

**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. 76
(Amended Bellwether Pretrial Scheduling Order)**

I. SCOPE AND APPLICABILITY

This Case Management Order (“CMO”) is intended to conserve judicial resources, eliminate duplicative discovery, serve the convenience of the parties and witnesses, and promote the just and efficient conduct of this litigation. The following shall apply to all cases in MDL 2789. This CMO modifies certain deadlines set forth in CMO Nos. 68 and 69 and is entered upon the recommendation of Special Master Ellen Reisman. This CMO does not modify the supplemental briefing schedule on preemption set forth in CMO 75.

II. PRETRIAL SCHEDULE

- A. Parties shall exchange initial lists of their “most likely to use” exhibits for *Rieder* on or before **June 7, 2022**, identifying the approximately 500 documents (exclusive of medical records and medical/scientific literature) they are most likely to offer into evidence at trial.
- B. Special Master Ellen Reisman shall issue Reports and Recommendations on the amended motion for summary judgment on the statute of limitations for *Rieder*, on *Daubert* motions for *Rieder*, and the motion to disqualify Dr. Andrea Leonard-Segal for *Bales* on or before **June 17, 2022**.
- C. Special Master Ellen Reisman shall issue Reports and Recommendations on the remaining dispositive motions for *Rieder* on or before **June 24, 2022**.
- D. Deposition designations for *Rieder* shall be filed on or before **June 30, 2022**.
- E. Objections to Reports and Recommendations issued by Special Master Ellen Reisman on the amended motion for summary judgment on the statute of limitations for *Rieder*, on *Daubert* motions for

Rieder, and the motion to disqualify Dr. Andrea Leonard-Segal for *Bales* shall be filed on or before **July 8, 2022**.

- F. Objections to Reports and Recommendations issued by Special Master Ellen Reisman on the remaining dispositive motions for *Rieder* shall be filed on or before **July 15, 2022**.
- G. Oppositions to motions in limine for *Rieder* and any stipulations as to such motions shall be filed on or before **July 15, 2022**.
- H. Parties shall exchange amended exhibit lists for *Rieder* on or before **July 15, 2022**, which shall include identification of the approximately 500 documents (exclusive of medical records and medical/scientific literature) they are most likely to offer into evidence at trial. If a party in good faith supplements its exhibit list before trial with a reasonable number of additional exhibits, the other party shall not object to the additional exhibits on the basis of timing of their addition to the exhibit list, but the party reserves the right to object to the additional exhibits on any other grounds.
- I. Responses to objections to Reports and Recommendations issued by Special Master Ellen Reisman on the amended motion for summary judgment on the statute of limitations for *Rieder*, on *Daubert* motions for *Rieder*, and the motion to disqualify Dr. Andrea Leonard-Segal for

Bales shall be filed on or before **July 22, 2022**.

- J. If the Court determines that a hearing or additional oral argument on summary judgment and/or *Daubert* motions, or limited/certain parts thereof, is necessary, such a hearing will be scheduled at the Court's convenience thereafter.
- K. Replies to oppositions to motions in limine for *Rieder* shall be filed on or before **July 25, 2022**.
- L. Responses to objections to Reports and Recommendations issued by Special Master Ellen Reisman on the remaining dispositive motions for *Rieder* shall be filed on or before **July 29, 2022**.
- M. Objections to deposition designations and counter-designations for *Rieder* shall be filed on or before **July 29, 2022**.
- N. Objections to deposition counter-designations for *Rieder* shall be filed on or before **August 12, 2022**.
- O. Objections to the approximately 500 documents (exclusive of medical records and medical/scientific literature) that the parties are most likely to offer into evidence at trial for *Rieder* shall be filed on or before **August 12, 2022**. The parties in *Rieder* reserve their right to object to all other exhibits until time of trial.
- P. Special Master Ellen Reisman shall issue a Report and

Recommendation on the parties' motions in limine for *Rieder* on or before **September 9, 2022**.

- Q. Parties may each on or before **September 9, 2022** designate for ruling by the Court up to 50 priority exhibits and up to 8 priority deposition designations for *Rieder* that were previously identified on their respective exhibit lists and deposition designations.
- R. Each party shall submit proposed jury instructions, jury questionnaires, and verdict forms for *Rieder* on or before **September 9, 2022**.
- S. Objections to the Report and Recommendation issued by Special Master Ellen Reisman on the parties' motions in limine for *Rieder* shall be filed on or before **September 23, 2022**.
- T. The parties shall submit a proposed Joint Pretrial Order to the Court for *Rieder* on or before **September 30, 2022**.
- U. Responses to objections to the Report and Recommendation issued by Special Master Ellen Reisman on the parties' motions in limine for *Rieder* shall be filed on or before **October 3, 2022**.
- V. The Court shall hold a final pretrial conference for *Rieder* on a date to be provided by the Court.
- W. Trial for *Rieder* will be held on **November 14, 2022** (or 30 days after

the Court decides summary judgment and *Daubert* motions, whichever is later).

III. BELLWETHER TRIAL SCHEDULE

- A. The bellwether trials in this MDL after *Rieder* will proceed in the following order: (1) trial for *David Foster* (2:17-cv-02475) will be held on **March 1, 2023**; and (2) trial for *Freddy Bales* (2:17-cv-06124) will be held on **April 10, 2023**.
- B. The Court will enter separate orders at a later date setting forth the pre-trial schedules for the *Foster* and *Bales* cases.

IV. MEET AND CONFER

The Court reminds the parties that the Federal Rules of Civil Procedure “should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1; *see also* Fed. R. Evid. 102 (Rules of evidence “should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay ... to the end of ascertaining the truth and securing a just determination.”). Accordingly, the parties in the six Bellwether Trial Cases shall meet and confer in good faith and attempt to resolve any disputes regarding the admission into evidence of any exhibit or testimony, any proposed jury questionnaires or instructions, and any other

matter set forth above in Section II prior to filing any motion or other paper seeking the Court's determination on the issue.

IT IS SO ORDERED

SIGNED 7th day of June, 2022.

A handwritten signature in black ink, appearing to read 'CC', is written above a horizontal line.

CLAIRE C. CECCHI
United States District Judge