

**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

**JOINT STIPULATED PRETRIAL ORDER GOVERNING
QUALIFICATION OF DOCUMENTS GENERATED BY A PARTY AS
AUTHENTIC OR BUSINESS RECORD**

The Court enters the following Order based on the parties' joint proposed pretrial order governing the qualification of documents generated by a producing party as authentic and/or business record.

1. Order Applicable to All Cases in MDL Proceedings. This Order applies to all cases currently pending in MDL No. 2734 and to all related actions that have been or will be originally filed in, transferred to, or removed to this Court and assigned thereto (collectively, "the MDL proceedings"). This Order is binding on all parties and their counsel in all cases currently pending or subsequently made a part of these proceedings and governs each case in the proceedings unless it explicitly states that it relates only to specific cases.

2. Authenticity of Documents Provided or Generated By A Party.

a. Documents Presumed Authentic. Documents produced by any Party that purport to be copies of documents prepared by the Party, or by an officer, director or employee of the Party, will be presumed to be a faithful and authentic reproduction of the original, unless any objecting Party establishes, through a motion in limine or otherwise, that the document is not authentic. All other evidentiary objections other than authenticity are preserved.

b. Presumption of Authenticity Limited to Portion Generated by Party. For the purposes of this Order, a document in its entirety is deemed to have been generated by a Party only if that Party or one of its then-directors, officers or employees created all of the document. If a Party or one of its then-directors, officers or employees only created part of a document, such as a part of a chain of electronic mail, only that part of the document is deemed to have been generated by that Party.

3. Business Records Introduced in Depositions. Documents (whether produced by a Party or Non-Party) introduced as an exhibit during a deposition in these proceedings that purport to be copies of memoranda, reports, records or data compilations in any form of acts, events, conditions, opinions, or diagnoses presumptively will be considered a business record of that Party within the meaning of Federal Rule of Evidence 803(6) or analogous applicable state court rules, subject to the following paragraphs.

4. Objections to Documents Marked as Exhibits in Depositions. Within 30 calendar days of the receipt of the transcript of a deposition hereafter taken in the coordinated and consolidated proceedings, any Party wishing to contest the presumptive authenticity of any document(s) previously produced and/or purportedly generated by that Party that were placed into the record of that deposition as deposition exhibits must advise Plaintiffs' Liaison Counsel and Defendants' Counsel in writing of: (a) the deposition and exhibit number, as well as the Bates numbers, of any exhibit where the producing or purportedly generating Party claims lack of authenticity and/or failure to qualify as a business record within the meaning of Rule 803(6) or applicable analogous state court rules; and (b) a detailed statement (including if appropriate references to other pertinent documents and knowledgeable persons) of the grounds for the claim of lack of authenticity and/or the failure to qualify as a business record within the meaning of Rule 803(6) or applicable analogous state court rules. Any objection will be deemed to have been made for all depositions for which the exhibit is used in the future. Any such exhibits not so identified within that time will be deemed faithful and authentic reproductions of the original and/or (as the case may be) business records within the meaning of Rule 803(6) or applicable analogous state court rules. The Parties may not mark deposition exhibits en masse for the sole purpose of bringing those exhibits within the scope of this paragraph.

5. Documents Provided By Non Parties. Documents produced and/or purportedly generated by a non-Party (including but not limited to medical records, financial records, gambling records and other records relating to plaintiffs) will be presumed to be a faithful and authentic reproduction of the original, unless any objecting Party establishes, through a motion in limine or otherwise, that the document is not authentic and/or fails to qualify as a business record of the non-Party within the meaning of Rule 803(6) or applicable analogous state court rules. Documents produced and/or purportedly generated by a non-Party that have been or, hereafter, are placed into the record as deposition exhibits in any deposition in the coordinated and consolidated proceedings will be deemed to be faithful and authentic reproductions of the original and/or (as the case may be) business records within the meaning of Rule 803(6) or applicable analogous state court rules unless any Party raises an objection within the requisite time frames set forth above in paragraph 4.

6. Remedies After Notification of any Objection to Authenticity and/or Status as Business Record. On being notified that an exhibit is claimed to be inauthentic and/or fails to qualify as a business record, after meeting and conferring with opposing Counsel, either Counsel may, with consent of opposing Counsel or with leave of Court, initiate appropriate discovery limited to seeking to further

establish authenticity and/or the status of the document as a business record. To the extent the discovery would affect any pertinent deadline, leave of Court is required.

a. Limited Scope of Deposition. Any deposition noticed solely to establish the authenticity or business record status of a document must be limited strictly to that purpose for the specific document at issue and must not address any other issues.

7. Limitations of Order.

a. No Effect on Other Rules of Evidence. This Order addresses only the authenticity and/or business record status of any particular document, and is without prejudice to application of any other rule of evidence that may be implicated by a particular document.

b. No Waiver of Objections to Similar Documents. The failure of any Party to object to any document will not constitute an admission or concession by that Party that similar documents to which the Party does object are authentic and/or qualify as business records under applicable federal or state laws. For example, the failure to object to each email being treated as authentic and/or a business record does not foreclose such an objection to any individual email.

8. Parties to Meet and Confer on Authentication and Business Record Status. The Parties must make good faith, cooperative efforts, through the meet and confer process or otherwise, to resolve any issues concerning the authenticity and/or

business record status of documents subject to this Order so as to minimize the time and resources of the parties and of the Court devoted to such matters.

DONE and **ORDERED** on this 4th day of May, 2017.

M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE