendants' Liaison Counsel will:

1. Maintain and distribute to co-counsel and to Plaintiffs' Liaison Counsel an up-to-date service list;
2. Receive and, as appropriate, distribute to co-counsel orders from the court and documents from opposing parties and counsel;
3. Meet with the court and opposing counsel in advance of Case Management Conferences; and
4. Carry out such other duties as the court may authorize or direct.

**III. Joint Committees**

A. Joint Discovery Committee

The Joint Discovery Committee ("JDC") will be comprised of four attorneys on behalf of Plaintiffs and four attorneys on behalf of Defendants. The JDC will:

1. Develop and propose to the court schedules for the commencement, execution, and completion of discovery under the framework established by the court;

2. Initiate, coordinate, and conduct all pretrial discovery in all actions consolidated with the instant multidistrict litigation; and
3. Assemble and prepare “trial packages” that can be utilized in future cases, including cases that are remanded to transferor courts for trial.

B. Joint Settlement Committee

The Joint Settlement Committee will consist of one attorney on behalf of Plaintiffs and one attorney on behalf of Defendants. This committee will be responsible for working with a special master to explore, develop, and pursue all settlement options pertaining to any claim in any case filed in this litigation, as well as to identify any factual or legal issues that may impede the settlement of any case(s).

**DONE** and **ORDERED** on this 16th day of November, 2016.

*M. Casey Rodgers*

**M. CASEY RODGERS**

**CHIEF UNITED STATES DISTRICT JUDGE**

# **ATTACHMENT A**



**Application for Leadership Position**

**I. Applicant Information**

Attorney Name, Firm, and Years of Practice

Involved Cases

**II. Positions Sought**

Plaintiffs' Lead Counsel

Plaintiffs' Liaison Counsel

Member - Plaintiffs' Executive Committee

Member - Plaintiffs' Steering Committee

Federal/State Liaison Counsel

Defendants' Liaison Counsel

Plaintiffs' Member - Joint Discovery Committee

Defendants' Member - Joint Discovery Committee

Plaintiffs' Member - Joint Settlement Committee

Defendants' Member - Joint Settlement Committee

**III. MDL Experience**

Please identify all multidistrict litigation matters in which you or your law firm have represented involved clients in the past five years, listing the MDL number and status, the subject matter, and leadership role, if any (indicate whether personal role or firm role).

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#### **IV. Mass Tort Action Experience**

Describe your personal experience handling mass tort actions. Your Response should highlight organizational, communication (oral and/or written), leadership, data management, discovery, and/or settlement experience.

## **V. Trial Experience**

Summarize the breadth and depth of your trial litigation experience. Your Response should highlight the number of jury trials litigated, length of trial, nature of case, year tried, and any unique litigation role you played. To the extent any of this information is reflected in your previous Responses, please do not repeat it.

## **VI. Settlement Experience**

Summarize your settlement experience in the area of complex litigation. Your Response should include the nature of the litigation, the length of time the case was pending at settlement, the number of involved parties, the year settled, and the jurisdiction. Additionally, your Response should also highlight any special training or education in the area of alternative dispute resolution, including any certifications. Please also indicate if you have any experience working with a settlement master (regardless of ultimate outcome). To the extent any of this information is reflected in your previous Responses, please do not repeat it.

## **VII. Issue-Specific Experience**

Briefly describe any experience, training, or education you have in science, medicine, or another specialized field relevant to this MDL action.

## **VIII. Other Commitments**

Briefly explain any additional time commitments that may interfere with your ability to commit the necessary leadership time to this MDL action.

**IX. Financial Disclosure**

Please explain your plan to finance this action and disclose any and all financial arrangements that you have made or anticipate making to fund your firm's financial contributions to the MDL, whether between plaintiffs' attorneys, banks, vendors, or third-party financiers.

**X. Professional Background**

Please provide any notable examples of your professionalism and/or ability to work cooperatively with other counsel.

Please explain your professional standing, including any awards or commendations received.

**XI. Peer Review**

Is there anyone you would prefer not to work with if selected for a leadership role or who you feel should not be appointed to a leadership role? If so, please explain.

Is there anyone (other than yourself) you feel would be particularly effective in a given role? If so, please explain.