

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

IN RE: ABILIFY (ARIPRAZOLE)
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 AUTHORIZING THE DEPOSITION OF MAHYAR ETMINAN
AND ISSUING LETTERS ROGATORY TO THE SUPREME COURT OF
BRITISH COLUMBIA**

The above-captioned proceedings consist of approximately 150 cases by individual Plaintiffs against Defendants Bristol-Myers Squibb Co., Otsuka America Pharmaceutical, Inc., and Otsuka Pharmaceutical Co. Ltd. (collectively, “Defendants”), which are pending in the United States District Court for the Northern District of Florida, Pensacola Division, a competent court of law and equity that has proper jurisdiction over this action, with the power to compel the attendance of witnesses and the production of documents by individuals and corporations in its jurisdiction pursuant to Rule 45 of the Federal Rules of Civil Procedure.

The cases involve claims of personal injury against Defendants and involve common questions of fact and law, including whether Abilify® (aripiprazole) is capable of causing compulsive gambling or other compulsive behaviors (“general causation”).

The Court directed the parties to engage in discovery and depositions regarding the issue of general causation in order to expedite a global general causation determination. The Court scheduled a hearing on that issue on July 31 to August 2, 2017 and stated its intent to decide the issue of general causation by the end of Summer 2017. The Court also selected five cases as an initial trial pool and directed the parties to engage in discovery and depositions regarding those five cases following the Court's ruling on general causation, with trials beginning in 2018.

Plaintiffs rely on an epidemiological study, "Risk of Gambling Disorder and Impulse Control Disorder with Aripiprazole, Pramipexole, and Ropinirole: A Pharmacoepidemiologic Study," published in February 2017 in the Journal of Clinical Psychopharmacology (the "Study"), to support their theory of general causation.

Dr. Mahyar Etminan, a resident of British Columbia, Canada and a faculty member of the University of British Columbia, is the lead author of the Study and is believed to have material testimony and custody, possession, and/or control of material documents relating to the Study, which are relevant to the proceedings pending before this Court.

Defendants have sought to obtain Dr. Etminan's deposition by consent, at a time and place and subject to conditions and compensation that are mutually agreeable.

NOW THEREFORE, this Court finds that Defendants would be entitled to take the deposition of Dr. Etminan if he were within this Court's jurisdiction and that letters rogatory are necessary in the interests of justice to enable Defendants to take Dr. Etminan's deposition in British Columbia, Canada and to enable this Court to determine the issues pending before it;

AND FURTHER, pursuant to Rule 28(b) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1781(b)(2), in the event Dr. Etminan will not attend a deposition voluntarily, without the intervention and assistance of the Supreme Court of British Columbia, this Court issues these Letters Rogatory to the Supreme Court of British Columbia, and hereby requests that the Supreme Court of British Columbia, in furtherance of justice and by the proper and usual process of that court, summon the attorneys or agents of the parties and Dr. Etminan to attend at such time and place as that court may appoint, either before that court or such commissioner as according to that court's procedure is competent to take evidentiary depositions of witnesses, and that the Supreme Court of British Columbia cause Dr. Etminan, under oath or affirmation, to be examined orally for the giving of evidence in the presence of the attorneys or agents of the parties or such of them as will, with due notice given, attend the examination;

AND FURTHER, this Court requests that the Supreme Court of British Columbia appoint an Official Court Reporter in the Province of British Columbia,

Canada, or his designate, provided that person is an Official Court Reporter in the Province of British Columbia, Canada, as the commissioner before whom the evidence is to be taken;

AND FURTHER, this Court requests that the Supreme Court of British Columbia permit the attorneys or agents of any party present, including members in good standing of or admitted *pro hac vice* to Northern District of Florida Bar, to examine and cross-examine Dr. Etminan in accordance with the laws of British Columbia and the laws of the United States, including the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and the Local Rules of the United States District Court for the Northern District of Florida, and further that in the event of a conflict the laws of British Columbia prevail;

AND FURTHER, this Court requests that the Supreme Court of British Columbia cause the evidence of Dr. Etminan to be video-recorded, audio-recorded, and transcribed verbatim by an Official Court Reporter, and requests that court to cause any document produced on the examination to be marked for identification, and that the Official Court Reporter authenticate the depositions taken on the examination and any document or certified copy thereof produced on the examination, and that foregoing materials be returned to this Court by registered or certified mail addressed to: Clerk of the United States District Court for the Northern

District of Florida, Arnou Federal Building, 100 North Palafox Street, Pensacola, Florida 32502-4839, United States of America;

AND FURTHER, this Court will undertake, and hereby orders the parties, to confine to the above-captioned proceedings the use of any and all documents received or evidence obtained through the enforcement of these Letters Rogatory by the Supreme Court of British Columbia, unless leave is first obtained from the Supreme Court of British Columbia;

AND FURTHER, this Court stands ready and willing to extend the same courtesies to the Supreme Court of British Columbia, Canada in a similar case when requested.

DONE and **ORDERED** on this 28th day of April, 2017.

M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE