

IN THE COURT OF COMMON PLEAS
PHILADELPHIA COUNTY



IN RE DIGITEK® LITIGATION

MARCH TERM, 2009

NO. 5166

DOCKETED
COMPLEX LIT CENTER

MAY 21 2009

J. STEWART

THIS DOCUMENT APPLIES TO ALL CASES

CASE MANAGEMENT AND SCHEDULING ORDER NO. 1

This Order shall govern all cases (1) transferred to this Court in the State of Pennsylvania for the *In re: Digitek® Litigation*; and (2) all related cases originally filed in this Court. This Order applies to all Plaintiffs in Pennsylvania state actions and to Defendants Actavis Totowa, LLC, and Actavis Inc. and Actavis Elizabeth, LLC (“Defendants Actavis”)¹ and Defendants Mylan Pharmaceuticals, Inc., UDL Laboratories, Inc., Mylan Inc., and Mylan Bertek Pharmaceuticals, Inc. (“Defendants Mylan”)².

All subsequent Orders of this Court with the designation “All Actions” entered in *In re: Digitek® Litigation* (“Digitek® Litigation”) shall likewise apply to all cases that are, or become, part of the Digitek® Litigation, regardless of whether that case was part of the Digitek® Litigation when the Order was entered.

Monthly Case Management Conferences will be held before The Honorable Sandra Mazer Moss at mutually agreed upon dates and times. Joint agendas will be produced to Judge Moss seven (7) days prior to the Monthly Case Management Conferences.

¹ Defendants Actavis maintain that Actavis Elizabeth, LLC is not a proper party and explicitly do not waive any argument regarding their inclusion in this litigation.

² Defendants Mylan maintain that Mylan Inc. and Mylan Bertek Pharmaceuticals, Inc. are not proper parties and explicitly do not waive any argument regarding their inclusion in this litigation.

The parties intend to coordinate discovery with the Digitek® MDL pending in the United States District Court for the Southern District of West Virginia, *In Re Digitek® Products Liability Litigation*, MDL No. 1968 to the extent practicable in order to promote efficiency and to reduce duplication and cost.

I. DISCOVERY

A) Plaintiffs' Fact Sheet.

1) In every case currently part of the Digitek® Litigation and in all other cases that become part of the Digitek® Litigation by virtue of being filed in or transferred to this Court, each Plaintiff shall complete and submit a Plaintiff Fact Sheet ("PFS") to defense counsel. A copy of the PFS is attached hereto as Exhibit "A."

2) Within seventy-five (75) days of the date of this Order for cases currently pending in the Digitek® Litigation, or within sixty (60) days of the date on which an action is filed in or transferred to and docketed in the Digitek® Litigation, a Plaintiff who is subject to this Order shall serve the named Defendants in that case with:

(a) A completed PFS. Plaintiffs shall sign the completed PFS and provide an executed Affidavit attesting that the information contained therein is true and correct to the best of the Plaintiff's knowledge, information and belief, formed after due diligence and reasonable inquiry.

A completed PFS shall be considered interrogatory answers and responses to requests for production under the Pennsylvania Rules of Civil Procedure, and will be governed by the standards applicable to written discovery under the Pennsylvania Rules of Civil Procedure. The interrogatories and requests for production in the PFS shall be answered without objection. Service of

the PFS shall be via email, addressed to Defendants' Liaison Counsel at Segal McCambridge Singer & Mahoney, Ltd. (pswayze@smsm.com and mgrossman@smsm.com).

This section does not prohibit a Plaintiff from withholding or redacting information based upon a recognized privilege. If information is withheld or redacted on the basis of privilege, Plaintiff shall provide Defendants with a privilege log. In the event that a dispute arises concerning the completeness or adequacy of a Plaintiff's response to any request contained in the PFS, this Section shall not prohibit the Plaintiff from asserting that his or her response is adequate.

(b) Authorizations for the release of records. Plaintiffs shall provide addressed authorizations for each health care provider, including hospitals, clinics and outpatient treatment centers, and any other custodian of records identified in Plaintiff's Fact Sheet. Defendants will provide the authorizations to the third-party record retrieval service, RecordTrak, 651 Allendale Rd. King of Prussia, PA 19406. RecordTrak shall notify all parties via e-mail upon receipt of the records but shall not release the records retrieved to Defendants for five (5) days so that Plaintiffs have an opportunity to review the records and to make an application to the Court for a Protective Order if necessary [hereinafter "5 day review period"]. In the event that RecordTrak delays production of the records to Plaintiff, the 5 day period shall be extended by an equal number of days attributable to the delay. If Plaintiffs fail to make an application for a Protective Order on or before the end of the 5 day review period, RecordTrak is authorized to release the retrieved

record to Defendants. If, prior to the end of the 5 day period, after reviewing the records retrieved by RecordTrak, Plaintiffs decide that they will not seek a Protective Order for the retrieved records, Plaintiffs shall notify RecordTrak via e-mail that the record may be released to Defendants. Plaintiffs shall make their best effort to review said retrieved records and notify if there is no objection to release before the end of the 5 day review period. Nothing in this paragraph is meant to prohibit Plaintiffs from making an application for a Protective Order any other time. The parties will meet and confer to discuss the fees associated with the use of RecordTrak and will incorporate the agreed upon language regarding same into a later Case Management Order.

(i) Plaintiffs shall provide undated authorizations.

(ii) Undated authorizations constitute permission for Defendants to date (and where applicable, re-date) authorizations before sending to records custodians.

(iii) The Court encourages counsel for Plaintiffs to have their clients execute a sufficient number of undated, blank authorizations in order to assure the ability to obtain records promptly.

(c) Records in Plaintiffs' Possession. Plaintiffs shall provide the documents listed below that are currently in Plaintiffs' possession or in the possession of Plaintiffs' Counsel.

(i) Medical records in Plaintiffs' possession establishing that Plaintiff was prescribed Digitek® and the date(s) on which each prescription issued.

(ii) Pharmacy records in Plaintiffs' possession establishing that Plaintiff actually purchased and received Digitek®, including pharmacy records of all dates on which Plaintiff filled and/or refilled a prescription for Digitek®, as well as any records of prescriptions for any other form of digoxin which was prescribed or dispensed to Plaintiff.

(iii) Medical records in Plaintiffs' possession documenting the alleged injury that Plaintiff claims to have suffered as a result of Digitek® ingestion.

3) Every Plaintiff is required to provide Defendants with a PFS that is substantially complete in all respects. "Substantially complete in all respects" requires that a Plaintiff:

(a) Answer every question in the PFS and leave no blanks, even if a Plaintiff can only answer the question in good faith by indicating "not applicable" or "I don't know";

(b) Provide the requested records authorizations; and

(c) Produce the documents requested in Section IV(A)(2)(c)(i)-(iii), or a statement certifying that there are no responsive documents.

4) Any Plaintiff who fails to comply with the PFS obligations under this Order may be subject to having his or her claims, as well as any derivative claim(s), dismissed for good cause upon motion. Good cause shall exist where (1) the Plaintiff has failed to submit a PFS, or (2) the Plaintiff has failed to substantially complete the PFS in all respects, and the PFS thus contains a material deficiency (i.e., a deficiency that prejudices Defendants through a failure to provide necessary information, thereby

impeding Defendants' access to material and relevant evidence), and (3) Defendants establish to the Court that they have exhausted all efforts described in paragraph (5) below. Any dismissal may be with or without prejudice as the Court may determine in any individual case.

5) If a Plaintiff fails to timely submit a PFS, or if Defendants receive a PFS in the allotted time but the PFS is not "substantially complete" in all respects, Defendants' Liaison Counsel shall send a deficiency letter via email to Plaintiffs' Liaison Counsel at The Miller Firm (cgomez@doctoratlaw.com) and Plaintiff's individual representative counsel, which will allow Plaintiff an additional thirty (30) days to serve a PFS that is "substantially complete" in all respects. The deficiency letter shall include a warning that the case is subject to dismissal under this Order if a PFS substantially complete in all respects is not received within thirty (30) days of service of the deficiency letter. This letter shall include sufficient detail for the parties to meet and confer regarding the alleged deficiencies. Should a Plaintiff fail to cure the deficiencies identified and fail to provide responses that are substantially complete in all respects (including the requested documents and signatures on all applicable authorizations) within thirty (30) days of service of the deficiency letter, Defendants may seek an Order to Show Cause why the case should not be dismissed. Any such filing shall be served on Plaintiffs' Liaison Counsel and the Plaintiffs' individual representative counsel, with any response to such filing to be submitted in accordance with the Mass Tort Motion Procedures. Any such filing should include the efforts the Defendants made to meet and confer regarding the alleged deficiencies in the PFS and failure to cure.

6) In the event that an institution or medical provider to whom any

authorization is presented refuses to provide records in response to that authorization, Defendants shall notify Plaintiffs' Liaison Counsel, and the individual Plaintiff shall execute and return within thirty (30) days whatever form is required by that institution or provider, such as a form with an original signature, a notarized form, or the institution's own form. Should a particular form be required, Defendants will provide it to Plaintiffs' Liaison Counsel.

B) Defendants' Fact Sheets and Production of Documents.

1) Defendants are currently obligated to produce documents pursuant to a schedule approved and ordered by the Digitek® MDL pursuant to Pretrial Order #16.

2) The Parties have agreed in principle that Defendants shall respond to a Defendants Fact Sheet ("DFS") which shall be considered a non-objectionable interrogatory answers and as a response to a request for production. The Parties are currently conferring on the form of the DFS, Defendants' response thereto and the timing for the Defendants' response and production to the DFS after receipt of a PFS. The DFS will be incorporated into a subsequent Case Management Order. Defendants obligations to produce medical and other records retrieved with authorizations from Plaintiffs is set forth above at Section I(A)(2)(b).

II. PRIVILEGED DOCUMENTS

A) Any party who withholds the production of requested documents or materials, regardless of the manner in which they are kept or maintained, on the ground of any privilege or application of the work-product doctrine must specify in writing, as to each document or thing not produced, the specific privilege(s) or doctrine(s) relied upon to withhold each document ("Privilege Log").

B) Each Privilege Log shall describe each document or thing to which a privilege or work product protection is asserted in sufficient detail to reasonably permit the party seeking discovery to assess whether or not to dispute the assertion. Details include, but are not limited to:

- 1) Custodian or source;
- 2) Date;
- 3) Author(s);
- 4) The starting and ending production number for documents produced, but redacted on the ground of privilege;
- 5) Recipient(s) (for e-mail and hard-copy communications such as letters and internal memoranda);
- 6) cc(s) (for e-mail and hard-copy communications such as letters and internal memoranda);
- 7) bcc(s) (for e-mail and hard-copy communications such as letters and internal memoranda);
- 8) Specification of the privilege claimed; and
- 9) A description of the document and the basis for the privilege claim.

C) The parties will produce privilege logs in Excel format or a similar electronic format that allows for text searching and organization of data.

D) A party will produce a privilege log within thirty (30) days of its production of documents for which any privilege is asserted to apply, and within the same time period following any subsequent or rolling productions.

III. DOCUMENT PRODUCTION PROTOCOL

The Parties will follow the document production protocol ordered by the Digitek® MDL in Pretrial Order # 16.

IV. PLEADINGS

A) Master Long Form Complaint

1) Parties agree to meet and confer before the filing of Plaintiffs' Master Long Form Complaint to attempt to address any Preliminary Objections if possible by agreement.

2) Thirty (30) days from the entry of this Order, counsel for Plaintiffs in cases pending in the Digitek® Litigation shall confer and shall collectively file a Master Long Form Complaint ("Master Complaint"). The filing of the Master Complaint does not toll any applicable statute of limitations as to any individual Plaintiff in the Digitek® Litigation.

3) On or before thirty (30) days after valid service of the Master Complaint, each Defendant shall file either (a) a Master Answer or (b) A master set of Preliminary Objections to the Master Complaint pursuant to Pa R.C.P. No. 1028(a). All Preliminary Objections shall be stayed pending relevant and necessary discovery.

4) All motions filed in the Digitek® Litigation shall be in letter brief format pursuant to mass tort procedure.

5) Plaintiffs shall respond to any Master Preliminary Objections within thirty (30) days of service.

6) The Court will rule on the Master Preliminary Objections, and a hearing will be held upon application of a party if the Court deems it necessary. The Court's

ruling on the master Preliminary Objections will be binding on all current and future filed Digitek® Cases.

7) If Master Preliminary Objections are sustained to one or more counts in the Master Complaint for the Digitek® Litigation, Plaintiffs, if so ordered, shall file a conforming Amended Master complaint within thirty (30) days of the Order sustaining the Master Preliminary Objections.

8) If Master Preliminary Objections are sustained to one or more counts in the Master Complaint, those counts shall be deemed stricken from any subsequently filed Short Form Complaint (see Section IV.C., *infra*), and Plaintiffs, if so ordered, shall file a conforming Short Form Complaint within thirty (30) days of the Order sustaining the Master Preliminary Objections.

9) Any 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 Master Long Form Complaint for the Digitek® Litigation on any such Defendant. Failure to do so will relieve a Defendant not named in the Master Complaint for the Digitek® Litigation of the obligation to answer or preliminarily object to the Master Complaint for the Digitek® Litigation.

10) Subject to Paragraph No. 9 above, subsequently added Defendants shall have the right to file a Master Answer or Master Preliminary Objections within thirty (30) days of service of a Short Form Complaint. Plaintiffs shall then have forty-five (45) days after service to respond to the subsequently added Defendant's Preliminary Objections.

11) In the event that an Amended Master Complaint is filed in the Digitek® Litigation, Defendants shall have thirty (30) days from 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 determining Master Preliminary Objections to file a Master Answer for the Digitek® Litigation.

12) If a New Matter is pleaded in the Digitek® Litigation, such New Matter in the Digitek® Litigation will be deemed denied and Plaintiffs are not required to file any further responsive pleadings to Defendants' New Matter in the Digitek® Litigation.

B) Previously Filed Cases

1) The Master Complaint for the Digitek® Litigation will substitute for and supersede all complaints filed in individual Digitek® Cases pending in the Philadelphia County Court of Common Pleas.

2) Within forty-five (45) days of the entry of this Order, each Plaintiff in a Digitek® Case shall file a Short Form Complaint, in a form to be agreed upon with Defendant's counsel, using each action's original court term and number.

3) All allegations in Short Form Complaints will be deemed denied, and Defendants are not required to file answers to Short Form Complaints, unless any Plaintiff alleges a cause of action not included in the Master Complaint, in which case Defendant may file a preliminary objection to any such count within twenty (20) days of valid service of Short Form Complaint.

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

5) Plaintiffs shall have twenty (20) days to file a response to any preliminary objections.

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

7) 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 an answer.

8) If any of the Court's rulings permit a Plaintiff to file an Amended Short Form Complaint, Defendants shall be afforded twenty (20) days after service of the Amended Short Form Complaint in which to file a short form answer.

9) If no responsive pleading is filed, allegations in an Amended Short Form Complaint will be deemed denied.

C) Newly Filed Cases

1) All Digitek 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, which shall apply to the benefit of all named Defendants.

2) Plaintiffs shall indicate in each Short Form Complaint those counts of the Master Complaint that are incorporated by reference.

3) If additional causes of action are alleged in a Short Form Complaint, the specific facts supporting these allegations shall be pleaded in accordance with 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.

4) Defendants shall have twenty (20) days from the date of service of the 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 each Short Form Complaint

5) Defendants will not file preliminary objections challenging claims as to which Master Preliminary Objections have previously been overruled.

6) Plaintiffs shall have twenty (20) days from the date of service of preliminary objections to file a response.

7) A hearing will be scheduled upon application of a party if the Court deems it necessary and the Court will rule on the preliminary objections.

8) 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.

9) If any of the Courts rulings permit a Plaintiff to file an Amended Short Form Complaint, Defendants shall be afforded twenty (20) days after service of an Amended Short Form Complaint in which to file a responsive pleading.

V. DISCOVERY DATES AND ORDER

A) Discovery Upon Defendants

If Plaintiff intends to propound Interrogatories upon Defendants, they shall do so no later than July 1, 2009. If Plaintiff intends to propound Requests for Production of Documents upon Defendants, they shall do so no later than July 1, 2009.

B) Company Witness Depositions

The depositions of Defendants' company witnesses shall be concluded by January 1,

2010. Notices for the depositions of these witnesses will be issued from the Digitek® MDL and will be cross-noticed in the Digitek® Litigation; Plaintiffs are not waiving, and specifically reserve the right to take depositions of third-party and other witnesses including Defendants' employees, officers and directors.

C) Division of Cases and Trial Pool Cases for Cases filed in 2008

- 1) To efficiently manage discovery for all currently pending and future cases in the Digitek® Litigation, the cases will be divided into groups, with each group having a separate scheduling order.
- 2) The instant Case Management Order will govern the first group of cases which consists of Digitek® cases filed in 2008 ("2008 Cases") that are still pending in the Digitek® Litigation. This group includes the following cases:

1. *Molly Bell, Personal Representative of the Estate of Dennis Bell, Deceased v. Actavis Totowa, LLC, Actavis, Inc., Mylan, Inc., Mylan Laboratories, Inc., Mylan Pharmaceuticals, Inc., Mylan Bertek Pharmaceuticals, Inc. and UDL Laboratories.*
November Term, 2008 Docket No: 1354.
2. *Marie Parson, Personal Representative of the Estate of Mary Ann Parson, Deceased v. Actavis Totowa, LLC, Actavis, Inc., Mylan, Inc., Mylan Laboratories, Inc., Mylan Pharmaceuticals, Inc., Mylan Bertek Pharmaceuticals, Inc. and UDL Laboratories.*
November Term, 2008 Docket No: 1529
3. *Tina Lopez, Personal Representative of the Estate of Esther Rodriguez, Deceased v. Actavis Totowa, LLC, Actavis, Inc., Mylan, Inc., Mylan Laboratories, Inc., Mylan Pharmaceuticals, Inc., Mylan Bertek Pharmaceuticals, Inc. and UDL Laboratories.*
November Term, 2008 Docket No: 1472
4. *Nita Hill, Personal Representative of the Estate of Marie Davis, Deceased v. Actavis Totowa, LLC, Actavis, Inc., Mylan, Inc., Mylan Laboratories, Inc., Mylan Pharmaceuticals, Inc., Mylan Bertek Pharmaceuticals, Inc. and UDL Laboratories.*
December Term, 2008 Docket No: 2133
5. *Jerald Small, Personal Representative of the Estate of Lilla Small, Deceased v. Actavis Totowa, LLC, Actavis, Inc., Mylan, Inc., Mylan Laboratories, Inc., Mylan Pharmaceuticals, Inc., Mylan Bertek Pharmaceuticals, Inc. and UDL Laboratories.*
December Term, 2008 Docket No: 3102

6. *Sharon Mosley, Personal Representative of the Estate of Jesse Robinson, Jr., Deceased v. Actavis Totowa, LLC, Actavis, Inc., Mylan, Inc., Mylan Laboratories, Inc., Mylan Pharmaceuticals, Inc., Mylan Bertek Pharmaceuticals, Inc. and UDL Laboratories.*
December Term, 2008 Docket No: 2287
7. *Ron Randall, Personal Representative of the Estate of John Randall, Deceased v. Actavis Totowa, LLC, Actavis, Inc., Mylan, Inc., Mylan Laboratories, Inc., Mylan Pharmaceuticals, Inc., Mylan Bertek Pharmaceuticals, Inc. and UDL Laboratories.*
December Term, 2008 Docket No: 3124
8. *Ruth Stanley, Personal Representative of the Estate of Jerry Stanley, Deceased v. Actavis Totowa, LLC, Actavis, Inc., Mylan, Inc., Mylan Laboratories, Inc., Mylan Pharmaceuticals, Inc., Mylan Bertek Pharmaceuticals, Inc. and UDL Laboratories.*
December Term, 2008 Docket No: 4042
9. *Tammy Bazil, Personal Representative of the Estate of Howard Bazil, Deceased v. Actavis Totowa, LLC, Actavis, Inc., Mylan, Inc., Mylan Pharmaceuticals, Inc., Mylan Bertek Pharmaceuticals, Inc. and UDL Laboratories.*
December Term, 2008 Docket No: 5155
10. *Sonia Moreno, Personal Representative of the Estate of Domingo Moreno, Deceased v. Actavis Totowa, LLC, Actavis, Inc., Mylan, Inc., Mylan Pharmaceuticals, Inc., Mylan Bertek Pharmaceuticals, Inc. and UDL Laboratories.*
December Term, 2008 Docket No: 4853

3) The 2008 cases will be trial ready on November 1, 2010. The parties will agree on the order of the cases to be listed for trial in an effort to have all 2008 cases tried by the close of 2010, or as soon as practicable thereafter.

4) At the status conference before the Court in September 2009, the parties and the Court will determine a schedule to select the remaining groups, with the intent to make selections in a timely fashion and to allow enough time for discovery for each group as set forth in subsequent Case Management Orders.

D) Scheduling Order for 2008 Cases

The scheduling order will proceed as follows.

1) Fact Discovery

(a) The parties shall complete all fact discovery, including but not limited to, all written discovery, and the depositions of Plaintiffs, Plaintiffs' Digitek[®]-prescribing physicians, physicians who treated Plaintiffs for alleged digoxin toxicity, and pharmacists who filled Plaintiffs' prescriptions for Digitek[®], by January 1, 2010.

(b) The parties agree that any discovery motions for outstanding discovery timely served on or before the fact discovery deadline must be filed by January 15, 2010.

2) Expert Discovery

a) Plaintiffs shall serve their expert reports no later than March 1, 2010.

b) Defendants shall serve their expert reports no later than April 1, 2010.

c) No depositions of experts will be taken without leave of Court.

3) Filing of Dispositive and *Frye* Motions

(a) All dispositive motions and *Frye* motions shall be filed and served by May 15, 2010.

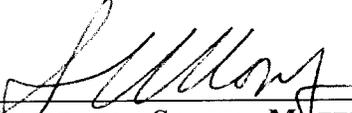
(b) A *Frye* hearing will be scheduled by this Court no later than July 20, 2010.

4) Pretrial Conference

The Court will schedule a pretrial conference no later than October 1, 2010.

5) Trial Ready

As noted above in Section V.(C)(3), the 2008 Cases will be trial ready by November 1, 2010. The schedule of cases to be tried will be agreed upon by the parties.



