

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: PROTON-PUMP
INHIBITOR PRODUCTS
LIABILITY LITIGATION

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

Judge Claire C. Cecchi

This Document Relates to:
All Actions

CASE MANAGEMENT ORDER NO. 77
(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 No. 75 and Section II of CMO No. 76 and is entered upon the recommendation of Special Master Ellen Reisman. This CMO does not modify the schedule set forth in Section III of CMO No. 76 for *David Foster* (2:17-cv-02475) or *Freddy Bales* (2:17-cv-06124).

II. PRETRIAL SCHEDULE

- A. Parties shall exchange amended exhibit lists for *Rieder* on or before **August 2, 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.
- B. Responses to objections to the Report and Recommendation issued by Special Master Ellen Reisman on the amended motion for summary judgment on the statute of limitations for *Rieder* shall be filed on or before **August 8, 2022**.
- C. Objections to the Report and Recommendation issued by Special Master Ellen Reisman on the remaining dispositive motions for *Rieder* shall be filed on or before **August 9, 2022**.
- D. Responses to objections to the Report and Recommendation issued by Special Master Ellen Reisman on *Daubert* motions for *Rieder* and

certain other Bellwether Trial Cases shall be filed on or before **August 10, 2022**.

- E. Objections to deposition designations and counter-designations for *Rieder* shall be filed on or before **August 11, 2022**.
- F. Replies to oppositions to motions in limine for *Rieder* shall be filed on or before **August 12, 2022**.
- G. Responses to objections to the Report and Recommendation issued by Special Master Ellen Reisman on the remaining dispositive motions for *Rieder* shall be filed on or before **August 23, 2022**.
- H. Objections to deposition counter-designations for *Rieder* shall be filed on or before **August 25, 2022**.
- I. Objections to the Report and Recommendation issued by Special Master Ellen Reisman on the defendants' preemption motions in the six Bellwether Trial Cases shall be filed on or before **August 29, 2022**.
- J. 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 **September 2, 2022**. The parties in *Rieder* reserve their right to object to all other exhibits until time of trial.
- K. Each party shall submit proposed jury instructions, jury questionnaires,

and verdict forms for *Rieder* on or before **September 16, 2022**.

- L. Responses to objections to the Report and Recommendation issued by Special Master Ellen Reisman on the defendants' preemption motions in the six Bellwether Trial Cases shall be filed on or before **September 19, 2022**.
- M. 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.
- N. Special Master Ellen Reisman shall issue a Report and Recommendation on the parties' motions in limine for *Rieder* on or before **September 23, 2022**.
- O. Each party may on or before **September 26, 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.
- P. The parties shall submit a proposed Joint Pretrial Order to the Court for *Rieder* on or before **October 7, 2022**.
- Q. 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 14, 2022**.

- R. 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 24, 2022**.
- S. The Court shall hold a final pretrial conference for *Rieder* on a date(s) to be provided by the Court.
- T. 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. 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

This 3rd day of August, 2022.



CLAIRE C. CECCHI
United States District Judge