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DEC 12 2003

J. STEWART

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DEC 12 2003

First Judicial District of Pa.
User I.D.:

IN RE : COURT OF COMMON PLEAS
: PHILADELPHIA COUNTY
:
Hormone Therapy ("HT") : NOVEMBER TERM, 2003
LITIGATION : NO. 0001

**CASE MANAGEMENT ORDER NO. 1
FOR HT PERSONAL INJURY CASES**

It is the goal of this Court to secure the just, speedy, and inexpensive determination of each Hormone Therapy "HT" individual, as opposed to class action, personal injury case now pending or hereafter filed in the Court of Common Pleas, Philadelphia County, Pennsylvania and to eliminate duplication of effort, prevent unnecessary paperwork and promote judicial economy.

In order to achieve these objectives, the following Case Management Order No. 1 is entered this 12th day of December, 2003 for all individual personal injury HT cases which are presently pending or hereafter filed in the Philadelphia County Court of Common Pleas. This Order supercedes all case scheduling orders previously-entered in any HT case filed in this Court. Participation by any party in the HT Litigation shall not waive in any respect any jurisdictional defenses raised or to be raised in any HT cases by such party.

I. MASTER HT DOCKET

The Court has established a Master HT Docket at November Term, 2003, No. 0001. This docket number has been established as a depository for the filing of pleadings, motions, orders and other documents common to individual HT personal injury cases. Once a pleading, motion, order or other document is filed in this docket and copies are produced to all other interested counsel involved in the HT litigation, the pleading, motion and order or other

document may be incorporated by reference either orally before the Court or within another properly filed pleading, motion, order or other document. All filings in individual cases will be made under the caption and docket number of each such case and not under the Master HT Docket. Case scheduling orders that have been entered in individual cases prior to coordination under this Order are hereby vacated. To the extent that such orders established deadlines for actions to be taken by the parties, those deadlines are vacated. Hereafter, the proceedings and accompanying deadlines shall be as established in this Case Management Order No. 1 and in subsequent orders that may be entered in the HT personal injury cases.

II. PLEADINGS

A. MASTER LONG FORM COMPLAINT

1. On November 18, 2003, pursuant to and at the direction of the Court, plaintiffs filed a Master Long Form Complaint ("Master Complaint") and served it upon defense counsel. All future HT cases will adopt the Master Complaint. The date of service of the Master Complaint shall not constitute original process for any individual HT action, including HT actions filed before the entry of this Order. The filing of the Master Complaint does not toll any applicable statute of limitations as to any individual plaintiff.

2. On or before December 19, 2003, defendants shall file and serve either (a) an Answer or (b) Master Set of Preliminary Objections to the Master Complaint with a supporting brief.

3. Plaintiffs shall file and serve on or before January 19, 2004 a response to defendants' preliminary objections.

4. In the event that defendants' preliminary objections involve issues of personal jurisdiction, plaintiffs shall have sixty (60) days to conduct discovery pursuant to Pennsylvania Rules of Court 1028(c)(2), and at the conclusion of such discovery, plaintiffs shall

file and serve within thirty (30) days, a response to defendants' preliminary objections. Should any defendant fail to timely and substantially comply with plaintiffs reasonable personal jurisdiction discovery within the sixty (60) day period, plaintiffs have the right to seek leave from the Court for additional time to conduct such discovery. Fact discovery shall not be stayed pending the resolution of any jurisdiction challenges.

5. Defendants shall file and serve a reply brief on or before February 8, 2004.

6. The Court will rule after hearing oral argument on the preliminary objections and that ruling will be binding for all current and future personal injury individual HT cases filed in Philadelphia County.

7. If preliminary objections are granted to one or more counts in the Master Complaint, plaintiffs, if so ordered, shall file a conforming Amended Master Complaint within twenty (20) days of the Order granting the preliminary objections.

8. Defendants named in any Short Form Complaint filed after November 18, 2003 but not named in the Master Complaint shall have the right to file an Answer or Preliminary Objections to the Master Complaint within forty-five (45) days of actual service of a Writ of Summons or Short Form Complaint of an individual HT case pending in the Philadelphia County Court of Common Pleas. Plaintiffs shall then have thirty (30) days to respond to the subsequently added defendants' preliminary objections. Subsequently added defendants shall then have fourteen (14) days to file a reply brief.

9. In the event that an Amended Master Complaint is filed, defendants shall have thirty (30) days from the filing of the Amended Master Complaint to file a responsive pleading; or, if no Amended Master Complaint need be filed, defendants shall have thirty (30) days from the Order denying preliminary objections to file a Master Answer.

10. If New Matter is pleaded, such New Matter will be deemed denied and plaintiffs are not required to file any further responsive pleadings to defendants' New Matter.

B. SHORT FORM COMPLAINTS

11. All cases filed after the date of this Order shall be instituted by the filing of a Writ of Summons or by a Short Form Complaint, a form for which may be obtained from Plaintiffs' Liaison Counsel. If the suit is instituted by a Writ of Summons, plaintiff will file a Short Form Complaint within forty-five (45) days of the filing of the Writ of Summons.

12. Plaintiffs shall indicate in each Short Form Complaint those counts of the Master Complaint that they are incorporating by reference.

13. If additional counts are alleged in any Short Form Complaint, the specific facts supporting these allegations must be pleaded by the plaintiffs in a manner complying with the requirements of the Pennsylvania Rules of Civil Procedure, and defendants against whom they are alleged must be specifically identified on a separate sheet of paper attached to the Short Form Complaint.

14. If preliminary objections are granted to one or more counts in the Master Complaint, those counts shall not be referenced in any Short Form Complaint and any such references shall be deemed stricken from each Short Form Complaint.