HONORABLE SANDRA MAZER MOSS

Dated: May 21, 2009

**Coordinating Judge
Complex Litigation Center**

EXHIBIT A

IN RE: DIGITEK® LITIGATION

Applicable to all Cases

**COURT OF COMMON PLEAS
PHILADELPHIA COUNTY**

MARCH TERM, 2009

NO. 5166

PLAINTIFF: _____

(Name)

DIGITEK® PLAINTIFF FACT SHEET

Please provide the following information for each individual on whose behalf a claim is being made. Please answer every question to the best of your knowledge. In completing this Fact Sheet, you are under oath and must provide information that is true and correct to the best of your knowledge. If you cannot recall all of the details requested, please provide as much information as you can. You must supplement your responses if you learn that they are incomplete or incorrect in any material respect. If you are completing the Fact Sheet for someone who has died or who cannot complete the Fact Sheet him/herself, please answer as completely as you can for that person.

The Fact Sheet shall be completed in accordance with the requirements and guidelines set forth in the applicable Case Management Order. A completed Fact Sheet shall be considered interrogatory answers and as a response to requests for production under the Pennsylvania Rules of Civil Procedure. The questions and requests for production contained in the Fact Sheet are non-objectionable and shall be answered without objection. In completing this Fact Sheet, you are under oath and must provide information that is true and correct to the best of you knowledge.

In filling out this form, please use the following definition: "healthcare provider" means any hospital, clinic, center, physician's office, infirmary, medical or diagnostic laboratory, or other facility that provides medical care or advice, and any pharmacy, x-ray department, radiology department, laboratory, physical therapist or physical therapy department, rehabilitation specialist, chiropractor, or other persons or entities involved in the diagnosis, care and/or treatment of you.

In addition, to the extent that the form does not provide enough space to complete your responses or answers, please attach additional sheets as necessary.

I. CASE INFORMATION

1. Please state the following for the civil action that you filed:

a. Case caption: _____

b. Case Number: _____

d. Your attorney:

Name: _____

Address: _____

2. Name of person completing this form: _____

3. Please list any other names you have used or by which you have been known and dates you used those names:

4. Your current address: _____

5. If you are completing this Fact Sheet in a representative capacity (e.g., on behalf of the estate of a deceased person or a minor), please complete the following:

a. Describe the capacity in which you are representing the individual or estate:

b. If you were appointed as a representative by a court, state the:

Court Which Appointed You: _____

Date of Appointment: _____

c. What is your relationship to the individual you represent: _____

d. If you represent a decedent's estate, state:
Decedent's Date of Death: _____
Address of Place Where Decedent Died: _____

e. If you are claiming the wrongful death of a family member, identify any and all family members, beneficiaries, heirs or next of kin of that person, including their relationship to Decedent:

THE REST OF THIS FACT SHEET REQUESTS INFORMATION ABOUT THE PERSON WHO PURCHASED AND USED DIGITEK®. WHETHER YOU ARE COMPLETING THIS FACT SHEET FOR YOURSELF OR FOR SOMEONE ELSE, PLEASE ASSUME THAT "YOU" MEANS THE DIGITEK® PURCHASER AND USER

II. CLAIM INFORMATION

1. Name of Digitek® Purchaser/User:

2. Have you used any other names in the last five (5) years? Yes ___ No ___

If Yes, please list any such names that you have used:

3. Do you claim that you suffered bodily injuries as a result of taking Digitek®?

Yes ___ No ___ If Yes, please answer the following:

a. What bodily injuries do you claim resulted from your use of Digitek®?

b. When is the first time you saw a health care provider for your alleged injury? _____

c. Are you currently experiencing symptoms related to your alleged injury?
Yes ___ **No** ___ If **Yes**, please describe the symptoms: _____

d. Who diagnosed your injury? _____

e. Did you see a doctor, clinic or healthcare provider for the bodily injury or illnesses listed above?

Yes ___ No ___ If Yes, who:

f. Date of diagnosis: _____

g. Were you hospitalized?

Yes ___ No ___ If Yes, please answer the following:

1) Date of hospital admission: _____

2) Date of discharge: _____

3) Hospital name and address: _____

i. Have you had any discussions with any doctor or other healthcare provider about whether Digitek® caused you to suffer any illness or injury?

Yes ___ No ___ If Yes, who: _____

4. Are you claiming mental and/or emotional damages as a result of taking Digitek®?

Yes ___ No ___

If Yes, what mental and/or emotional damages do you claim resulted from your use of Digitek®?

If Yes, for each provider (including but not limited to primary care physicians, psychiatrists, psychologists, and/or counselors) from whom you have sought treatment for psychological, psychiatric or emotional problems, in the last ten years state the following:

NAME	ADDRESS	CONDITION TREATED	DATES TREATED	MEDICATIONS PRESCRIBED

5. Are you making a claim for lost wages or lost earning capacity?

Yes ___ **No** ___ If **Yes**, state the annual gross income you derived from your employment for each of the last five (5) years:

6. Have you incurred any out-of-pocket expenses as a result of using Digitek®?

Yes ___ **No** ___ If **Yes**, please identify and itemize all out-of-pocket expenses you have incurred:

7. What other damages, if any, do you claim you suffered as a result of the purchase or ingestion of Digitek®?

III. DIGITEK® PRESCRIPTION INFORMATION

- 1. Have you ever used Digitek®? Yes ___ No ___
- 2. If you answered Yes to No. 1, identify the following for each period of time during which you took Digitek®:

DOSAGE (.125 MG OR .250 MG)	HOW OFTEN PER DAY OR WEEK?	DATE STARTED	DATE STOPPED	NAME OF PRESCRIBER

3. Name(s) and address(es) of pharmacies where prescriptions were filled:

Name	Address

4. Identify the condition for which you were prescribed Digitek®: _____

5. Did you receive any free samples of Digitek®?

Yes __ No __ If Yes, please state the following:

- a. Who provided the samples? _____
- b. When were samples provided? _____
- c. What was the dosage of the samples? _____
- d. How many samples were provided? _____

6. Do you have in your possession or does your attorney have the packaging from the Digitek® you allegedly purchased, or purchased and used, and/or any Digitek® tablets?

