

IN THE COURT OF COMMON PLEAS OF PENNSYLVANIA
PHILADELPHIA COUNTY

IN RE TRASYLOL PRODUCTS LIABILITY
LITIGATION

JUNE TERM 2008

No. 5229

This Document Relates to All Actions

DOCKETED
COMPLEX LIT CENTER
JUL 2 2010
J. STEWART

CASE MANAGEMENT ORDER NO. 9 MODIFYING
2010 DISCOVERY AND TRIAL SCHEDULE

This Order revises certain discovery deadlines, pretrial motions schedules, and trial dates in the Trasylol personal injury actions in the Philadelphia County Court of Common Pleas (“Coordinated Actions”). This Order takes into account the settlement and discontinuance of a number of the Coordinated Actions since the parties’ submission of Case Management Order No. 7 (“CMO 7”) to the Court in August 2009.

I. FALL 2010 TRIAL SETTINGS.

Green v. Bayer Corp. (Case No. 070901904) shall be trial ready and set for trial in October 2010, consistent with the schedule set forth in Exhibit A hereto, which is made part of this Order. *Brady v. Bayer Corp.* (Case No. 080802813) and *Nelson v. Bayer Corp.* (Case No. 071203336), shall be trial ready and set for separate trials in November 2010, and *Barlow v. Bayer Corp.* (Case No. 081100226) and *Cotton v. Bayer Corp.* (Case No. 080203367), shall be trial ready and set for separate trials in December 2010, consistent with the schedules set forth in Exhibit A. Unless the November cases are to be tried simultaneously, *Brady* shall be scheduled first and *Nelson* scheduled second.

In Re: Trasylol Litigation-ORDER



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A case may only be called to trial if all deadlines have passed, thereby making the case trial ready. For example, a case set for a November or December trial date cannot be moved into an October trial setting, etc.

II. AMENDMENTS TO CASE SPECIFIC EXPERT REPORTS IN FALL 2010 TRIAL SETTINGS.

Absent agreement of the parties or a showing of good cause, the parties shall be prohibited from supplementing or amending the reports of experts after the expert's deposition. With regard to case-specific causation experts, the disclosure of additional facts in case-specific fact discovery that takes place after a case-specific expert's deposition will not alone constitute good cause to supplement or amend an expert's report, if the additional facts could have been discovered before the deposition by the exercise of reasonable diligence, although any such newly discovered facts may be used to support an application for leave to supplement together with additional information supporting the application.

III. PRETRIAL REQUIREMENTS.

In addition to the case-specific discovery and pretrial motion schedules set forth in Exhibit A, the following schedule shall apply to each case scheduled for trial (any due date falling on a weekend or holiday shall be adjusted to the next business day):

The parties shall engage in mediation at least 45 days before the scheduled trial-ready date.

Plaintiff to serve his or her witness list 56 days before the scheduled trial-ready date.

Defendants to serve their witness list 10 days after service of the applicable plaintiff's witness list.

Witnesses not included on a party's witness list shall not be called at trial absent agreement of the parties or a showing of good cause as to why the witness was not included on the witness list.

Plaintiff to serve page/line designations of deposition testimony 56 days before the scheduled trial-ready date.

Defendants to serve page/line counter-designations of deposition testimony, objections to plaintiff's deposition designations and affirmative page/line designations of deposition testimony 35 days before the scheduled trial-ready date.

Plaintiff to serve page/line counter designations of deposition testimony and objections to defendants' deposition designations 17 days before the scheduled trial-ready date.

Defendants to serve objections to plaintiff's counter-designations 7 days before the scheduled trial-ready date.

Plaintiff to serve his or her exhibit list, including a description of each document or other exhibit, document production number (if applicable) and an electronic copy of the exhibits (except demonstrative exhibits) 49 days before the scheduled trial-ready date.

Defendants to serve objections to plaintiff's exhibits, and serve their exhibit list, including a description of each document or other exhibit, document production number (if applicable) and an electronic copy of the exhibits (except demonstrative exhibits) 28 days before the scheduled trial-ready date.

Plaintiff to serve objections to defendants' exhibits 7 days before the scheduled trial-ready date.

Exhibits not included on a party's exhibit list (except exhibits used for impeachment or rebuttal) shall not be received into evidence absent agreement of the parties or a showing of good cause as to why the exhibit was not included on the exhibit list.

Jury instructions agreed upon by the parties to be submitted 28 days before the scheduled trial-ready date. All instructions not agreed upon by the parties shall be separately submitted by the plaintiffs and defendants 28 days before the scheduled trial-ready date.

Defendants' Motions in limine to be filed and served 35 days before the scheduled trial-ready date. Plaintiff's motions in Limine to be filed 21 days before the scheduled trial date.

Responses to motions in limine to be filed and served 14 days after service of the motions in limine.

Replies in support of a motion in limine must be filed and served 5 days after service of a response to the corresponding motion in limine.

Hearings on motions in limine and any other pretrial motions to be determined by the Court.

Final pretrial conference to be determined by the Court.

By THE COURT:



Moss, J.

7/11/10

	Green	(Brady and Nelson - Nov. Trials)	(Barlow and Cotton - Dec. Trials)
Plaintiffs serve required disclosures for all case-specific fact witnesses		June 18, 2010	June 25, 2010
Defendants identify case-specific fact witnesses		July 9, 2010	July 16, 2010
Depositions of case-specific fact witnesses completed; case-specific fact discovery completed		Aug. 13, 2010	Sept. 6, 2010
Plaintiffs serve reports for case-specific experts and provide reasonable schedule of deposition dates		July 26, 2010	Aug. 16, 2011
Depositions of Plaintiffs' case-specific experts	June 24, 2010 through July 13, 2010	Aug. 2, 2010 through Aug. 20, 2010	Aug. 23, 2010 through Sept. 13, 2010
Defendants serve reports for case-specific experts and provide reasonable schedule of deposition dates	July 20, 2010	Aug. 13, 2010	Sept. 6, 2010
Depositions of Defendants' case-specific experts	July 27, 2010 through Aug. 17, 2010	Aug. 20, 2010 through Sept. 6, 201	Sept. 13, 2010 through Oct. 4, 2010
Dispositive motions and/or <i>Frye</i> motions filed and served by	Aug. 24, 2010	Sept. 13, 2010	Oct. 11, 2010
Oppositions to dispositive motions and/or <i>Frye</i> motions filed and served by	Sept. 13, 2010	Oct. 4, 2010	Nov. 1, 2010
Replies in support of dispositive motions and/or <i>Frye</i> motions filed and served by		Oct. 11, 2010	Nov. 8, 2010
<i>Frye</i> hearings shall take place during the week of	Sept. 27, 2010	Oct. 25, 2010	Nov. 15, 2010
The pretrial conference shall be scheduled for the week of	Oct. 4, 2010 9/16 1:30	Nov. 1, 2010 10/19 9:30	Nov. 29, 2010 11/15 1:30
Jury selection shall begin on	Oct. 4, 2010	Nov. 4, 2010	Dec. 2, 2010
Cases are deemed trial ready on	Oct. 7, 2010	Nov. 8, 2010	Dec. 6, 2010