

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

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IN RE: NEW YORK BEXTRA AND CELEBREX
PRODUCT LIABILITY LITIGATION

: Index No. 762000/06
: CASE MANAGEMENT
: ORDER NO. 17
:

THIS DOCUMENT APPLIES TO ALL CASES
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Depositions of Pfizer Sales Representatives

1. Order Applicable to All Product Liability Plaintiffs In The New York Coordinated Bextra and Celebrex Proceeding. This Order shall apply to all plaintiffs who allegedly suffered personal injury from taking Bextra and/or Celebrex in cases currently pending 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 product liability cases currently pending or subsequently made a part of this proceeding and shall govern each case in the proceeding unless it explicitly states that it relates only to specific cases.

2. Order Applicable to Current and Former Pfizer Sales Representatives. This Order shall apply to sales representatives employed by Defendants Pfizer Inc., ^{JUN 14 2007} ~~Pharmacia & Upjohn Co.~~, Pharmacia & Upjohn LLC, Pharmacia Corporation, and/or G.D. Searle ^{NEW YORK} ~~formerly known as~~ G.D. Searle & Co.), together with their affiliated entities (collectively, "the Pfizer Entities"), at the time they promoted Bextra and/or Celebrex directly to physicians. The Order shall apply to sales representatives whether they are current or former employees of the Pfizer Entities, and shall apply to any deposition in which a Pfizer Entity employee is being deposed in connection with his or her communications directly with physicians.

3. Limits on Sales Representative Depositions.

a. Limit on Number of Sales Representative Depositions. Of the five depositions permitted for each plaintiff in the Discovery Pool, no more than two may be

depositions of sales representatives, absent good cause shown for additional sales representative depositions ("the Discovery Pool sales representative depositions"). ^{at this juncture} The fact that more than two representatives detailed a prescribing physician for a plaintiff in the Discovery Pool shall not constitute good cause, ^{but may entitle a plaintiff to further depositions during the next phase of discovery.} b. Which Sales Representatives May Be Deposed. Absent consent of Defendants' Liaison Counsel, no sales representative may be deposed unless and until: (a) that representative has been identified in a Defendant Fact Sheet ("DFS"); (b) the plaintiff to whom the DFS corresponds has been selected for the Discovery Pool; and (c) the sales representative detailed the plaintiff's prescribing physician regarding Bextra and/or Celebrex prior to the last date on which the plaintiff's prescribing physician prescribed or provided samples of Bextra and/or Celebrex to the plaintiff ("the prescription period").

c. Depositions of Regional Managers. Plaintiffs only may depose sales representatives' managers as common witnesses pursuant to Case Management Order No. 8. Such witnesses shall count against the limit of five common Pfizer witness depositions per month under that Order.

4. Additional Production of Sales Representative Documents. In addition to the documents required in the DFS, Pfizer shall be required to produce the following documents in connection with the Discovery Pool sales representative depositions. Pfizer shall not be required to produce documents for any other sales representatives in the Discovery Pool.

a. Electronic Documents. The PSC has requested the following documents relating to Bextra and Celebrex, to the extent they are included in the Discovery Pool sales representatives' files: any documents provided to prescribing physicians; any correspondence with prescribing physicians, managers, or other sales representatives; and reports of weekly activity (if any) other than call notes. To that end, Pfizer will use the following terms to search for those electronic documents and will produce any non-privileged, discoverable electronic documents that are dated during the prescription period: "Bextra," "Celebrex," "COX," "NSAID," "arthritis," and the name of the plaintiff's prescribing physician(s).

b. Hard Copy Documents. The PSC has requested the following documents relating to Bextra and Celebrex, to the extent they are included in the Discovery Pool sales representatives' files: any documents provided to prescribing physicians; any correspondence with prescribing physicians, managers, or other sales representatives; and reports of weekly activity (if any) other than call notes. To that end, Pfizer will produce any non-privileged, discoverable hard copy documents that are dated during the prescription period and that are in the sales representative's possession.

c. Payments to Prescribing Physician(s) Not Disclosed in DFS. Any payments

to the prescribing physician by Pfizer relating to Bextra and/or Celebrex ^{on or about during the} ~~during the~~ prescription period that were not already disclosed in the DFS.

5. Special Stipulated Discovery Concerning Treating Physician

a. Scope of Request. Upon request by counsel for a plaintiff in the discovery pool, Pfizer will produce the information contained in the Defendant Fact Sheet, and related documents, for the physician selected by the plaintiff's counsel who treated the plaintiff for the event allegedly caused by Bextra and/or Celebrex (i.e., the heart attack or stroke) ("the event treating physician") in connection with the event treating physician's deposition. The parties agree and intend that there generally will be only one event treating physician per case, although in unusual circumstances there may be more than one event treating physician about whom information will be requested. Counsel for a plaintiff in the discovery pool may request the DFS information for an event treating physician even if the deposition is noticed by Pfizer.

b. Timing of Request. Any such requests shall be made thirty days before the event treating physician's deposition is scheduled so that the material can be made available at the earliest possible time, but in no event later than ^{ten} ~~three~~ days prior to the deposition. If no date has yet been set for the event treating physician's deposition, Pfizer shall produce the material within thirty days of any request. If the deposition is noticed by Pfizer, a plaintiff's attorney should make the request as soon as possible, and the parties will work together on any scheduling issues that arise due to the request. Likewise, the parties will work together on scheduling depositions of event treating physicians whose depositions are currently less than thirty days away.

c. No Blanket Request. The PSC will not make a blanket request for such information in every case.

6. Notices Sixty Days in Advance; Production Ten Days in Advance. Absent agreement of Defendants' Liaison Counsel or good cause shown, the Discovery Pool sales representative depositions shall be noticed at least sixty (60) days in advance. Pfizer shall produce any non-privileged, responsive documents at least ten (10) days in advance of the Discovery Pool sales representative depositions. The discovery cut-off for plaintiffs selected for the Discovery Pool prior to April 25, 2007, as established by Case Management Order No. 13, paragraph 13, shall be extended until October 9, 2007 for all case-specific discovery, including sales representatives. The discovery cut-off shall not be extended for any other plaintiffs in the Discovery Pool.

7. Length of Sales Representative Depositions. Absent consent of Defendants' Liaison Counsel or good cause shown, the Discovery Pool sales representative depositions are limited to seven hours.

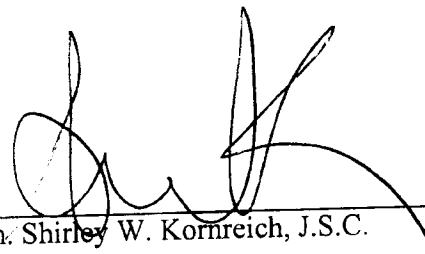
8. Avoidance of Duplicative Depositions. No sales representative shall be deposed more than once, unless subsequent to the initial deposition the parties learn that the sales representative detailed another plaintiff's prescribing physician regarding Bextra and/or Celebrex during the prescription period and that plaintiff is selected for the Discovery Pool. In such instances, the parties shall meet and confer with respect to whether an additional deposition is warranted. In any instance in which there is a supplemental deposition, such deposition shall be limited to case-specific questions (*i.e.*, questions about the sales representative's communications with the prescribing physician) and shall not exceed two hours. Defendants' Liaison Counsel may cross-notice any depositions of sales representatives in state court actions pursuant to Case Management Order No. 8, ¶ 5.

9. Incorporation of Other Case Management Orders. The provisions of Case Management Order No. 8 relating to attendance (paragraph 26), objections (paragraph 29), consultation with witnesses (paragraph 30), videotaped depositions (paragraph 31), the use of exhibits (paragraph 32), and the witnesses' review of transcripts (paragraph 33); Case Management Order No. 15 relating to the videotaping of depositions; and Case Management Order No. 16

relating to scheduling (paragraph 3), location (paragraph 5), and deposition disputes (paragraphs 8 and 9) are hereby incorporated by reference in their entirety and shall apply to depositions of sales representatives.

SO ORDERED.

Dated: 5/31, 2007



Hon. Shirley W. Kornreich, J.S.C.

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