Yes ____ No ____

- a. If yes, who currently has custody of the Digitek® packaging and/or tablets?

- b. If you or your attorney is in possession of tablets, how many do you have? _____

- c. Have you or anyone on your behalf tested the Digitek® tablets in your possession?

Yes ____ No ____

7a. Do you know the lot number(s) for any of the Digitek® you received?

Yes ____ No ____

If Yes, what is/are the lot number(s): _____

7b. Do you know the expiration date for any of the Digitek® you received?

Yes ____ No ____

If Yes, when is/was/were the expiration date(s): _____

8. Have you had any communication, oral or written, with any of the defendants or their representatives?

Yes ____ No ____

If **Yes**, set forth the date of the communication, the method of communication, the name of the person with whom you communicated, and the substance of the communication between you and any defendants or their representatives:

9. Have you ever used any other digoxin or digitalis product?

Yes ___ No ___

If **Yes**, please state:

DOSAGE (.125 MG OR .250 MG)	HOW OFTEN PER DAY OR WEEK?	DATE STARTED	DATE STOPPED	NAME OF PRESCRIBER

10. Are you aware that Digitek® was recalled on April 25, 2008?

Yes ___ No ___ If Yes, please state the following:

a. When you became aware of the recall: _____

b. How you became aware of the recall: _____

11. Did you discuss the Digitek recall with any healthcare provider or pharmacist?

Yes ___ No ___ If Yes, please state the following:

a. When that discussion occurred: _____

b. With whom: _____

12. Did you return any Digitek® to Stericycle or any pharmacy?

Yes ___ No ___ If Yes, please state the following:

a. When did you return the product? _____

b. Do you have any paperwork regarding the return? Yes ___ No ___

c. To whom did you return the product? _____

13. Have you ever visited a website, chat-room, message board or other electronic forum containing information or discussion about Digitek®?

Yes ___ No ___ If Yes, please provide the name of the website: _____

IV. MEDICAL BACKGROUND

1. Current Height: _____

2. Current Weight: _____

3. Approximate weight at the time of your injury: _____

4.A. To the best of your knowledge, have you, or any blood-relative family member (child, parent, brother, sister, or grandparent), ever experienced or been diagnosed with any of the following conditions? Please select **Yes**, **No** or **I Do Not Know** for each condition. For each condition for which you answer **Yes**, please identify who suffered the condition, you or a relative, and please provide the relative's name and relationship to you. If you suffered the condition, please provide the additional information requested in the table following 4(B):

CONDITION EXPERIENCED OR DIAGNOSED	YES	NO	I DO NOT KNOW	WHO SUFFERED CONDITION
Abnormal heart rhythm, atrial fibrillation, atrial flutter, ventricular fibrillation, or heart block				
Allergic reaction to medication (e.g., skin reaction, rash, or anaphylaxis)				
Blocked or narrow arteries/plaque buildup/coronary artery disease				
Cardiomyopathy/enlarged heart				
Chest pain/angina				
Congenital heart abnormality				
Congestive heart failure				
Heart attack/MI/myocardial infarction				
High blood pressure/hypertension				
High cholesterol or triglycerides				
Kidney disease or condition				
Stroke/transient ischemic attack/TIA/aneurysm				

4.B. To the best of your knowledge, have you ever experienced or been diagnosed with any of the following conditions? Please select **Yes**, **No** or **I Do Not Know** for each condition. If you suffered the condition, please provide the additional information requested in the table following this chart:

CONDITION EXPERIENCED OR DIAGNOSED	YES	NO	I DO NOT KNOW
Alcoholism or other substance abuse			
Alzheimer's, senility, confusion			
Arthritis (osteoarthritis or rheumatoid arthritis)			
Autoimmune diseases (e.g., rheumatoid arthritis, lupus, Sjogren's, etc.)			
Bleeding or clotting disorders			
Cancer			
Chronic obstructive pulmonary disease/COPD/chronic lung disease/asthma			
Deep vein thrombosis/DVT			
Depression, anxiety, schizophrenia, bipolar disorder			
Dermatologic diseases or conditions			
Diabetes mellitus			
Electrolyte imbalance			
Enlarged prostate, bladder dysfunction			
Gastrointestinal problems (e.g., ulcers, heartburn, acid reflux, GERD, increased or decreased motility)			
Hardening of the arteries/stenosis/aneurysms			
Heart valve problems (e.g., murmur, leaky valve, prolapse, regurgitation)			
Hormonal replacement therapy			
Hypothyroidism/Thyroid condition			
Immune system disease or dysfunction			
Liver disorder or disease (cirrhosis, hepatitis, etc.)			
Multiple sclerosis, myasthenia gravis			
Osteoporosis, bone fractures, calcium deficiency			
Peripheral vascular disease or peripheral arterial disease			
Pulmonary embolism/blood clot to the lungs			
Pulmonary hypertension			
Raynaud's syndrome/phenomenon			
Rheumatic Fever/Scarlet Fever			
Tobacco use or addiction			
Vasculitis			

6. Please indicate whether you have ever been the subject of any of the following **cardiovascular diagnostic tests** or interventions and provide the requested information about each: including, but not limited to, stress test C-reactive protein (CRP); chest X-ray; angiogram/catheterization; CT scan; MRI; EKG; echocardiogram; TEE (trans-esophageal echo); endoscopy; lung bronchoscopy; carotid duplex/ultrasound; MRI/MRA of the head/neck; angiogram of the head/neck; CT scan of the head; bubble/microbubble study; and Holter monitor.

