

Sub 8

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

Index No. 765000/06

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In Re: :  
NEURONTIN PRODUCT LIABILITY :  
LITIGATION :  
:

**CASE  
MANAGEMENT  
ORDER NO. 7**

-----X  
THIS DOCUMENT APPLIES TO ALL CASES :  
-----X

Hon. Marcy S. Friedman

**Electronic Filing FILED**

DEC 18 2008

NEW YORK  
COUNTY CLERK'S OFFICE

**I. Scope of Order**

1. Order Applicable to All Product Liability Plaintiffs in the New York Neurontin

Product Liability Proceeding. This Order shall apply to all plaintiffs who allegedly suffered personal injury from using Neurontin in cases currently pending before the undersigned in the Supreme Court of the State of New York, County of New York, and to all related product liability actions that have been or will be originally filed in, or transferred to, this Court and assigned thereto (collectively, the "Coordinated Proceeding"). This Order is binding on all parties and their counsel in all cases currently pending in or subsequently made part of this Coordinated Proceeding. The term "Pfizer defendants" is intended to reference Pfizer Inc. and Warner-Lambert Company LLC, formerly known as Warner-Lambert Company, on its own behalf and on behalf of its unincorporated division, Parke-Davis. The term "Defendants" is intended to reference the Pfizer defendants, Teva Pharmaceuticals USA, Inc., Ivax Pharmaceuticals, Inc., Rite Aid Corporation, Wegmans Food Markets Inc. and Wegmans Food Pharmacy.

## **II. The Parties' Agreement Regarding Electronic Filing**

1. Consent to Electronic Filing. Representatives of Plaintiffs' Liaison Counsel and counsel for the Defendants have conferred and have jointly presented this Order setting forth the parties' agreement and consent to electronic filing for all present and future cases in the Coordinated Proceeding, pursuant to terms set forth below.

2. Service of Summonses, Summonses with Notice and Complaints Not Affected. The procedures for service of Summonses, Summonses with Notice or Complaints in the Coordinated Proceeding shall be governed by the Civil Practice Law and Rules, the Uniform Rules for Trial Courts, and any current or future Case Management Orders. Those procedures shall not be affected or altered by electronic filing. Specifically, the parties' consent to electronic filing shall not affect, alter or replace the required service of process of all Summonses, Summonses with Notice and Complaints on any Defendant in paper form in the manner provided in the Civil Practice Law and Rules, the Uniform Rules for Trial Courts, and any current or future Case Management Orders.

3. In Pending Cases, Electronic Filing to Take Effect Upon Filing of an Omnibus Joint Consent to Electronic Filing Form. In those cases filed and served and coordinated in the above action on or before December 16, 2008 ("Present Cases"), the parties shall file an Omnibus Joint Consent to Electronic Filing Form (the "Joint Consent Form") signed by Plaintiffs' Liaison Counsel and counsel for the Defendants, stating that the parties consent to the use of electronic filing in this Coordinated Proceeding. The Joint Consent Form shall provide the names, firms, and e-mail addresses of Plaintiffs' Liaison Counsel, counsel for the Defendants and their designated representatives. In addition, there shall be attached to the Joint Consent Form an appendix identifying all Present Cases by name, index number, and the name, firm and

e-mail addresses of the plaintiff's counsel and counsel for any non-Pfizer defendants. The Joint Consent Form shall be filed and served by December 16, 2008, and, upon its filing, electronic filing procedures shall take effect for all Present Cases and the Master Case. Parties shall add the suffix "E" to the index number on all papers thereafter filed with the Court in all cases in which electronic filing procedures have taken effect.

4. In Future Cases, Electronic Filing to Take Effect Upon Filing of Complaint and Plaintiff's Consent to Electronic Filing Form. In those related cases commenced after December 16, 2008 ("Future Cases" or if in reference to a single case, "Future Case"), electronic filing procedures shall take effect either by the on-line filing of the complaint and a completed Plaintiff's Consent to Electronic Filing Form, or by the filing of a hard copy of the initiating papers with the County Clerk and the transmission of a copy of the Consent to Electronic Filing Form to the E-Filing Resource Center, Room 119, 60 Centre Street, New York, New York. A sample Plaintiff's Consent to Electronic Filing Form is attached as Exhibit A. This form shall be prepared, filed and served by the plaintiff's attorney, indicating that the plaintiff's attorney and counsel for the Defendants consent to the use of electronic filing, and providing one or more e-mail addresses for the plaintiff's attorney, as well as the following e-mail addresses for Defendants' counsel:

<u>Name</u>	<u>E-Mail Address</u>
James Rouhandeh, Esq.	ny.neurontin@dpw.com

Firm: Davis Polk & Wardwell  
450 Lexington Avenue  
New York, NY 10017  
(212) 450-4000

Beth Kaufman, Esq.                      nyneurontin@schoeman.com

Firm: Schoeman, Updike & Kaufman, LLP  
60 East 42<sup>nd</sup> Street  
New York, NY 10165  
(212) 661-5030

Lori Schultz, Esq.<sup>1</sup>                      neurontin@shb.com

Firm: Shook Hardy & Bacon, L.L.P.  
2555 Grand Boulevard  
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Jonathan I. Price, Esq.                      neurontin@goodwinprocter.com

Firm: Goodwin Procter LLP  
599 Lexington Avenue  
New York, NY 10022  
(212) 813-8800

Jill Zibkow, Esq.                          jzibkow@adgrlaw.com

Firm: Armienti, DeBellis, Guglielmo & Rhoden, LLP,  
44 Wall Street, 18th Floor  
New York, NY 10005  
(212) 809-7074

The appearance of these names and e-mail addresses on any Plaintiff's Consent To Electronic Filing Form shall not be deemed an appearance by any defendant. No defendant described in this Order shall be required to file a Consent To Electronic Filing Form for Future Cases. In any Future Case naming only one or more of the Defendants described in this Order, the plaintiff's counsel shall not be required to file or serve a Notice of Availability of Electronic Filing Form.

5.        Future Cases Naming New Defendants. The term "New Defendants" is intended to reference individuals and/or entities other than those described as Defendants in this Order. In those Future Cases that name New Defendants, the plaintiff's counsel will, together with the

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<sup>1</sup> Admitted to practice in this Coordinated Proceeding *pro hac vice*.

summons and complaint, also file and serve on each such New Defendant a Notice of Availability of Electronic Filing Form and a Defendant's Consent to Electronic Filing Form, which are attached hereto as Exhibits B and C, respectively. The counsel for such New Defendant shall then have 30 days from the date of service either to consent or to decline to participate in the Court's electronic filing system. Consent can be effectuated on-line if counsel for such New Defendant is already a registered Filing User of the system. Otherwise, counsel shall submit a consent in writing to the Resource Center and consent on-line after obtaining an ID and Password. If counsel declines to consent, a written declination shall be submitted to the Resource Center by mail or personal delivery.

6. Notice Regarding Availability Of Electronic Filing Form Not Required. Except in Future Cases naming New Defendants, the Notice Regarding Availability of Electronic Filing Form shall not be required to be filed or served by any party.

7. Service of Interlocutory Papers through Electronic Filing. Proper service of any electronically served interlocutory document shall be deemed to have been effectuated when the Court's receipt for the filing and payment of the filing fee for said document, or the Court's confirmation of receipt in the case of a non-fee-bearing document, is sent from the Court via the electronic filing system to opposing Counsel. The transmission of the receipt or confirmation shall constitute service of the document notwithstanding Section 202.5-b(g) of the Uniform Rules for the Trial Courts.

8. Papers to Be Filed Electronically. All papers to be filed with the Court shall be filed electronically on the website at [www.nycourts.gov/e-file](http://www.nycourts.gov/e-file) in accordance with the electronic filing rules set forth in Section 202.5-b of the Uniform Rules for Trial Courts, except where a special exemption is granted or as directed by the Court.

