

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

IN RE: ABILIFY (ARIPIRAZOLE)
PRODUCTS LIABILITY
LITIGATION

This Document Relates to All Actions

Master File No. 3:16-md-2734

Chief Judge M. Casey Rodgers
Magistrate Judge Gary Jones

**ORDER ON PARTIES' STIPULATION REGARDING REMAINING
GENERAL CAUSATION DEPOSITIONS**

The parties hereby agree and stipulate as follows:

1. Plaintiffs will have the ability to complete Dr. Debra Feldman's 30(b)(6) deposition, and Plaintiffs will also be able to depose and complete the deposition of Dr. Feldman in her personal capacity on or before June 14, 2017. If, for whatever reason, BMS cannot produce Dr. Feldman on or before June 14, Defendants will produce, on or before June 14, BMS's employee Ning Huang in her personal capacity, and BMS will designate a new 30(b)(6) deponent to allow Plaintiffs to complete the remaining time in the 30(b)(6) deposition on or before June 14. BMS must notify Plaintiffs by June 7, 2017 whether Debra Feldman will be available, and if not, who they are designating as the replacement 30(b)(6) witness, so they have time to prepare for a different deponent. Plaintiffs' experts will not be required to amend their reports, and they will be allowed to testify, without objection to the scope of their testimony, concerning any testimony elicited during such

depositions. Defendants explicitly agree not to object to the reliance by any expert on such new testimony in supporting and rendering their opinions on the grounds that it was not referenced in the expert's reports. Defendants further agree that they will not object on the grounds of scope to Plaintiffs' ability to question and elicit testimony from any expert, including but not limited to during Plaintiffs' direct examination of their own experts, concerning such new testimony. Defendants, however, reserve the right to object on other grounds to the reliance by Plaintiffs' experts on fact witness testimony.

2. Additionally, due to the short time in which Plaintiffs have to serve and depose BMS's former employee Rachpal Malhotra, the same agreement as to use of deposition testimony from Dr. Feldman and the 30(b)(6) deposition applies to any testimony obtained from Rachpal Malhotra. The Parties acknowledge that Plaintiffs intend to subpoena Rachpal Malhotra; if his deposition does not occur prior to the *Daubert* hearings, BMS will not produce a substitute witness.

DONE and **ORDERED** on this 23rd day of May, 2017.

M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE