

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

IN RE PAXIL PREGNANCY CASES

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

SEP 18 2007

FIRST JUDICIAL DISTRICT OF PA
USER I.D.:

FEBRUARY TERM, 2007
NO. 3220

DOCKETED
COMPLEX LIT CENTER

SEP 18 2007

J. STEWART

CASE MANAGEMENT ORDER NO. 1:

GOVERNING ALL "PAXIL PREGNANCY" CASES

It is the goal of this Court to secure the just, speedy, and inexpensive determination of each personal injury, wrongful death, and/or survival case that alleges congenital malformations or other neonatal injuries in a minor whose mother used the prescription drug Paxil® ("Paxil"), Paxil® Oral Suspension ("Paxil OS"), or Paxil CR® ("Paxil CR") during pregnancy (hereinafter the "Paxil Pregnancy Cases") 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 17th day of September, 2007 for all individual Paxil Pregnancy Cases that are presently pending or hereafter filed in the Philadelphia Court of Common Pleas. The coordinated procedures set forth in this Order are without prejudice to any party's right to contest further coordination or consolidation of these actions.

I. PAXIL-PREGNANCY CASES DOCKET

On February 21, 2007, the Court has established a Paxil-Pregnancy Docket at February Term, 2007, No. 3220. This docket number has been established as a depository for the filing of pleadings, motions, orders, and other documents common to the Paxil-Pregnancy 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 Paxil-Pregnancy litigation, the pleading, motion, 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.

II. PLEADINGS

A. MASTER LONG FORM COMPLAINT

1. On March 7, 2007, Plaintiffs filed a Master Long Form Complaint (“Master Complaint”). The Master Complaint must be properly served on each defendant, in accordance with the Pennsylvania Rules of Civil Procedure, before a response is required. The filing of the Master Complaint does not toll any applicable statute of limitations or repose as to any individual plaintiff in the Paxil Pregnancy Cases.

2. On or before thirty (30) days after valid service of the Master Complaint Defendant, SmithKline Beecham Corporation d/b/a GlaxoSmithKline (“GSK”) shall file either (a) an Answer or (b) Master Set of Preliminary Objections to the Master Complaint. Foreign defendants, if any, may Answer or otherwise plead to the Master Complaint within sixty (60) days of valid service of the Master Complaint on them.

3. All motions filed in the Paxil Pregnancy Cases shall be in letter format pursuant to mass tort procedure.

4. Plaintiffs shall respond to any preliminary objections within thirty (30) days of service of those preliminary objections.

5. The Court will rule on the preliminary objections, and whether a hearing thereon will be held is subject to the sole discretion of the Court. The Court's ruling on the preliminary objections will be binding for all current and future personal injury, wrongful death, and/or survival individual actions filed in Philadelphia County that are Paxil Pregnancy Cases.

6. If preliminary objections are sustained to one or more counts in the Master Complaint for the Paxil Pregnancy Cases, plaintiffs, if so ordered, shall file a conforming Amended Master Complaint within thirty (30) days of the Order sustaining the preliminary objections.

7. If preliminary objections are sustained to one or more counts in the Master Complaint for the Paxil Pregnancy Cases, those counts are deemed stricken from the Short Form Complaint, and plaintiffs, if so ordered, shall file a conforming Short Form Complaint within thirty (30) days of the Order sustaining the preliminary objections.

8. Any Paxil Pregnancy Case plaintiff who wishes to file a claim against a defendant not named in the Master Complaint must simultaneously serve a copy of this Order and the Long Form Complaint for the Paxil Pregnancy Cases on any such defendant. Failure to do so will relieve a defendant not named in the Master Complaint for the Paxil Pregnancy Cases of the obligation to answer or preliminarily object to the Master Complaint for the Paxil Pregnancy Cases.

9. Subject to Paragraph No. 8 above, subsequently added defendants shall have the right to file an Answer or Preliminary Objections to the Master Complaint for the Paxil Pregnancy Cases within thirty (30) days of actual valid service of a Short Form Complaint for

the Paxil Pregnancy Cases of an individual Paxil case pending in the Philadelphia Court of Common Pleas. Plaintiffs shall then have thirty (30) days after actual valid service to respond to the subsequently added defendants' preliminary objections.

10. In the event that an Amended Master Complaint is filed in the Paxil Pregnancy Cases, defendants shall have thirty (30) days from the filing of the Amended Master Complaint to file a responsive pleading; or, if no such Amended Master Complaint need be filed, defendants shall have thirty (30) days from the Order overruling preliminary objections to file a Master Answer for the Paxil Pregnancy Cases.

11. If a New Matter is pleaded in the Paxil Pregnancy Cases, such New Matter in the Paxil Pregnancy Cases will be deemed denied and plaintiffs are not required to file any further responsive pleadings to defendants' New Matter in the Paxil Pregnancy Cases.

B. PREVIOUSLY FILED CASES

1. The Master Complaint for the Paxil Pregnancy Cases filed on March 7, 2007 will substitute and supersede all complaints filed in individual Paxil Pregnancy Cases pending in the Philadelphia County Court of Common Pleas that allege that a minor suffers from congenital malformations or other neonatal injuries caused by the mother's use during pregnancy of Paxil, Paxil OS, or Paxil CR ("previously filed Paxil Pregnancy Cases").

2. Within thirty (30) days of the entry of this Order, plaintiffs shall file a Short Form Complaint substantially in the form attached as Exhibit A for previously filed Paxil Pregnancy Cases in Philadelphia County using the original court term and number for each such filed case.