9. Courtesy Hard Copies of Papers for Judicial Review. Unless otherwise directed by the Court, a courtesy hard copy shall be submitted to Part 57 with respect to all papers intended for judicial review, including motion papers.

10. All Other Procedures Governed by the Electronic Filing Rules. Except as indicated herein, all other filing, service, and other procedures shall be governed by the New York rules regarding electronic filing as set forth in Section 202.5-b of the Uniform Rules for the Trial Courts.

### **III. Registration For Electronic Filing**

1. In Present Cases, All Counsel Shall Register by December 16, 2008. Counsel in Present Cases who are not already registered shall register for electronic filing promptly, but no later than December 16, 2008. Counsel shall register by submitting a Filing User Registration Form to obtain the confidential Filing User Identification Number and Password necessary to use the system. This form is available in the "Forms" section of the Court's Website at the address listed above. Once registered, counsel shall not have to register for each case.

2. In Future Cases, Plaintiff's and New Defendants' Counsel Shall Register Within Ten Days of Filing Their Respective Consent to Electronic Filing of Forms. In Future Cases, the plaintiff's counsel shall register for electronic filing as set forth in paragraph 11, above, no later than ten days after the filing and service of the Plaintiff's Consent to Electronic Filing Form. In any Future Case, counsel for New Defendants shall register for electronic filing as set forth in paragraph 11, above, no later than ten days after the filing and service of the Defendant's Consent to Electronic Filing Form.

SO ORDERED.

Dated: 12-16, 2008



J.S.C.

**MARCY S. FRIEDMAN**

**FILED**

DEC 18 2008

NEW YORK  
COUNTY CLERK'S OFFICE

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

IN RE:

Index No. \_\_\_\_\_/20 \_\_\_\_\_

-----X

[Plaintiff(s) name]

-against-

Index No. \_\_\_\_\_/20 \_\_\_\_\_

[Defendant(s) name]

PLAINTIFF'S CONSENT TO  
ELECTRONIC FILING

-----X

Pursuant to Case Management Order No. \_\_\_\_\_, I, \_\_\_\_\_, submit this Plaintiff's

Consent in the above-entitled action and state as follows:

1. I am a plaintiff or an attorney for plaintiff in the individual case identified above. I consent to the use of electronic filing in this case and in the General Case, first listed above, and provide the following e-mail addresses for the purposes of service (the Primary Address) and giving additional notice of each filing in said cases pursuant to the terms set forth in Case Management Order No. \_\_\_\_\_:

1. \_\_\_\_\_ (Primary Address)
2. \_\_\_\_\_
3. \_\_\_\_\_

2. Counsel for [main defendant] defendants have consented to the use of electronic filing in this case, including with regard to service of initiating papers and subsequent papers, as set forth in Case Management Order No. \_\_\_\_\_, and have provided the following e-mail addresses for the purpose of service of each filing pursuant to the terms set forth in Case Management Order No.

\_\_\_\_\_:

Firm

Attorney A	E-Mail Address (Primary Address)
Attorney B	E-Mail Address (Primary Address)
Attorney C	E-Mail Address (Primary Address)

3. The appearance of the above names and e-mail addresses of counsel for the [main defendant] defendants shall not be deemed an appearance by the [main defendant] defendants in this case. Pursuant to Case Management Order No. \_\_\_\_\_, the [main defendant] defendants shall not be required to file a separate Consent to Electronic Filing form.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

Attorney for Plaintiff \_\_\_\_\_

\_\_\_\_\_  
(Firm Name)

\_\_\_\_\_  
(Firm Address)

\_\_\_\_\_  
(Phone)

\_\_\_\_\_  
(E-mail Address)

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X

IN RE:

Index No. \_\_\_\_\_/20 \_\_\_\_\_

NOTICE OF  
AVAILABILITY OF  
ELECTRONIC FILING

-----X

[Plaintiff(s) name]

-against-

Index No. \_\_\_\_\_/20 \_\_\_\_\_

[Defendant(s) name]

-----X

PLEASE TAKE NOTICE that Plaintiffs and [main defendant] Defendants in the above-captioned action consent and intend that this action proceed as an electronically-filed case pursuant to the terms set forth in Case Management Order No. \_\_\_\_\_. Service of papers by electronic means cannot be made upon a party unless that party consents to use of the system.