Yes ___ No ___ I don't recall ___ If Yes, please specify the following:

DIAGNOSTIC TEST/ INTERVENTION	REASON FOR TEST/ INTERVENTION	DATE	TREATING PHYSICIAN/ HOSPITAL	RESULT OF DIAGNOSTIC TEST/ INTERVENTION

7. Do you now or have you ever smoked tobacco products? Yes ___ No ___ If Yes, please specify the following:

- a. How long have/did you smoke? _____
- b. How much do/did you smoke? _____

8. Did you drink alcohol (beer, wine, etc.) in the three years before your alleged injury?

Yes ___ No ___ If Yes, please specify the following:

a. How often did you drink? _____

b. How much did you drink? _____

9. Have you ever used any illicit drugs of any kind within the five (5) years before, or at any time after, your alleged injury?

Yes ___ No ___ If Yes, identify the substance(s) and your first and last use: _____

V. ADDITIONAL MEDICATIONS (INCLUDING OTHER DIGOXIN PRODUCTS, SUCH AS LANOXIN®)

1. For any medications, herbal products or supplements other than Digitek® that you took on a regular basis in the ten (10) years prior to, and at the time of, the incidents described in your Complaint, please provide the information requested below:

NAME OF MEDICATION USED	DOSAGE	PRESCRIBING PHYSICIAN	DATES OF USE	PURPOSE OF PRESCRIPTION

2. Social Security Number: _____

3. Date and Place of Birth: _____

4. Marital Status: _____

If married, spouse's name, occupation and date of marriage: _____

If divorced, dates of the marriage, case name/jurisdiction for the divorce: _____

Has your spouse filed a loss of consortium in this action? **Yes** ___ **No** ___

5. If you have children, please list each child's name and date of birth:

6. For any school attended after High School, please provide the following information:

a. School Name: _____

b. Address: _____

c. Dates attended: _____

d. Diploma/Degree: _____

a. School Name: _____

b. Address: _____

c. Dates attended: _____

d. Diploma/Degree: _____

a. School Name: _____

b. Address: _____

c. Dates attended: _____

d. Diploma/Degree: _____

a. School Name: _____

b. Address: _____

c. Dates attended: _____

d. Diploma/Degree: _____

7. Employment information for the last ten (10) years. Please include employer's name, address, dates of employment, job title, job description and duties:

Employer Name	Address	Dates of Employment	Job Title	Job Descript and Duties

8. Have you ever served in the military, including the military reserve or National Guard?

Yes ___ No ___

If **Yes**, were you ever rejected or discharged from military service for any reason relating to your physical condition? **Yes** ___ **No** ___

If **Yes**, state the condition for which you were rejected or discharged:

9. Has any insurance or other company, or Medicare or Medicaid, provided medical coverage to you or paid medical bills on your behalf in the last ten (10) years?

Yes ___ No ___

If Yes, please specify the following:

- a. The name of the company/agency: _____
- b. Address: _____
- c. Dates of Service: _____

10. Have you applied for workers' compensation (WC) and/or social security disability (SSI or SSD) benefits in the last ten (10) years?

Yes ___ No ___

If Yes, please specify the following:

- a. Type of claim: _____
- b. Year application filed: _____
- c. Agency where application was filed: _____
- d. Nature of disability: _____
- e. Time period of disability: _____

11. Have you filed a lawsuit or made a claim in the last ten (10) years, other than in the present suit, relating to any bodily injury?

Yes ___ No ___ If Yes, please specify the following:

- a. Court in which suit/claim filed or made: _____
- b. Case/Claim Number: _____
- c. Nature of Claim/Injury: _____

12. As an adult, have you been convicted of, or plead guilty to, a felony and/or crime of fraud or dishonesty?

Yes ___ No ___ If Yes, please set forth where, when and the felony and/or crime: _____

VIII. DECEASED INDIVIDUALS AND AUTOPSY INFORMATION

1. If you are filling this out on behalf of an individual who is deceased, please state the following from the Death Certificate of the individual:

(NOTE: In lieu of the following, please attach a copy of the death certificate.)

Date of death: _____

Place of death (city, state and county): _____

Facility or location where death occurred: _____

Name of physician who signed death certificate: _____

Cause of death: _____

If you are filling this out on behalf of an individual who is deceased and on whom an autopsy was performed, please fill in the information below pertaining to the autopsy and the autopsy report:

(NOTE: In lieu of the following, please attach a copy of the autopsy report.)

Date: _____

Performed by: _____

Facility where autopsy was performed: _____

Place where autopsy was performed (city, state, county): _____

Describe any and all tissue preserved: _____

IX. FACT WITNESSES

1. Please identify all persons who you believe possess information concerning your injury(ies) and current medical conditions, other than your healthcare providers, and please state their name address and his/her/their relationship to you:

Name: _____

Address: _____

Relationship to you: _____

Name: _____

Address: _____

Relationship to you: _____

Name: _____

Address: _____

Relationship to you: _____

Name: _____

Address: _____

Relationship to you: _____

Name: _____

Address: _____

Relationship to you: _____

IX. DOCUMENT DEMANDS

1. Authorizations: please sign authorizations that are attached hereto as Exhibit A, for each of the healthcare providers that you have identified above in your Answers to §II, Question Nos. 1-3, and § IV, Question No. 2.
2. Documents in your possession, including writings on paper or in electronic form: If you have any of the following materials in your custody or possession, please attach a copy to this Fact Sheet.
 - a. All documents constituting, concerning or relating to product use instructions, product warnings, package inserts, pharmacy handouts or other materials distributed with or provided to you in connection with your use of Digitek®.
 - b. Copies of the entire packaging, including the box and label, for Digitek® and any Digitek® tablets (plaintiffs or their counsel must maintain the originals of the items requested in this subpart).
 - c. All documents relating to your purchase of Digitek®, including, but not limited to, receipts, prescriptions or records of purchase.
 - d. Representative samples of all photographs, drawing, journals, slides, videos, DVDs or any other media relating to your alleged injury.
 - e. Copies of letters testamentary or letters of administration relating to your status as plaintiff (if applicable).
 - f. Decedent's death certificate and autopsy report (if applicable).
 - g. Medical records, bills, correspondence, reports and all other documents from any health care provider who saw, evaluated or treated Plaintiff/Decedent in the last ten (10) years.
 - h. All emergency responder, paramedic or EMT reports regarding Plaintiff/Decedent.
 - i. Documents concerning any communication between Plaintiff/Decedent and the FDA or any Defendant regarding the events giving rise to the lawsuit or relating to Digitek, or

documents concerning any communication between Plaintiff/Decedent's attorneys and any Defendant regarding the events giving rise to the lawsuit or relating to Digitek. (This paragraph does not include any obligation to produce correspondence from Plaintiff's counsel to Defense counsel, or correspondence between Plaintiff's counsel and the FDA.)

- j. Non-privileged documents, including any diaries, calendars or notes that record Plaintiff/Decedent's health, use of Digitek or alleged injuries, on and after one year prior to the alleged onset of Digitek related injuries.

X. VERIFICATION

I declare under penalty of perjury that all of the information provided in this Plaintiff Fact Sheet is true and correct to the best of my knowledge. I have supplied all the documents requested in Part IX of this declaration, to the extent that such documents are in my possession, custody, or control, or in the possession, custody, or control of my lawyers, and supplied the authorizations attached to this declaration.

Further, I acknowledge that I have an obligation to supplement the above responses if I learn that they are in any material respects incomplete or incorrect.

Date: _____

Signature

HIPAA COMPLIANT AUTHORIZATION FOR RELEASE OF EMPLOYMENT INFORMATION

Employee Name:

Identification: Date of Birth: Soc. Sec:
Parents Name/Previous Name(s)

Provider:
*(Who is releasing
the information)*

Requestor: Name RecordTrak
*(to whom the information
will be provided)* Address 651 Allendale Road
King of Prussia, PA 19406

I authorize the disclosure of all protected information in any form (including oral, written and electronic) for the purpose of review and evaluation in connection with a legal claim. I expressly request that all entities identified above disclose full and completed protected employment information spanning the time period of **1998 to present**, including, but not limited to, the following:

- All applications for employment, resumes, records of all positions held, job descriptions of positions held, payroll records, W-2 forms and W-4 forms, performance evaluations and reports, statements and reports of fellow employees, attendance records, worker's compensation files, disability records; records submitted in connection with any claims by all physicians, psychologists, psychiatrists, hospital and testing facilities, radiologists, and any and all other health care providers; records of any payments made; records of any litigation resulting from denials of coverage;
- All insurance records, claim forms, renewal records, questionnaires and records of payments made, all insurance policies, and employee benefit records certificates and benefit schedules regarding the insured's coverage, including supplemental coverages; health and physical examination records reviewed for underwriting purposes; questionnaires and records submitted in connection with the applications or renewals;
- All hospital, physician, clinic, infirmary, nurse, psychiatric, psychological and dental records; x-rays, test results, physical examination records and other medical records, medication records;
- All documents related to amendment of any record requested;
- All records pertaining to medical or disability claims, or work-related accidents including correspondence, accident reports, injury reports and incident reports;
- All pension records, disability benefit records, and all records regarding participation in company-sponsored health, dental, life and disability insurance plans; and
- Any other records concerning employment of the Employee named above.

Purpose of Release: For the purpose of review and evaluation in connection with a legal claim brought by _____.

This authorization is express when the following event occurs: the resolution of litigation. I understand that I may revoke this authorization at any time, except to the extent that action has already been taken in reliance upon it, by giving written notice to RecordTrak. I understand that the covered entity to whom this authorization is directed may not condition treatment, payment, enrollment or eligibility benefits on whether or not I sign the authorization. This information, once it is released, may be re-disclosed by the recipient, and if re-disclosed, the information would no longer be protected by the federal privacy rule. Any facsimile, copy or photocopy of the authorization authorizes you to release the records requested herein.

Signature of Employee if 18 years of age or older _____ **Date** _____

Signature of Legal Representative _____ **Date** _____

Relationship to Employee, if not signed by Employee _____

**AUTHORIZATION FOR RELEASE OF
DISABILITY CLAIMS RECORDS**

To:

Name

Address

City, State and Zip Code

This will authorize you to furnish copies of any and all records of disability claims of any sort, including, but not limited to, statements, applications, disclosures, correspondence, notes, settlements, agreements, contracts or other documents, for the time period of 1998 to the present, concerning:

Name:

whose date of birth is _____ and whose social security number is _____.

You are authorized to release the above records to the following representatives of defendants in the Digitek® litigation, who have agreed to pay reasonable charges made by you to supply copies of such records:

Name RecordTrak
Address 651 Allendale Road
 King of Prussia, PA 19406

This authorization does not authorize you to disclose anything other than documents and records to anyone.

This authorization shall be considered as continuing in nature and is to be given full force and effect to release information of any of the foregoing learned or determined after the date hereof. It is expressly understood by the undersigned and you are authorized to accept a copy or photocopy of this authorization with the same validity as though the original had been presented to you.

Date: _____

Claimant/Guardian/Personal Representative Signature