3. If additional counts are alleged in the Short Form Complaint for Paxil Pregnancy Cases, the specific facts supporting those allegations must be pleaded by the plaintiffs

in a manner complying with the requirements of the Pennsylvania Rules of Civil Procedure, and the defendants against whom they are alleged must be specifically identified on a separate sheet of paper attached to the Short Form Complaint for Paxil Pregnancy Cases.

4. Defendants shall have thirty (30) days from the date of service of the Short Form Complaint for Paxil Pregnancy Cases to file preliminary objections to said Short Form Complaint or thirty (30) days from the date of the Court's ruling on the Master Preliminary Objections, whichever is later, to file Preliminary Objections to the Short Form Complaint for Paxil Pregnancy Cases.

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

6. Defendants will not file preliminary objections challenging claims as to which preliminary objections have previously been overruled.

7. Plaintiffs shall then have thirty (30) days from the date of service to file a response to the preliminary objections.

8. The Court will rule on the preliminary objections, and whether a hearing thereon is scheduled is solely within the discretion of the Court.

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

Complaint for the Paxil Pregnancy Cases in individual cases. An entry of appearance shall constitute a denial of all allegations in the Short Form Complaint for the Paxil Pregnancy Cases and an assertion of all affirmative defenses in that case.

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

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

C. **NEWLY FILED CASES**

1. All Paxil Pregnancy Cases filed after the date of this Order shall be instituted by the filing of a Writ of Summons or a Short Form Complaint. If suit is instituted by a Writ of Summons, any named defendant may file a Rule to File a Complaint and, if such is filed, such rule shall apply to the benefit of all named defendants.

2. Plaintiffs shall indicate in the Short Form Complaint for the Paxil Pregnancy Cases those counts of the Master Complaint for the Paxil Pregnancy Cases that they are incorporating by reference.

3. If additional counts are alleged in the Short Form Complaint for the Paxil Pregnancy Cases, 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.

4. Defendants shall have thirty (30) days from the date of service of the Short Form Complaint for the Paxil Pregnancy Cases or thirty (30) days from the date of the Court's ruling on the preliminary objections to the Master Complaint for the Paxil Pregnancy Cases, whichever is later, to file preliminary objections to the Short Form Complaint for the Paxil Pregnancy Cases.

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

6. Defendants will not file preliminary objections challenging claims as to which preliminary objections to the Master Complaint for the Paxil Pregnancy Cases have previously been overruled.

7. Plaintiffs shall then have thirty (30) days from the date of service of the preliminary objections, if any, to file a response.

8. The Court will rule on the preliminary objections and whether a hearing thereon is scheduled is solely in the discretion of the Court.

9. If the Court's ruling on preliminary objections to the Short Form Complaint for the Paxil Pregnancy Cases does not provide for the filing of an Amended Short Form Complaint, the remaining allegations of the Short Form Complaint for the Paxil Pregnancy

Cases shall be deemed denied and defendants are not required to file answers to the Short Form Complaint for the Paxil Pregnancy Cases in individual cases. An entry of appearance shall constitute a denial of all allegations in the Short Form Complaint for the Paxil Pregnancy Cases and an assertion of all affirmative defenses.

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

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

D. SERVICE OF PAPERS AND PLEADINGS ON LIAISON COUNSEL

1. All master pleadings, master discovery requests and responses, and master motions and responses served under the "Paxil Pregnancy" Master caption shall be served on opposing liaison counsel. Service on liaison counsel shall be deemed as service on all counsel, and liaison counsel shall be responsible for disseminating to all co-counsel. The parties will make a single service of these documents in paper copy form to opposing liaison counsel at their Philadelphia office, and will also serve these documents simultaneously to opposing liaison counsel electronically in pdf or similar format; where a master pleading, master discovery request or response, or master motion or response contains more than 20 pages in attachments,

the parties shall only be required to serve the exhibits once, in paper form, as described above.

Other plaintiffs' counsel who are counsel of record for cases pending in these Coordinated Actions who would like copies of these documents are bound by the terms of the Protective Order entered by this Court and must make arrangements through plaintiffs' liaison counsel for the Paxil Pregnancy Cases if they wish to obtain copies of these documents.

2. All documents that are produced under the "Paxil Pregnancy" Master caption as productions of documents responsive to discovery requests shall also be served on opposing liaison counsel. Service on liaison counsel of these documents shall also be deemed as service on all counsel, and liaison counsel shall be responsible for disseminating to all co-counsel. The parties will make a single production of the documents to opposing liaison counsel for the Paxil Pregnancy Cases in the format agreed upon by the parties. Other plaintiffs' counsel who are counsel of record for cases pending in these Coordinated Actions who would like copies of GSK's document productions are bound by the terms of the Protective Order entered by this Court and must make arrangements through plaintiffs' liaison counsel for the Paxil Pregnancy Cases if they wish to obtain copies of GSK's document productions.

3. All documents served on liaison counsel shall be served at counsel's Philadelphia office in accordance with the Pennsylvania Rules of Civil Procedure and the Mass Tort Program and Complex Litigation Center rules.

4. All case specific documents shall be served on proper individual counsel in a manner consistent with the Pennsylvania Rules of Civil Procedure and the Mass Tort Program and Complex Litigation Center rules

E. CROSS-CLAIMS

1. Defendants reserve the right to file cross-claims in cases subject to this Case Management Order until further Order of Court.

BY THE COURT

Tereshko

Date: September 17, 2007