

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**In Re: TAXOTERE (DOCETAXEL)
PRODUCTS LIABILITY
LITIGATION**

**MDL NO. 2740
SECTION “N” (5)**

**THIS DOCUMENT RELATES TO:
ALL CASES**

**PRETRIAL ORDER NO. 37A
[Amends and Supersedes Pretrial Order No. 37 with Procedures for Short Form
Complaints and Motions for Leave to Amend Short Form Complaints]**

Pretrial Order No. 37 (Rec. Doc. 318) is hereby amended and superseded by this Pretrial Order No. 37A.

Pretrial Order No. 15 (Rec. Doc. 230) ordered the Plaintiffs, through the Plaintiffs’ Steering Committee (PSC), to submit a proposed Pretrial Order with an attached exemplar Short Form Complaint. The exemplar Short Form Complaint is attached as Exhibit A to this Order, and this version of the exemplar Short Form Complaint was approved in Pretrial Order No. 73 (Rec. Doc. 1463). Short Form Complaints shall be used by Plaintiffs’ counsel consistent with Pretrial Order No. 15, and counsel are encouraged to review it prior to using the form provided by the PSC. Only one Plaintiff (and any secondary/consortium/representative Plaintiff(s) claiming through or on behalf of the Plaintiff) is allowed on each Short Form Complaint. The Short Form Complaint is intended to provide guidance for individual counsel who should refer to the Amended Master Long Form Complaint (Rec. Doc. 689) in conjunction with the use of the Short Form Complaint. Individual Plaintiffs’ counsel shall tailor the form to correspond to each Plaintiff’s claims/allegations.

If the Short Form Complaint is a Plaintiff's original pleading, it must be filed as a new complaint through the Court's CM/ECF system consistent with the Local Rules¹ and served with a summons, pursuant to Rule 4 of the Federal Rules of Civil Procedure, or pursuant to relevant Pretrial Orders regarding "streamlined" service of process entered in this MDL, and not filed in the master MDL docket. If the Short Form Complaint is filed as an amended complaint, it should be filed in the member case,² and not in the MDL master file.

For any case where Plaintiff seeks leave to amend a prior complaint, including a Short Form Complaint, counsel for Plaintiff shall contact in writing Defense Liaison Counsel (John Olinde – olinde@chaffe.com and Douglas Moore – dmoore@irwinllc.com) and the Contact person for each Defendant(s) presently named and for any Defendant sought to be added in the lawsuit, for consent or opposition to the proposed motion, at least fourteen (14) days in advance of filing the motion.³ If no notice of any opposition is received by Plaintiff's counsel from any Defendant within the fourteen (14) day period, Plaintiff may file the motion for leave to amend as unopposed.

Any unserved Defendant presently named or sought to be added by a motion to amend may enter a Special Appearance solely for the purpose of addressing the proposed motion or a motion filed. Such Special Appearance does not waive service or any defenses, including defenses based on service of process or personal jurisdiction, if such defenses are available. Further, such Special Appearance does not eliminate the requirement of proper service pursuant to Rule 4 of the Federal Rules of Civil Procedure or pursuant to relevant Pretrial Orders regarding "streamlined" service

¹ See Eastern District of Louisiana website for instructions on opening a new case. <http://www.laed.uscourts.gov/case-information/cmecf/efiling-new-case>

² Filing attorneys shall use the event "Taxotere Amended Complaint" found under the Service of Process Category in the Court's CM/ECF system.

³ The contact person for each Defendant for purposes of this Order are listed in Exhibit B attached.

of process entered in this MDL. The Court's authorization for such a Special Appearance does not have any effect on Plaintiffs' right to assert any challenges, including lack of standing, to an objection to the filing of an amending complaint filed by a Defendant in which Plaintiff seeks to add as a Defendant.

If any Defendant provides notice of opposition to a proposed motion for leave to amend within the timeframe set forth hereinabove, Plaintiff shall file the motion as opposed and shall notice the motion for submission in accordance with the Local Rules of the Eastern District of Louisiana.

If further direction regarding filing is needed, please contact the Court at (504) 589-7715. If further direction regarding the Short Form Complaint is needed, Counsel may contact Plaintiffs' Liaison Counsel, Dawn Barrios or Palmer Lambert, with any questions regarding the exemplar form.

New Orleans, Louisiana, this 14th day of February, 2018.



KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE

2. Spousal Plaintiff or other party making loss of independent/secondary claim (i.e., loss of consortium):

3. Other type of Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

4. Current State of Residence: _____

5. State in which Plaintiff(s) allege(s) injury: _____

6. Defendants (check all Defendants against whom a Complaint is made):

a. Taxotere Brand Name Defendants

A. Sanofi US Services Inc. f/k/a Sanofi-Aventis U.S. Inc.

B. Sanofi-Aventis U.S. LLC

b. Other Brand Name Drug Sponsors, Manufacturers, Distributors

A. Sandoz Inc.

B. Accord Healthcare, Inc.

C. McKesson Corporation d/b/a McKesson Packaging

D. Hospira Worldwide, LLC f/k/a Hospira Worldwide, Inc.

E. Hospira, Inc.

F. Sun Pharma Global FZE

G. Sun Pharmaceutical Industries, Inc. f/k/a Caraco Pharmaceutical Laboratories Ltd.

H. Pfizer Inc.

I. Actavis LLC f/k/a Actavis Inc.

J. Actavis Pharma, Inc.

K. Other:

7. Basis for Jurisdiction:

Diversity of Citizenship

Other (any additional basis for jurisdiction must be pled in sufficient detail as required by the applicable Federal Rules of Civil Procedure):

8. Venue:

District Court and Division in which remand and trial is proper and where you might have otherwise filed this Short Form Complaint absent the direct filing Order entered by this Court:

9. Brand Product(s) used by Plaintiff (check applicable):

A. Taxotere

B. Docefrez

C. Docetaxel Injection

D. Docetaxel Injection Concentrate

E. Unknown

F. Other:

10. First date and last date of use (or approximate date range, if specific dates are unknown) for Products identified in question 9:

11. State in which Product(s) identified in question 9 was/were administered:

12. Nature and extent of alleged injury (including duration, approximate date of onset (if known), and description of alleged injury):

13. Counts in Master Complaint brought by Plaintiff(s):

- Count I – Strict Products Liability - Failure to Warn
- Count III – Negligence
- Count IV – Negligent Misrepresentation
- Count V – Fraudulent Misrepresentation
- Count VI – Fraudulent Concealment
- Count VII – Fraud and Deceit

- Other: Plaintiff(s) may assert the additional theories and/or State Causes of Action against Defendant(s) identified by selecting “Other” and setting forth such claims below. If Plaintiff(s) includes additional theories of recovery, for example, Redhibition under Louisiana law or state consumer protection claims, the specific facts and allegations supporting additional theories must be pleaded by Plaintiff in sufficient detail as required by the applicable Federal Rules of Civil Procedure.

14. Name of Attorney(s), Bar Number(s), Law Firm(s), Phone Number(s), Email Address(es) and Mailing Address(es) representing Plaintiff(s):

By:

EXHIBIT B

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