

IN THE COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

IN RE: RISPERDAL LITIGATION

MARCH TERM, 2010

DOCKETED  
COMPLEX LIT CENTER

NO. 00296

MAY 26 2010

*This Document Relates to All Cases*

J. STEWART

**CASE MANAGEMENT ORDER NO. 1:  
GOVERNING ALL RISPERDAL®/RISPERIDONE CASES**

It is the goal of this Court to secure the just, speedy, and cost-effective determination of each case filed by a Plaintiff alleging injuries and/or death as a result of his/her usage of the prescription drug Risperdal® (“Risperdal”) and/or Risperidone 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 26<sup>TH</sup> day of May, 2010 for all individual Risperdal®/Risperidone cases that are presently pending or hereafter filed in the Philadelphia Court of Common Pleas.

**I. RISPERDAL®/RISPERIDONE CASES DOCKET**

The Court has established a Risperdal®/Risperidone Docket at March Term 2010, No. 00296. This docket number was established as a depository for the filing of pleadings, motions, orders, and other documents common to the Risperdal®/Risperidone cases. Once a pleading, motion, order, or other document is filed on this docket and copies are provided to all other interested counsel involved in the Risperdal®/Risperidone 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.

In Re: Risperdal Litigation-ORDER



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## II. TEMPORARY STAY ON RESPONSIVE PLEADINGS OBLIGATIONS AND FILING DISPOSITIVE MOTIONS

All responsive pleading obligations are stayed until such time as responsive pleadings are due under the relevant Sections below. The parties in these cases are directed to refrain from filing any potentially dispositive motions (i.e., Motions for Summary Judgment, Motions or Judgment on the Pleadings), except as detailed in this and future Orders. However, no current or future party has waived any rights, claims, or defenses existing at the time of the execution of this Order.

## III. PLEADINGS

### A. MASTER LONG FORM COMPLAINT

1. Within thirty (30) days from the entry of this Order, counsel for Plaintiffs in pending Risperdal®/Risperidone cases shall confer and shall collectively file a *Master Long Form Complaint*. The *Master Long Form Complaint* must be served on each Defendant, in accordance with the provisions of this Order, before a response is required by that Defendant.

2. On or before <sup>twenty (20)</sup> ~~thirty (30)~~ days after valid service of the *Master Long Form Complaint* on a Defendant, that Defendant shall file either (a) a *Master Answer* or (b) *Master Preliminary Objections to the Master Long Form Complaint*.

3. Plaintiffs shall have <sup>twenty (20)</sup> ~~thirty (30)~~ days to respond to the *Master Preliminary Objections* and any replies thereto shall be filed within ten (10) business days of service.

4. The Court will rule on the *Master Preliminary Objections*. The Court's ruling on the *Master Preliminary Objections* will be binding on all current and future Risperdal®/Risperidone cases.

5. If *Master Preliminary Objections* are sustained to one or more counts in the *Master Long Form Complaint* for Risperdal®/Risperidone cases, Plaintiffs, if so ordered, shall

file a conforming ~~Amended~~ *Master Long Form Complaint* within twenty (20) days of the Order sustaining the *Master Preliminary Objections*.

6. All *Short Form Complaints* and all *Master Answers* are deemed to follow the most current *Amended Master Long Form Complaint* and *Answer*, respectively.

7. If *New Matter* is pleaded in the *Master Answer*, such *New Matter* will be deemed denied, and Defendants' exceptions to the denials are preserved and Plaintiffs are not required to file any further responsive pleadings to Defendants' *New Matter* asserted in the *Master Answer*.

## **B. PREVIOUSLY FILED CASES**

1. The *Master Long Form Complaint* for the Risperdal®/Risperidone cases will substitute and supersede all Complaints filed in individual Risperdal®/Risperidone cases pending in the Philadelphia County Court of Common Pleas. If any Complaint filed before the *Master Answer* asserts claims not asserted in the *Master Long Form Complaint*, those claims are deemed withdrawn without prejudice. In all respects, the *Master Long Form Complaint* controls over allegations contained in any previously filed Complaint. The filing of the *Master Long Form Complaint* does not toll any applicable statute of limitations in individual cases.

