

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>IN RE: EFFEXOR (VENLAFAXINE HYDROCHLORIDE) PRODUCTS LIABILITY LITIGATION</b>	:	<b>MDL NO. 2458</b>
	:	<b>13-MD-2458</b>
	:	<b>HON. CYNTHIA M. RUFÉ</b>
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<b>THIS DOCUMENT APPLIES TO: ALL ACTIONS</b>	:	
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**CASE MANAGEMENT ORDER NO. 11**  
**JOINT DISCOVERY AND SCHEDULING PLAN**

AND NOW, this 11<sup>th</sup> day of June 2014, in recognition that discovery and trial issues are most efficiently handled by the entry of Pretrial Orders, the Court hereby enters this Initial Pretrial Order to govern discovery and scheduling concerning this MDL, subject to entry of subsequent Pretrial Orders modifying or supplementing this initial Pretrial Order.

**1. SCOPE AND APPLICABILITY.** This Joint Discovery and Scheduling Plan (the “Plan”) is intended to conserve judicial and party resources, eliminate duplicative discovery, serve the convenience of the parties and witnesses, and promote the just and efficient conduct of this litigation. The Plan shall apply to all cases transferred to this Court by the Judicial Panel on Multidistrict Litigation (“Panel”), pursuant to its Order of August 6, 2013, any tag-along actions transferred to this Court by the Panel, and any related actions that have been or will be originally filed in, transferred to, or removed to this Court and assigned thereto as part of this MDL proceeding.

**2. DISCOVERY UNDER THE PLAN.** The discovery served by the parties as of the date of this Order will be considered the parties’ initial discovery in this MDL. No party may conduct any further initial discovery of another party not expressly authorized by the Plan absent further Order of this Court or express agreement of the parties. This provision and this Order shall not preclude or govern third-party discovery. Except as otherwise set forth herein or

subsequently modified by the Court, all discovery is governed by the Federal Rules of Civil Procedure and the Local Rules of this Court.

**3. SERVICE OF DISCOVERY.** Unless otherwise directed by this Court, the parties shall serve all papers that are not to be filed with the Court, including, but not limited to, disclosures under Federal Rule of Civil Procedure 26, Fact Sheets, deposition notices, interrogatories, requests for documents, requests for admission, responses thereto, and certificates of service thereof, by electronic mail on Plaintiffs' Liaison and Lead Counsel and Defendants' Liaison and Lead Counsel. Such papers are not to be filed with the Clerk, nor are courtesy copies to be delivered to the Court, except when specifically ordered by the Court or to the extent needed in connection with a motion, and only in accordance with the protective order governing the MDL proceedings. Where a paper is applicable to all cases or substantially all cases, or such categories of cases as may be defined in subsequent orders, Plaintiffs' Liaison Counsel also shall electronically serve such paper on counsel of record for the individual Plaintiff(s) to whom the paper is applicable. Where a paper to be served by a Defendant is applicable to a particular case, Defendants' Liaison Counsel shall electronically serve such paper on the counsel of record for the individual Plaintiff(s) in that case as well as Plaintiffs' Liaison and Lead Counsel. Where a paper to be served by one or more Plaintiffs is applicable to a particular case and a particular Defendant other than a Pfizer entity (including Pfizer Inc., Pfizer International LLC, Wyeth LLC, and Wyeth Pharmaceuticals Inc.), Plaintiffs' Liaison Counsel shall electronically serve such paper on the counsel of record for the individual Defendant(s) as well as Defendants' Liaison and Lead Counsel.

**4. PROTECTIVE ORDER.** The protection of confidential documents and information and the inadvertent production of confidential and/or privileged information shall be subject to the terms of a Protective Order to be separately entered.

**5. WAIVER OF INITIAL DISCLOSURES.** The parties are relieved from compliance with the requirements of Federal Rule of Civil Procedure 26(a)(1) for all cases in the MDL proceedings.

**6. PROVISION OF FACT SHEET AND OTHER DOCUMENTS.** Within 30 days of entry of this Order, for each party whose case has already been filed in or transferred to the MDL proceedings at that time, and, for all other cases, within 45 days of the transfer of the case to the MDL proceedings<sup>1</sup> or of the direct filing of a complaint in the MDL proceedings, a Plaintiff shall provide the following materials (hereinafter, “disclosures”) to the Defendants: (1) a completed Plaintiff Fact Sheet (“PFS”), in a form to be agreed upon by the parties and submitted to the Court; (2) executed copies of authorizations for medical providers and other third-party custodians identified in the PFS; and (3) copies of any of the Plaintiffs’ and/or Plaintiffs’ decedent’s medical records within their possession. If a Defendant wishes to obtain records from a custodian of records who will not accept the authorizations a Plaintiff has submitted, that Plaintiff will cooperate with the defendants and provide the necessary authorization(s) within 14 days of the initial request. This provision is intended to include, but is not limited to, requests for proprietary authorization and for authorizations involving records related to military service, Social Security, and Medicare records. Plaintiffs’ Liaison Counsel will notify each new Plaintiff of his or her obligations under this paragraph. All responses in a PFS or an amendment thereto are binding on the Plaintiff as if they were contained in answers to interrogatories. Each PFS and amendment thereto shall be signed and dated by the Plaintiff or the proper Plaintiff representative under penalty of perjury. Defendants may, in addition to using a PFS, serve interrogatories, requests for production, and requests for admission upon Plaintiffs.