15. An entry of appearance shall constitute a denial of all allegations in the Short Form Complaint and an assertion of all affirmative defenses, which are deemed denied by plaintiffs.

16. Defendants shall have thirty (30) days from the date of service of each Short Form Complaint to file preliminary objections to such Short Form Complaint.

17. Defendants shall not file preliminary objections challenging claims as to which preliminary objections to the Master Complaint have previously been decided.

18. Plaintiffs shall then have thirty (30) days to file a response to the preliminary objections.

19. Defendants shall have fifteen (15) days to file a reply.

20. The Court may thereafter schedule oral argument on the preliminary objections after which a ruling shall issue.

21. If the Court's ruling on preliminary objections to a Short Form Complaint does not provide for the filing of an Amended Short Form Complaint, the remaining allegations of the Short Form Complaint shall be deemed denied and defendants are not required to file answers to the Short Form Complaint.

22. If any of the Court's rulings permit the plaintiffs to file an Amended Short Form Complaint, defendants shall be afforded thirty (30) days after service of an Amended Short Form Complaint in which to file a responsive pleading to the Amended Short Form Complaint.

23. If no responsive pleading is filed, allegations in the Amended Short Form Complaint will be deemed denied and defendants are not required to file answers to the Amended Short Form Complaint. An entry of appearance shall constitute a denial of all allegations in the Amended Short Form Complaint and an assertion of all affirmative defenses.

24. Defendants reserve the right to file cross-claims at any time in any cases subject to this Order.

C. PREVIOUSLY-FILED CASES

25. There are thirty-three (33) HT cases which were filed in the Court before the entry of this Order ("previously-filed cases"). They are listed by caption in Exhibit "A." These cases shall proceed under the Complaints as filed and plaintiffs need not file short form complaints. However, where information required in the short form complaint is not contained in any previously-filed complaint, plaintiffs shall provide that information for each such case to

all defendants within ten (10) days of this Order. Plaintiffs may, at their discretion, file Short-Form Complaints in any previously-filed case.

26. Preliminary objections raising lack of personal jurisdiction have been filed by certain defendants in some of the previously-filed cases. In addition, counsel for defendants have advised this Court that defendants may move for dismissal on forum non conveniens grounds in some of the previously-filed cases and that they have served Interrogatories in furtherance of their forum non conveniens motions. Plaintiffs shall fully respond to all forum non-conveniens interrogatories and discovery on these forum non-conveniens and jurisdictional defenses shall continue without regard to the requirements and deadlines set forth in this Order.

27. Pending preliminary objections in the previously-filed cases are transferred to this Court.

28. With respect to those preliminary objections, the parties shall have until February 15, 2004 to conduct reasonable discovery pertaining to the jurisdictional defenses raised in those objections.

29. The plaintiffs shall then have until April 1, 2004 to file their response to the preliminary objections.

30. Defendants shall have fifteen (15) days to file a reply.

31. The Court may thereafter schedule oral argument on those jurisdictional preliminary objections after which a ruling shall issue.

32. If the Court denies the pending preliminary objections, defendants raising those jurisdictional objections need not file answers to the complaints in those cases; the allegations of those complaints will be deemed denied. An entry of appearance shall constitute a

denial of all allegations in the Complaints and an assertion of all affirmative defenses, which are deemed denied by plaintiffs.

III. MOTIONS

33. All motions filed in the HT litigation, including preliminary objections, shall be in letter format pursuant to mass tort motion procedure.

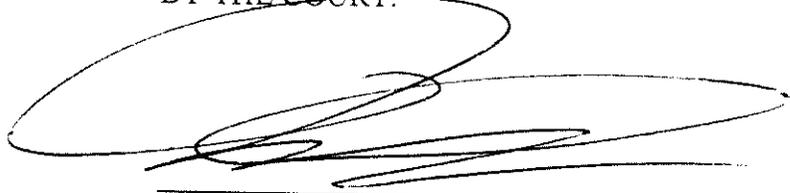
34. Forum non conveniens motions shall be filed within six months of the service of plaintiff's fully completed Fact Sheet, to be described in Discovery CMO 1, along with all documents and authorizations required by Discovery CMO 1 to be submitted with the fact sheet. Failure to file a forum non conveniens motion within the prescribed time shall waive defendant's right to file such a motion at any later date in that individual case except for good cause shown. Defendants will file such motions based on the applicable law at the time and plaintiffs have the right to oppose such motions on any applicable grounds and to seek such conditions provided by law.

Should any defendant file a motion raising the issue of forum non conveniens in an individual case, plaintiff shall have sixty (60) days from the date of service to conduct any forum non conveniens discovery and at the conclusion of such discovery, plaintiff shall file and serve within thirty (30) days, a response to defendant's motion. Should moving defendant fail to timely and substantially comply with plaintiff's forum non conveniens discovery within the sixty (60) day period, the parties may stipulate, or plaintiff may seek leave from the Court, for additional time to conduct such discovery. Fact discovery shall not be stayed pending the resolution of any forum non conveniens motions.

IV. LIAISON COUNSEL

As of the date of entry of this Order, liaison counsel for plaintiffs is Tobias L. Millrood, Schiffrin & Barroway, LLP, Three Bala Plaza East, Suite 400, Bala Cynwyd, Pennsylvania 19004 and liaison counsel for defendants is Michael T. Scott, Reed Smith LLP, 2500 One Liberty Place, Philadelphia, PA 19103. The responsibilities of liaison counsel will be delineated in a subsequent order of this Court.

BY THE COURT:



Ackerman, J.

Date: 12/12/03

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