

MINUTE ENTRY
FALLON, J.
FEBRUARY 27, 2015

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: XARELTO (RIVAROXABAN) * MDL 2592
PRODUCTS LIABILITY LITIGATION *
* SECTION L
THIS DOCUMENT RELATES TO *
ALL CASES * JUDGE ELDON E. FALLON
*
* MAG. JUDGE NORTH

THIS DOCUMENT RELATES TO ALL CASES

The initial pretrial status conference was held on this date in the Courtroom of Judge Eldon E. Fallon. At the conference, Co-Plaintiffs’ Liaison Counsel (“PLC”), Gerald Meunier and Leonard Davis, and Defendants’ Liaison Counsel (“DLC”), James Irwin, reported to the Court on the topics set forth in the Proposed Agenda. (Rec. Doc. 212). This status conference was transcribed by Ms. Cathy Pepper, Official Court Reporter. Counsel may contact Ms. Cox at (504) 589-7779 to request a copy of the transcript. A summary of the status conference follows.

1. **PRE-TRIAL ORDERS**

The Court has issued the following Pre-Trial Orders:

Pre-Trial Order No. 1 (Doc. 2) entered December 17, 2014 – Setting initial conference

Pre-Trial Order No. 2 (Doc. 38) entered January 16, 2015 – Appointing Plaintiffs’ Liaison Counsel

Pre-Trial Order No. 3 (Doc. 39) entered January 16, 2015 – Appointing Defendants’ Liaison Counsel

Pre-Trial Order No. 4 (Doc. 61) entered January 26, 2015 – Requiring Counsel to provide contact information to Liaison Counsel, and amending PTO No. 1 regarding docketing procedure

Pre-Trial Order No. 4A (Doc. 62) entered January 26, 2015 – Approving and attaching Counsel Contact Information Form

Pre-Trial Order No. 5 (Doc. 63) entered January 26, 2015 – Clarifying duties of transferor court under MDL Rule 1.6

Pre-Trial Order No. 5A (Doc. 149) entered February 3, 2015 – Amending PTO No. 5 to allow transferor court to retain original file

Pre-Trial Order No. 6 (Doc. 150) entered February 3, 2015 – Appointing Defendants’ Co-Lead Counsel

Pre-Trial Order No. 7 (Doc. 169) entered February 9, 2015 – Appointing Plaintiffs’ Steering Committee (PSC); Appointing Plaintiffs’ Co-Lead Counsel; Ordering that PLC and Plaintiffs’ Co-Lead Counsel shall comprise PSC Executive Committee; Appointing Chair of the State Liaison Committee, to be *ex-officio* member of PSC; and Listing responsibilities of PSC.

Pre-Trial Order No. 8 (Doc. 183) entered February 13, 2015 – Establishing standards and procedures for counsel seeking reimbursement for common benefit fees and costs.

2. **COUNSEL CONTACT INFORMATION FORM**

All counsel in the MDL are required to complete the Counsel Contact Information Form attached to PTO No. 4A, and forward it to the appropriate Liaison Counsel. This information must be kept current by counsel providing the information, and will be relied upon throughout the litigation.

3. **PLAINTIFFS’ STEERING COMMITTEE**

The appointed members of the Plaintiffs’ Steering Committee met with the Court on February 26, 2015. Further, at the conclusion of the February 27, 2015 status conference, the

Plaintiffs Steering Committee will meet in Judge Fallon's courtroom with all plaintiffs' counsel in attendance at the status conference.

4. **FILE & SERVE XPRESS**

PLC, DLC, and Lead Counsel for the parties are currently considering the following options for service:

1. Use of File & Serve Xpress;
2. Relying on CM/ECF Notice to PLC/DLC and then relying on PLC/DLC to distribute service to all other counsel for their respective parties; or
3. A forthcoming proposal by BrownGreer for a service mechanism to be provided in conjunction with the MDL Centrality software.

5. **DIRECT FILING MASTER COMPLAINT AND ANSWER**

On January 26, 2015, Defendants provided a proposed Direct Filing Order to the PLC for review. The proposed Order has been reviewed and PLC will be providing a response. The parties will have additional discussions about a Master Complaint and Master Answer.

6. **TOLLING AGREEMENT**

PLC has advised DLC that they will be providing DLC with a proposed Tolling Agreement Order.

7. **SERVICE ON FOREIGN BAYER ENTITIES**

Counsel for Bayer and PLC have had initial communications regarding foreign service issues. PLC will be making a proposal regarding these issues, and the parties will meet and

confer to discuss the matter further. A number of motions have been filed requesting additional time to effectuate service on foreign defendants.

8. **“MDL CENTRALITY”/PROFILE/DISCLOSURE FORMS**

On February 11, 2015, Orran Brown of BrownGreer visited the New Jersey offices of Drinker Biddle & Reath LLP (Offices of Co-Lead Counsel for Defendants), to discuss the use of the MDL Centrality software. Mr. Brown also has had discussions with PLC regarding the use of MDL Centrality, and met with the Plaintiffs Steering Committee in advance of the Status Conference to discuss the use of the software. Mr. Brown gave a short presentation during the status conference on the software.

9. **MASTER DISCOVERY**

PLC has advised that it will be providing DLC with a draft of Plaintiffs’ Master Request for Production, so that defendants have an opportunity to review same before it is made final. PLC will be prepared to meet and confer with DLC at the appropriate time regarding this discovery request.

10. **PRESERVATION ORDER**

On January 7, 2015, defendants provided PLC with a proposed Preservation Order. The proposed Preservation Order has been reviewed. On January 29, 2015, PLC requested certain information relevant to a Document Production/ESI Protocol. Thereafter, on February 9, 2015, DLC responded and further addressed preservation topics. The parties have agreed to meet and confer in order to address a proposed Order.

11. **PRIVILEGE LOG**

PLC has advised that it will be providing DLC with a proposed Pretrial Order setting forth a protocol for the treatment of privileged and work product materials.

12. **DOCUMENT PRODUCTION PROTOCOL**

On January 7, 2015, defendants provided PLC with a proposed Document Production Order. On January 29, 2015, PLC requested certain information relevant to a Document Production/ESI Protocol. Thereafter, on February 9, 2015, DLC responded and further addressed preservation topics. The parties have agreed to meet and confer to negotiate further and address a proposed Order.

13. **PROTECTIVE ORDER**

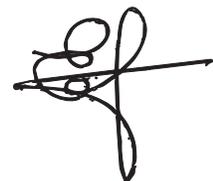
On January 7, 2015, defendants provided PLC with a proposed Protective Order. The proposed Protective Order has been reviewed and PLC will be providing a response to the proposed Protective Order.

14. **STATE/FEDERAL COORDINATION**

In accordance with Pre-Trial Order 7, PLC and DLC will have further communications regarding the State Liaison Committee as well as the status of the coordination of MDL and state court actions.

15. **NEXT STATUS CONFERENCE**

The next status conference will be held on April 1, 2015 at 9:00 a.m. in the Chambers of Judge Eldon E. Fallon.

A handwritten signature in black ink, appearing to be the initials 'E.E.F.' followed by a stylized flourish.