Under Case Management Order No. \_\_\_\_\_, each non-[main defendant] defendant shall have 30 days from the date of service either to consent or to decline to participate in the Court's electronic filing system. Each non-[main defendant] defendant that consents shall file a Defendant's Consent to Electronic Filing form, which is provided herewith.

**General Information**

In New York state court practice, certain actions may be commenced and processed by means of the electronic filing system, including tort claims and commercial claims in the Supreme Court in New York County and other designated Counties.

Electronic filing offers significant benefits for attorneys and litigants, permitting papers to be filed with the Court and served in a simple, convenient, and expeditious manner. Electronically

filed case documents are filed with the court by filing on the Court website, which can be accessed at any time, day or night, at [www.nycourts.gov/efile](http://www.nycourts.gov/efile). In this litigation, electronic filing is governed by Case Management Order No. \_\_\_\_\_, and, where applicable, Section 202.5-b of the Uniform Rules for the Trial Courts.

### **Instructions**

1. Non-[main defendant] are strongly encouraged to consent to electronic filing.
2. Pursuant to Case Management Order No. \_\_\_\_\_, you have 30 days from the date of service either to consent or to decline to participate in electronic filing. To consent, you must file a Defendant's Consent to Electronic Filing form, which is provided herewith. Please transmit the consent form (copied to other counsel) to the Electronic Filing Resource Center, Room 119, 60 Centre Street, New York, New York 10007. If you are already a registered Filing User of the system, you can consent on-line in the case.
3. Pursuant to Case Management Order No. \_\_\_\_\_, you have ten days from the date of filing of a Defendant's Consent to Electronic Filing form to register for electronic filing by completing and signing a registration form and contacting the Electronic Filing Resource Center at [efile@courts.state.ny.us](mailto:efile@courts.state.ny.us) or 646-386-3033. The registration form is available on the e-filing website listed above.
4. For additional information about electronic filing, see the *User's Manual* and *Frequently Asked Questions* on the Court website or contact the Resource Center.

Dated: \_\_\_\_\_

\_\_\_\_\_ (Name)

\_\_\_\_\_ (Firm)

\_\_\_\_\_ (Address)

\_\_\_\_\_  
\_\_\_\_\_ (Phone)

\_\_\_\_\_ (Fax)

\_\_\_\_\_ (E-mail)

Attorney(s) for \_\_\_\_\_

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----x

IN RE:

Index No. \_\_\_\_\_/20 \_\_\_\_\_

DEFENDANT'S CONSENT  
ELECTRONIC FILING

-----x

[Plaintiff(s) name]

-against-

Index No. \_\_\_\_\_/20 \_\_\_\_\_

[Defendant(s) name]

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Pursuant to Case Management Order No. \_\_\_\_\_, I, \_\_\_\_\_, am a non-[main defendant] defendant or an attorney for a non-[main defendant] defendant. I consent to the use of electronic filing in the individual case listed above and in the General Case, Index No. \_\_\_\_\_/20 \_\_ first listed above, including with regard to service of interlocutory papers as provided in Case Management Order No. \_\_\_\_\_, and I provide the following e-mail addresses for the purposes of service (the Primary Address) and giving additional notice of each filing pursuant to the terms set forth in Case Management Order No. \_\_\_\_\_:

1. \_\_\_\_\_ (Primary Address)
2. \_\_\_\_\_
3. \_\_\_\_\_

As required under Case Management Order No. \_\_\_\_\_, I attest that I filed this Defendant's Consent to Electronic Filing within 30 days of service.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

Attorney for \_\_\_\_\_

\_\_\_\_\_  
(Firm Name)

\_\_\_\_\_  
(Firm Address)

\_\_\_\_\_  
(Phone)

\_\_\_\_\_  
(E-mail Address)