

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

**IN RE: XARELTO (RIVAROXABAN)
PRODUCTS LIABILITY LITIGATION**

MDL No. 2592

SECTION L

THIS DOCUMENT RELATES TO ALL ACTIONS

JUDGE ELDON E FALLON

MAG. JUDGE NORTH

CASE MANAGEMENT ORDER NO. 2B

The parties have requested that the Court amend Case Management Order (CMO) No. 2A to set new deadlines with respect to the third and fourth bellwether trials.

In consideration of the parties' request, IT IS ORDERED:

A. Paragraphs 3(c), 8, and 9 of CMO No. 2A are amended as follows:

3.c. Conclusion of Defendant Discovery.

1. The Plaintiffs shall conclude the following remaining limited discovery of the Bayer Defendants:
 - i. A 1 day, 30(b)(6) deposition related to the indication for rivaroxaban for treatment of acute venous thromboembolism (i.e., deep-vein thrombosis [DVT] or pulmonary embolism), the so-called "EINSTEIN indication," and the related development activities, including the Phase II and Phase III supporting studies, to take place on November 9, 2016. The duration of this deposition shall be governed by PTO-23, Para. II., B.12.; and;
 - ii. The parties are still meeting and conferring on Bayer's obligations to produce Dr. Lensing for deposition if he becomes available prior to the commencement of the *Mingo* trial, and if he remains unavailable, the scope of discovery with regards to Dr. Lensing's preservation obligations. If new

evidence is discovered during the conduct of such a deposition, Plaintiffs and Defendants shall have the right to supplement any related expert reports.

8. Expert Schedule for the *Mingo* Bellwether Trial. The following schedule shall apply to expert witness discovery in the *Mingo* case:

e. **Plaintiff's Case Specific Expert Reports in the *Mingo* case and Generic Reports related to the EINSTEIN Study.** On or before November 30, 2016, plaintiffs shall designate and provide case specific reports by their expert witnesses for the *Mingo* case along with generic expert reports related to the EINSTEIN study.

f. **Defendants' Case Specific Expert Reports in the *Mingo* case and Generic Reports related to the EINSTEIN Study.** On or before January 6, 2017, defendants shall designate and provide reports by their expert witnesses for any reports served pursuant to Paragraph 8e above.

g. **Depositions in the *Mingo* and *Henry* cases.** At the time of the submission of the expert report, each expert shall indicate no fewer than three dates the expert is available for deposition. Absent agreement of the parties, case specific expert depositions in *Mingo* and *Henry* shall conclude by February 17, 2017. The amendment of the expert deposition schedule in *Henry* shall not impact the designation and production of expert reports in *Henry* as set out in CMO 2. The expert shall produce all files, documents and reliance materials as set out in the Expert Deposition Protocol.


9. Briefing Schedule for Dispositive Motions in *Mingo* and *Henry*, and Daubert Motions regarding *Mingo* and *Henry* case specific expert reports and expert reports regarding the EINSTEIN study.

a. **Motions and Briefs:** February 24, 2017

- b. **Response in Opposition Briefs:** March 24, 2017
- c. **Reply Briefs:** April 7, 2017
- d. **Hearing and Argument (if necessary):** TBD

B. All provisions of CMO No. 2 and CMO No. 2A other than those amended shall remain unchanged and in full force and effect.

NEW ORLEANS, LOUISIANA this 10th day of November, 2016.


HONORABLE ELDON E. FALLON
UNITED STATES DISTRICT JUDGE