

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**IN RE: PROTON-PUMP
INHIBITOR PRODUCTS
LIABILITY LITIGATION**

**2:17-MD-2789 (CCC)(MF)
(MDL 2789)
and all member and related cases**

Judge Claire C. Cecchi

**This Document Relates to:
All Actions**

**CASE MANAGEMENT ORDER NO. 53
(Tex. Civ. Prac. & Rem. C. § 82.007)**

The Special Master has been made aware that the Defendants assert that hundreds of cases currently pending in MDL 2789 should be dismissed under Tex. Civ. Prac. & Rem. C. § 82.007. Special Master Ellen Reisman hereby issues the following Case Management Order to govern the procedure for efficiently identifying cases in MDL 2789 that may be subject to dismissal pursuant to Tex. Civ. Prac. & Rem. C. § 82.007.

I. Scope of Order

This Order applies to all cases currently pending in *In Re: Proton-Pump Inhibitor Products Liability* Litigation, MDL No. 2789, and to all related actions that have been or will be originally filed in, transferred to, or removed to this Court and assigned thereto (collectively, the “MDL Proceedings”). This Order is binding on all parties and their counsel in all cases currently pending or subsequently made part of the MDL Proceedings.

II. Briefing Schedule

On or before forty-five (45) days from the date of entry of this CMO, the Defendants shall collectively submit a brief setting forth the legal and factual basis for their assertion that the presumption against liability in Tex. Civ. Prac. & Rem. C. § 82.007(a) applies as to all asserted claims and that Plaintiffs cannot rebut the presumption with any of the exceptions in Tex. Civ. Prac. & Rem. C. § 82.007(b). The Defendants' brief shall include an exhibit identifying all cases pending in the MDL Proceedings as of August 31, 2021 that they assert are subject to dismissal under Tex. Civ. Prac. & Rem. C. § 82.007, and the following information regarding the ingesting Plaintiff in each case:

- Proton pump inhibitor(s) ("PPI") ingested and dates of ingestion by Plaintiff;
- Plaintiff's state(s) of residence since first ingestion of a PPI;
- State(s) in which PPI were purportedly prescribed to Plaintiff;
- State(s) in which PPI were purchased by Plaintiff;
- State(s) in which Plaintiff's injury asserted to have been caused by ingestion of PPI has been diagnosed; and
- State(s) in which Plaintiff has received treatment related to the injury(ies) asserted to have been caused by their ingestion of PPI.

The Defendants shall file their briefing in the main docket in MDL 2789 and serve it on the Plaintiffs' Steering Committee ("PSC"), the Plaintiff's counsel of record in every individual case identified by the Defendants in their exhibit, and Special Master Ellen Reisman (by email at PPISpecialMaster@rkgattorneys.com).

On or before forty-five (45) days after the Defendants file their briefing, the PSC shall file a single briefing responding to the legal and factual arguments asserted by the Defendants, which shall be deemed adopted by all of the individual Plaintiffs identified in the Defendants' briefing. The briefing shall identify and respond to any dispute as to the facts asserted by Defendants as to individual Plaintiffs, and include any evidence in support of such contested facts. The PSC's briefing shall be served on all Defendants, the Plaintiffs' counsel of record in every individual case identified by the Defendants in their exhibit, and Special Master Ellen Reisman (by email at PPISpecialMaster@rkgattorneys.com).

On or before thirty (30) days after the PSC files its response, the Defendants may file a reply, and serve it on the PSC, the Plaintiff's counsel of record in every individual case identified by the Defendants in their exhibit, and Special Master Ellen Reisman (by e-mail at PPISpecialMaster@rkgattorneys.com). The reply shall include any evidence in support of any contested facts as to any individual Plaintiff.

Special Master Ellen Reisman shall consider and rule upon any request for an extension of the deadlines set forth in this CMO.

SO ORDERED

SIGNED on this 9th day of September, 2021.



ELLEN K. REISMAN

Special Master