

IN RE	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
REGLAN <sup>®</sup> /METOCLOPRAMIDE	:	
LITIGATION	:	JANUARY TERM, 2010
	:	NO. 1997
<i>This Document Relates to All Cases</i>	:	

**CASE MANAGEMENT ORDER NO. 10  
DISMISSAL AND TOLLING AGREEMENT  
AS TO DEFENDANT PFIZER INC.**

**I. SCOPE OF THIS AGREEMENT**

This Tolling Agreement shall apply to each individual case that is presently pending or hereafter filed in the Philadelphia Court of Common Pleas which becomes part of the program of coordinated pretrial proceedings relating to the prescription drug Reglan<sup>®</sup> and/or metoclopramide (the “Reglan<sup>®</sup>/metoclopramide Litigation”) in which Pfizer Inc. (“Pfizer”) is named as defendant in the Short Form Complaint. This Agreement dismisses claims against Pfizer without prejudice pending resolution of the litigation against Wyeth LLC and Wyeth Pharmaceuticals Inc. (“Wyeth”).

**II. PURPOSE OF THIS AGREEMENT**

In the Amended Master Long Form Complaint, Plaintiffs allege that Wyeth was involved in the manufacture, distribution, marketing, sale, labeling, and design of Reglan<sup>®</sup>. Plaintiffs further allege that Pfizer acquired Wyeth’s tort liabilities by virtue of Pfizer’s acquisition of Wyeth in October 2009. Pfizer denies that it acquired the assets or the liabilities of Wyeth and/or that it has any liability for the acts of Wyeth. The parties agree that Pfizer has been sued solely because of its relationship with Wyeth and that a question exists regarding Pfizer’s successor liability, if any. The parties further agree to litigate this issue if and when it becomes necessary; specifically, at such time as Wyeth is not able to fully satisfy any monetary liability.

In Re: Reglan Litigation-ORDER



EAST42925142.4

**DOCKETED**  
COMPLEX LITIGATION  
AUG 27 2010

**L. RYANT-DAVIS**

**III. STIPULATION OF DISMISSAL AND TOLLING OF CLAIMS AGAINST PFIZER INC.**

As to any case that is presently pending in which Pfizer is named as a defendant in the Short Form Complaint, Plaintiffs hereby dismiss any and all claims against Pfizer without prejudice. As to any case that is hereafter filed in which Pfizer is named as a defendant, Plaintiff(s) hereby agree that, upon filing of the Short Form Complaint, any and all claims against Pfizer are dismissed without prejudice.

The dismissal without prejudice of any and all claims against Pfizer will remain in effect until such time the case as against Wyeth settles, reaches judgment, or is otherwise dismissed or discontinued. In particular:

**A.** If the case is discontinued as against Wyeth and Wyeth owes no monetary liability to Plaintiff(s), Plaintiff(s) hereby agree that, upon such time the case is discontinued as against Wyeth, any and all claims against Pfizer are dismissed with prejudice.

**B.** If the case is discontinued as against Wyeth and Wyeth owes any amount of monetary liability to Plaintiff(s), the dismissal without prejudice of any and all claims against Pfizer will continue to remain in effect until such time Wyeth is obligated to fully satisfy its monetary liability to Plaintiff(s).

If, at the time it is obligated to do so, Wyeth fully satisfies its monetary liability to Plaintiff(s), Plaintiff(s) hereby agree that, upon payment by Wyeth, any and all claims against Pfizer are dismissed with prejudice.

If, at the time it is obligated to do so, Wyeth is unable to fully satisfy its monetary liability to Plaintiff(s), Plaintiff(s) may reinstate any and all claims against Pfizer, which will relate back to the original date of the filing of Plaintiff's lawsuit.

**IV. EFFECT OF STIPULATION OF DISMISSAL AND TOLLING AGREEMENT**

Under this Tolling Agreement, Pfizer is relieved of any obligations imposed by any Case Management Order or Discovery Master Order. Plaintiffs, their counsel and witnesses shall not make any reference to Pfizer in submissions to the Court and/or during trial, without providing prior notice to counsel for Wyeth to timely object. This Agreement does not waive Pfizer's rights to assert any and all claims and defenses it has, if it is brought back into any matter.

**SO ORDERED**

  
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**HONORABLE SANDRA MAZER MOSS**

Coordinating Judge  
Complex Litigation Center

8/27/10