

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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<b>IN RE: FRESENIUS</b>	:	
<b>GRANUFLO/NATURALYTE DIALYSATE</b>	:	
<b>PRODUCTS LIABILITY LITIGATION</b>	:	<b>MDL NO. 1:13-MD-2428-DPW</b>
	:	
<b>This Document Relates to:</b>	:	
	:	
<b><i>All Cases</i></b>	:	

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JOINTLY PROPOSED AMENDMENT TO CASE MANAGEMENT ORDER NO. 10

Fresenius Medical Care North America (“FMCNA”) and the Plaintiffs’ Executive Committee (“PEC”) jointly propose this amendment to Case Management Order No. 10 concerning bellwether cases, to account for the dismissal with prejudice of eight of the ten bellwether phase I cases chosen by FMCNA. For the process to continue without materially altering the current schedule and to effectuate the letter and spirit of the process, the parties propose that:

1. Phase I discovery will be extended one week through March 20, 2015.
2. In order to maintain the previously ordered and agreed schedule, and without waiving any of their contentions, FMCNA and the PEC agree that FMCNA will not replace the 8 Phase I cases that the PEC has dismissed to date and that the 10 cases to be developed for trial in the Jan-Mar 2016 setting (the “Ten Bellwethers”) will be drawn solely from the pool of twelve cases consisting of (a) the ten Phase I cases chosen by the PEC plus (b) the two Phase I cases chosen by FMCNA that the PEC is not dismissing. FMCNA and the PEC further agree to reserve and defer their contrary contentions about the representativeness of the Ten Bellwethers to be resolved in connection with the Court’s determination of the sequencing of trials.
3. The designation of the Ten Bellwethers will be accomplished as follows:
  - On or before March 20, 2015, the PEC will identify as Protected Cases two of the twelve remaining Phase I cases.
  - On or before March 23, 2015, FMCNA will strike two of the twelve cases. FMCNA may not strike either of the two Protected Cases.

4. FMCNA and the PEC will meet and confer about the structure and elements of Phase II discovery on or before April 6, 2015 to allow for discussion with the court of any necessary issues at the April 10, 2015 monthly status conference.
5. FMCNA and the PEC will then confer with the Court about a briefing and argument schedule designed to establish by August 31, 2015 the sequence of trials for the Jan-Mar 2016 setting.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those listed as nonregistered participants on March 6, 2015.

/s/Maria R. Durant