



09090130700073

IN THE COURT OF COMMON PLEAS
PHILADELPHIA COUNTY, CIVIL TRIAL DIVISION

IN RE: YAZ®, YASMIN®, OCELLA® PRODUCT
LIABILITY LITIGATION

SEPTEMBER TERM, 2009

APPLICABLE TO ALL CASES

NO. 1307

DOCKETED
COMPLEX LIT CENTER

MAY 12 2010

J. STEWART

CASE MANAGEMENT ORDER NO. 7
(SCHEDULING ORDER)

THIS MATTER, having been opened to the Court by counsel for the Parties, and the Parties having consented, stipulated and agreed and good cause appearing therefore;

IT IS, on this 18TH day of May, 2010, hereby **ORDERED** as follows:

I. DOCUMENT DISCOVERY

1. The United States Defendants have agreed to rolling production of documents on a monthly basis, which commenced **on Friday, December 18, 2009** and will continue each month thereafter until production is complete in accordance with the terms of this Order. The Foreign Defendants have now been served with the *Master Complaint* and the United States and Foreign Defendants have all accepted service of the *First Amended Master Complaint*. The Foreign Defendants have commenced the production of documents and will continue each month thereafter until production is complete.

II. NON- EXPERT DEPOSITIONS

2. At any time after entry of this Order, Plaintiffs may take the depositions of Defendants' corporate representatives in accordance with Pa.R.Civ.Pro. 4007.1(e). The Parties

shall confer concerning the proposed subject matter and scope of any such proposed deposition before a notice is issued and Defendants reserve the right to object to any deposition notices issued after that conference. The fact that a subject of testimony could have been explored in a Rule 4007.1(e) deposition before the substantive depositions slated to begin **Wednesday, September 1, 2010**, shall not be a ground for objection to such inquiry at the substantive depositions that begin on September 1 in accordance with paragraph 4 below.

3. Depositions of case-specific fact witnesses (e.g., Plaintiffs, witnesses identified in the Plaintiff Fact Sheet, Plaintiffs' medical providers, sales representatives, etc.) shall occur upon agreement of the parties or further order of the Court.

4. The Parties will discuss the schedule for the depositions of Defendants' personnel (other than the Pa. R. Civ. Pro. 4007.1 (e) referred to in paragraph 2 above), and shall cooperate in the scheduling of those depositions.

III. EXPERT DISCOVERY

5. By **Monday, January 10, 2011**, Plaintiffs' Counsel shall identify all expert witnesses who will offer opinions on issues of general applicability ("Generic Experts") to cases then pending in this Court, and shall serve the reports of each such expert, the expert's curriculum vitae, a list of each experts' publications and a list of cases in which the expert has testified at a deposition or trial within the last five (5) years (including the name of associated counsel).

6. By **Monday, February 7, 2011**, Defendants' Liaison Counsel shall identify all Defendants' expert witnesses who will offer opinions on issues of general applicability ("Generic Experts") to cases then pending in this Court, and shall serve the reports of each such expert, the expert curriculum vitae, a list of each experts' publications and a list of cases in

which the expert has testified at a deposition or trial within the last five (5) years (including the name of associated counsel).

7. By **Monday, February 28, 2011**, Plaintiffs shall provide generic expert rebuttal reports.

8. By **Monday, March 21, 2011**, Defendants shall provide generic expert rebuttal reports.

9. Depositions of Plaintiffs' generic experts shall take place between **Monday, March 28, 2011** and **Monday, May 2, 2011**.

10. Depositions of Defendants' generic experts shall take place between **Monday, May 9, 2011** and **Monday, June 13, 2011**.

11. Plaintiffs' case-specific expert reports for the first trial reports shall be provided on or before **Monday, April 4, 2011**.

12. Defendants' case-specific expert reports for the first trial shall be provided on or before **Friday, May 6, 2011**.

13. Plaintiffs' case-specific expert rebuttal reports for the first trial shall be provided on or before **Monday, May 23, 2011**.

14. Defendants' case-specific expert rebuttal reports for the first trial shall be provided on or before **Monday, June 13, 2011**.

15. Absent good cause, the Parties shall be precluded from re-deposing Generic Experts who have been deposed in other federal or state court Yaz/Yasmin/Ocella personal injury cases, provided that the Parties in the proceedings had reasonable notice and meaningful opportunity to participate in such depositions. A material change or addition to the opinion of a Generic Expert shall constitute good cause for re-deposing that Generic Expert.

16. If a case-specific expert is reasonably expected to testify in multiple cases, the deposition of that expert shall be allowed. The Parties shall meet and confer further concerning the timing of any case-specific expert depositions and the circumstances under which those depositions shall be allowed. All other case-specific expert depositions shall be governed by Pa.R.Civ.Pro.4003.5 or further Order of the Court.

IV. FRYE AND DISPOSITIVE MOTIONS

17. *Frye* Motions and Dispositive Motions must be filed on or before **Friday, July 1, 2011**. Responsive Briefs shall be filed on or before **Friday, July 22, 2011**. Reply Briefs must be filed on or before **Wednesday, August 10, 2011**.

18. Hearings on *Frye* and dispositive motions shall be determined by the Court, and shall be held at least **20 days** before trial.

