

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

IN RE:
PAXIL PREGANANCY CASES

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FEBRUARY TERM 2007
NO. 3220

In Re: Paxil Pregancy Cases-ORDER

COPIES SENT
PURSUANT TO Pa.R.C.P. 236(b)

JUL 23 2009

FIRST JUDICIAL DISTRICT OF PA
USER I.D.:

ORDER



07020322000079

Whereas, a Protective Order was entered by the Honorable Paul P. Panepinto on March 21, 2007, in the above matter

Whereas, the Defendant GSK has sought relief invoking Paragraph 20 of said Order attempting to "claw back" certain claimed privileged documents previously sent to Plaintiffs

Whereas, the Plaintiffs have responded that Defendant GSK is not entitled to relief under Paragraph 20 arguing that Defendant GSK cannot satisfy the five-factor test outlined in Carbis Walker LLP vs. Hill, Barth and King, LLC, 930 A.2d 573, 582 (Pa. Super. 2007)

The Court, after consulting with the special master appointed in this case, enters the following Order:

- 1) As to those documents identified as SB Global, the Defendant GSK has not met its burden in order to obtain relief under Paragraph 20, and, therefore, the documents in question may not be "clawed back" and shall be deemed not privileged, except for two pages conceded as privileged by the Plaintiffs.
- 2) As to those documents identified as AD HOC meeting minutes and those identified as neurosciences MDC meeting minutes, the Defendant GSK has not met its burden in order to obtain relief under Paragraph 20, and, therefore, the documents in question may not be "clawed back" and shall be deemed not privileged.
- 3) As to those documents identified as the Ephross emails, the Powell emails, the scientific analysis emails, and the holding statement emails, GSK has met its burden under Paragraph 20, and the documents shall

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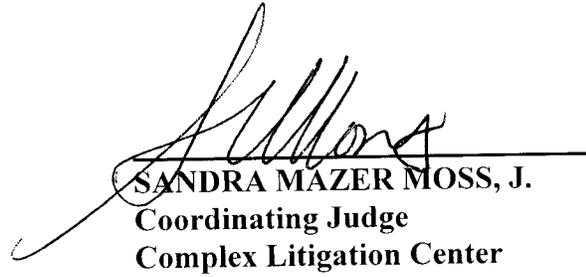
J. STEWART

be "clawed back" immediately; furthermore, the Plaintiffs may challenge the documents' status as privileged, if inclined in the future.

DATE:

7/23/09

BY THE COURT:


SANDRA MAZER MOSS, J.
Coordinating Judge
Complex Litigation Center