2. Defendants shall have no obligation to answer any complaint filed before the *Master Long Form Complaint*.

3. Within twenty-five (25) days of the filing of the *Master Answer* or the Court's ruling on the *Master Preliminary Objections*, each Plaintiff in a Risperdal®/Risperidone case, whether initiated by Writ of Summons or Complaint, shall file a *Short Form Complaint*, in a form to be agreed upon with Defendants' counsel, using each action's original court term and number. Plaintiffs shall indicate in each *Short Form Complaint* those counts of the *Master Complaint* that are incorporated by reference. Any case previously initiated by a Writ of Summons shall be subject to dismissal in accordance with the notice provision of Pennsylvania

Rules of ~~Civil~~ Procedure 236 if the *Short Form Complaint* is not filed in accordance with this paragraph.

4. 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 Long Form Complaint*, in which case Defendants may file a *Preliminary Objection* to any such count. 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*. An entry of appearance shall constitute a denial of all allegations in the *Short Form Complaint* for Risperdal®/Risperidone cases, and an assertion of all applicable new matters and defenses.

5. Defendants will not file *Preliminary Objections* challenging claims as to which *Preliminary Objections* have previously been overruled.

6. Defendants shall have <sup>twenty (20)</sup> ~~thirty (30)~~ days to file *Preliminary Objections* to *Short Form Complaints*. Plaintiffs shall have <sup>twenty (20)</sup> ~~thirty (30)~~ days from the date of service of *Preliminary Objections* to file a response, and Defendants shall file any replies thereto within ten (10) days from the date of service.

7. The Court will rule on the *Preliminary Objections*, and whether a hearing thereon is scheduled is solely within the discretion of the Court.

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 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 responsive pleading.

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

### C. NEWLY FILED CASES

1. Any newly filed Risperdal/Risperidone case shall be filed by Writ of Summons until a *Master Answer* is filed or *the Master Preliminary Objections* are ruled on. Within thirty (30) days of the filing of the *Master Answer* or the Court's ruling on the *Master Preliminary Objections*, each Plaintiff in a newly filed Risperdal®/Risperidone case shall file a *Short Form Complaint*, in a form to be agreed upon with Defendants' counsel. Thereafter, all newly filed cases shall be initiated via *Short Form Complaint*. But if suit is instituted via Writ of Summons, it is self-executing and Plaintiff shall file a *Short Form Complaint* within twenty (20) days without need of a Rule To File A Complaint. If Plaintiff fails to file a *Short Form Complaint* within twenty-five (25) days, the action may be subject to dismissal, upon application to the Court and in accordance with the notice provision of Pennsylvania Rule of Civil Procedure 236 if the *Short Form Complaint* is not filed in accordance with this paragraph.

2. Plaintiffs shall indicate in each *Short Form Complaint* those counts of the *Master Long Form 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 <sup>twenty (20)</sup> ~~thirty (30)~~ days from the date of service of the *Short Form Complaint* to file *Preliminary Objections* to each *Short Form Complaint*.

5. An entry of appearance shall constitute a denial of all allegations in *Short Form Complaint* and an assertion of all applicable defenses.

6. Defendants shall not file *Preliminary Objections* challenging claims as to which *Master Preliminary Objections* have previously been overruled.

7. Plaintiffs shall have <sup>twenty (20)</sup> ~~thirty (30)~~ days from the date of service of *Preliminary Objections* to file a response and any replies thereto shall be filed within ten (10) days of service.

8. The Court will rule on the *Preliminary Objections*.

9. 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.

10. 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 an *Amended Short Form Complaint* in which to file a responsive pleading.

#### **D. SERVICE ON LIAISON COUNSEL**

1. Service of all documents under the "Risperdal®/Risperidone" master caption shall be served on Liaison Counsel.

2. 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, and will also serve these documents simultaneously to opposing Liaison Counsel electronically in PDF or similar format. Other Plaintiffs' counsel who are counsel of record for cases pending in these Risperdal®/Risperidone cases who would like copies of these documents may be bound by the

terms of a Protective Order that may be entered by this Court and must make arrangements through Plaintiffs' Liaison Counsel for the Risperdal®/Risperidone cases if they wish to obtain copies of these documents.