V. MOTIONS IN LIMINE

19. Motions in Limine that have global application shall be filed on or before **Friday, July 8, 2011**. Responsive Briefs shall be filed on or before **Friday, July 29, 2011**. Any reply briefs must be filed on or before **Friday, August 19, 2011**.

20. The following apply to all in limine motions filed in this litigation:

a) Single Issue Per Motion in Limine– All in limine motions shall be limited to one evidentiary issue per motion. Multiple evidentiary issues shall not be grouped into a single motion. A Party filing multiple in limine motions shall identify the motion by separate number or letter, *i.e.* “Defendant X’s Motion in Limine Number 1;” Defendant X’s Motion in Limine Number 2;” “Plaintiff’s Motion in Limine A;” Plaintiff’s Motion in Limine “B.”

b) All Parties filing more than one in limine motion shall submit to the Court and to the opposing party an “Index to Motions in Limine” similar to the format attached hereto

as Exhibit "A." The Opposing Party shall file, and provide to its opponent, along with its Response Brief a copy of the "Index to Motions in Limine" indicating in the third column whether the Motion is Opposed or Un-Opposed.

c) Attachments to Motions in Limine– Any Party filing an in limine motion seeking an evidentiary ruling on a document or testimony shall attach to the in limine motion the document(s) or testimony on which it seeks a pre-trial ruling. A Party responding shall attach any document or testimony that it deems is necessary for the Court to fully consider the evidentiary issue presented.

21. Hearings on Motions in Limine shall be as determined by the Court.

VI. JURY INSTRUCTIONS AND VOIR DIRE QUESTIONS

22. The Parties are directed to exchange proposed Jury Instructions and proposed voir dire questions on or before **Friday, July 15, 2011** and thereafter to work toward agreement on a unified set of proposed Jury Instructions and voir dire questions. A set of mutually agreed-upon Jury Instructions and voir dire questions shall be submitted to the Court on or before **Friday, August 12, 2011**.

23. If the Parties disagree on a particular instruction or question, or propose additional instructions or questions, those instructions or questions shall be submitted to the Court on or before **Friday, August 26, 2011**. The proposing Party may include a supporting argument with each instruction or question, not to exceed 300 words per instruction. On or before **Wednesday, September 7, 2011**, a Party opposing the proposed instruction or question shall submit the reasons for opposition, not to exceed 300 words per instruction or question.

VII. FIRST TRIAL

24. The final pretrial conference shall be determined by the Court.

25. The first case shall be called to trial on or about **Monday, September 19, 2011**.

VIII. SCHEDULE FOR EACH SUBSEQUENT CASE TRIED AFTER THE FIRST CASE

26. Plaintiffs' case-specific expert reports shall be provided **five (5) months** before the case is scheduled for trial. Plaintiffs' rebuttal reports shall be provided **four (4) months** before the case is scheduled for trial.

27. Defendants' case-specific expert reports shall be provided **four (4) months** before the case is scheduled for trial. Rebuttal reports shall be provided **three (3) months** before the case is scheduled for trial.

28. Other than as provided in Section III, paragraph 16 of this Order, case-specific expert depositions shall be governed by Pa.R.Civ.Pro. 4003.5 or further Order of the Court.

29. Dispositive Motions and *Frye* Motions that are not duplicative of the General *Frye* and Dispositive Motions already decided by this Court shall be filed **ten (10) weeks** before the case is scheduled for trial. Responsive Briefs shall be filed **seven (7) weeks** before the case is scheduled for trial, and Reply Briefs shall be filed **five (5) weeks** before the scheduled trial date.

30. Hearings on *Frye* and dispositive motions shall be determined by the Court, and shall be held at least **twenty (20) days before trial**.

31. Case-specific Motions in Limine that are not duplicative of previously-decided General Motions in Limine shall be filed **fifty (50) days** before the case is scheduled for trial. Responsive Briefs shall be filed **thirty-five (35) days** before the case is scheduled for trial, and Reply Briefs shall be filed **twenty-one (21) days** before the scheduled trial date.

32. Hearings on Motions in Limine shall be as determined by the Court.

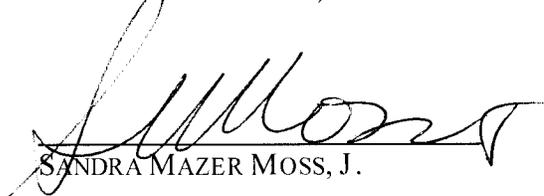
IX. STATUS CONFERENCES AND SETTLEMENT CONFERENCES

33. Beginning in **February 2011** the Court will conduct Settlement Conferences. Settlement conference memoranda, if agreed on by the parties, will be submitted by the parties **ten (10) days** before any such conference. Participants shall include representatives of Plaintiffs and Defendants. It is anticipated that a small group of counsel will participate in these conferences. The Court may, from time to time, direct that Defendants' National Counsel, Plaintiffs' Trial Counsel and litigants (both individual Plaintiffs and corporate representatives of the Defendants) be invited or directed to participate in the Settlement Conferences. Dates for each Status/Settlement Conference will be determined at a later date. These conferences will be held frequently and at regular intervals.

X. FURTHER ORDERS

34. The Parties shall meet and confer concerning further orders relating to, *inter alia*, the conclusion of document production, the selection of bellwether cases and pretrial scheduling of the remaining cases.

IT IS SO ORDERED, BY THE COURT


SANDRA MAZER MOSS, J.

MO813933