Procedures for Plaintiffs who do not timely serve required disclosures or for more in-depth discovery in certain select cases will be addressed by subsequent Order of the Court as necessary.

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<sup>1</sup> A case shall be deemed transferred to the MDL proceedings either: (a) on the date that the certified copy of the Conditional Transfer Order issued by the JPML is entered in the docket of this Court; or (b) where transfer is contested, the date of transfer in any subsequent order from the JPML.

7. **COURT REPORTER FOR DEPOSITIONS.** Unless otherwise agreed to by the parties, Golkow Technologies will be used for court reporter and videographer services at depositions in the MDL proceedings. Golkow Technologies may also provide additional services to aid in the scheduling of and payment related to depositions on a case-by-case basis as agreed to in advance by the parties.

8. **DISCOVERY DISPUTES.** Unless otherwise ordered by the Court, any discovery dispute – other than a dispute arising in the course of a deposition or involving invocation of a privilege or work product protection – will be submitted to the Court by motion as follows: (1) The movant will file a motion of not more than 2 double-spaced pages setting forth its position and certifying that the movant has in good faith conferred or attempted to confer with the party or person failing to make discovery in an effort to obtain it without Court action; (2) Any brief or memorandum filed in support of the motion shall be limited to 7 double-spaced pages and shall be filed contemporaneously therewith; (3) The responding party may file a responsive brief of no more than 7 double-spaced pages within 10 business days; and (4) The movant may submit a reply of no more than 3 double-spaced pages within 7 calendar days of the date on which the response was filed. The parties may apply to the Court for additional time or pages for good cause, but briefs or memoranda that exceed the limits set forth herein are discouraged. If a party requires more than the allotted page limit set forth herein, a motion to exceed the page limit shall be filed prior to the date on which the brief or memorandum is due, setting forth good cause for granting an exception to the page limits set forth above.

9. **DISCOVERY PROCESS.** Within seven business days after the entry of this Order, Pfizer will provide to the PSC an initial list of custodians it believes to have relevant documents, and within three business days thereafter, the parties will meet and confer about a proposed timeline for producing those files as well as a maximum limit of custodial files to be produced and depositions to be taken. The parties will continue to meet and confer as to the timetable for production of non-custodial and custodial document productions and for 30(b)(6)

and fact witness depositions. The parties agree that there will be limits on the total number of written discovery requests and will meet and confer to reach agreement on those limits.

**10. DEPOSITION PROCESS.** If Plaintiffs seek to take the deposition of a 30(b)(6) or fact witness who is a current or former employee of Pfizer Inc. and/or its current or former divisions or subsidiaries, the PSC will request such deposition in writing to counsel for Defendants, in which writing they specify whether they are requesting a one or two-day deposition. Within 10 business days after the PSC's written request, counsel for Defendants either will offer proposed date(s) for the requested deposition or will explain, in writing to the PSC, why Defendants believe that the requested deposition is premature, is unwarranted, or otherwise objectionable. If Defendants offer proposed date(s) for a 30(b)(6) or fact witness deposition, the PSC must accept or reject the proposed date(s) in writing, within 5 business days after Defendants' offer, and if they do not accept the proposed date(s) within 5 business days, the PSC must re-submit their request in writing to counsel for Defendants, as described above.

If the witness's custodial file has not already been produced, then Pfizer will make a good faith effort to produce, at least 20 days prior to the deposition of any witness, responsive documents (without waiving its objections), including documents from any custodial file review, for that witness. If the parties agree on a date for a witness's deposition less than 30 days before the deposition date, Pfizer will make a good faith effort to produce, within 10 business days, responsive documents (without waiving its objections), including documents from any custodial file review, for that witness.

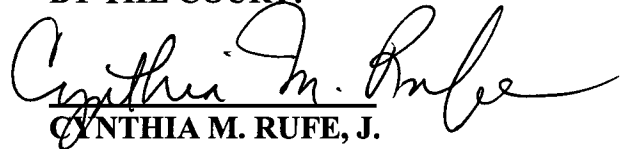
No witness shall be considered a party or officer of a party for purposes of FRCP 45 merely because that person has been designated pursuant to 30(b)(6).

Timing and other issues regarding the conduct of depositions will be addressed in a subsequent order as necessary.

11. **INITIAL TRIAL SETTING.** The parties propose that the first trial be tentatively set to begin no later than **November 2, 2015**, subject to the completion of all appropriate discovery and subject to further Order of the Court. The parties will confer and propose additional key deadlines to be met before the trial date.

It is so **ORDERED**.

**BY THE COURT:**

  
**CYNTHIA M. RUFÉ, J.**