3. All documents served on Liaison Counsel shall be served on Liaison Counsel in accordance with the Pennsylvania Rules of Civil Procedure and the Philadelphia Court of Common Pleas 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 Philadelphia Court of Common Pleas Mass Tort Program and Complex Litigation Center rules.

#### **IV. APPOINTMENT OF LIAISON COUNSEL**

1. The following attorneys are hereby appointed as Liaison Counsel:

Plaintiffs' Liaison Counsel:

Jamie L. Sheller, Esquire  
Brian J. McCormick, Jr., Esquire  
Sheller, P.C.  
1528 Walnut Street, 3<sup>rd</sup> Floor  
Philadelphia, PA 19102  
Telephone: (215) 790-7300  
Fax: (215) 546-0942  
jlsheller@sheller.com  
bjmccormick@sheller.com

Defendants' Liaison Counsel:

Kenneth A. Murphy, Esquire  
Drinker Biddle & Reath LLP  
One Logan Square, Ste. 2000  
Philadelphia, PA 19103-6996  
Telephone: (215) 988-2700  
Fax: (215) 988-2757  
kenneth.murphy@dbr.com

Stephen J. Imbriglia, Esquire  
Gibbons P.C.  
1700 Two Logan Square  
18<sup>th</sup> & Arch Streets  
Philadelphia, PA 19103-2769  
Telephone: (215) 446-6209  
Fax: (215) 446-6306  
simbriglia@gibbonslaw.com

2. No communications among plaintiffs' Counsel or among defendants' Counsel shall be taken as a waiver of any privilege or protection to which they would otherwise be entitled.

3. The Liaison Counsel will be responsible for the drafting, coordination, propounding, and scheduling of all master discovery requests and depositions. In addition, the Liaison Counsel will be responsible for all future case management orders, pleadings, responses, and any other documents that affect all actions in this litigation.

4. All issues of service of papers of Liaison Counsel shall be governed by the Section III.D.

## V. MOTIONS

1. All motions filed in the Risperdal®/Risperidone litigation, including *Preliminary Objections*, shall be in letter format pursuant to mass tort motion procedure.

2. Defendants anticipate the filing of Motion(s) on the basis of *Forum Non Conveniens* which will be addressed in future Case Management Order(s) pending information received from forum discovery to be addressed to Plaintiffs.

## VI. SERVICE OF PROCESS

1. To eliminate disputes over service of process and to reduce the expense of such service, Defendants Elsevier, Inc. and Excerpta Medica, Inc. have agreed to waive the normal legal requirements for service of process in the Risperdal®/Risperidone Cases. Instead, these



Defendants have agreed to accept service of process for Risperdal®/Risperidone products liability cases filed in the Philadelphia County Court of Common Pleas through service, by registered mail, return receipt requested, upon the following:

Excerpta Medica, Inc.  
c/o Stephen J. Imbriglia, Esq.  
Gibbons P.C.  
1700 Two Logan Square  
18th and Arch Streets  
Philadelphia, PA 19103-2769  
and  
Michael T. Mervis, Esquire  
Proskauer  
1585 Broadway  
New York, NY 10036-8299

Elsevier, Inc.  
c/o Stephen J. Imbriglia, Esq.  
Gibbons P.C.  
1700 Two Logan Square  
18th and Arch Streets  
Philadelphia, PA 19103-2769  
and  
Michael T. Mervis, Esquire  
Proskauer  
1585 Broadway  
New York, NY 10036-8299


All other defendants shall be served with original process pursuant to the applicable Pennsylvania Rules of Civil Procedure.

2. As to Defendants Elsevier, Inc. and Excerpta Medica, Inc., service will be effective ten (10) days after receipt of same in accordance with this Section. The foregoing procedure shall apply to Risperdal®/Risperidone products liability cases filed in the Philadelphia County Court of Common Pleas and not to any other litigation. Defendants reserve all other rights available to them under federal or state law and under applicable treaties and conventions.

**VII. FURTHER ORDERS**

1. The parties shall prepare for review and approval by the Court such other Case Management Orders as are required, including, without limitations, orders governing deposition procedures and scheduling (including coordination with other Risperdal®/Risperidone litigation), pretrial proceedings and trial proceedings.

**BY THE COURT:**

  
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**SANDRA MAZER MOSS**  
**COMPLEX LITIGATION CENTER**

Date: \_\_\_\_\_