

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

-----X	:	Index No. 774000/2011
	:	
IN RE: NEW YORK CHANTIX PRODUCT	:	CASE MANAGEMENT
LIABILITY LITIGATION	:	ORDER NO. 2
	:	
-----X	:	
THIS DOCUMENT APPLIES TO ALL CASES	:	
-----X	:	

General Procedures

I. Applicability of This Order

1. Scope of Order. This Order applies to pretrial procedures for cases involving the prescription medication Chantix which are presently or hereafter assigned to this Court (“the Coordinated Proceeding”). This Order is binding on all parties and their counsel in all cases currently pending or subsequently made part of the New York Coordinated Proceeding and shall govern each case in the New York Coordinated Proceeding unless it explicitly states that it relates only to specific cases.

2. Applicable Law. The Civil Practice Law and Rules (“CPLR”), the Uniform Rules for Trial Courts, and the express provisions of this and any future Case Management Orders shall govern all proceedings herein unless otherwise specified.

II. Filing Procedures

3. Creation of Master File & Application to All Cases in Coordinated Proceeding. Pursuant to the Decision and Order of the New York State Litigation Coordinating Panel dated October 18, 2010, filed with the New York County Clerk of the Court on October 22, 2010, the cases herein have been coordinated for pretrial proceedings, not consolidated. The Court hereby directs that a master file, known as New York Chantix Product Liability Litigation Master file (the “Chantix Master File”), Index No. 77400/2011, shall be established (without fee) in the

Office of the Clerk of New York County for all Chantix cases assigned to this Court. The original of this Order shall be filed by the County Clerk in the Chantix Master File, and a copy shall be deemed to be part of the record of each coordinated action. All subsequent entries on the Chantix Master File shall also be applicable to all of the Chantix cases.

4. Creation of Individual Files. A separate file shall also be maintained in the Office of the Clerk of New York County under a separate Index Number for each individual Chantix case assigned to this Court, and entries shall be made therein in accordance with this Order.

5. Captions of Documents. Every document filed in these coordinated actions shall bear a caption as follows:

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

-----X
IN RE: NEW YORK CHANTIX : Index No. 774000/2011
PRODUCT LIABILITY LITIGATION :
-----X

If a document relates to all the Chantix cases, the following will be added to the caption:

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

If, instead, a document relates to one or more specific cases but not to all cases, the specific caption(s) for the cases to which the paper is applicable will be added as follows:

-----X
Plaintiff(s) name, :
 :
 - against - : Index No. [individual case number]
 :
Defendant(s) name :
-----X
AND RELATED CASES (SEE APPENDIX) :
-----X

In all such documents, one case shall be specifically captioned (the primary or first case, if applicable), and all other cases to which the document applies shall be listed as “Related Cases” in an appendix to the document, separately tabbed and made easily identifiable to the Clerk of the Court.

6. Filing of Cases. Each action filed in this coordinated proceeding shall relate to a single person allegedly injured through his or her treatment with Chantix. Any case filed and transferred to this Court for inclusion in this Coordinated Proceeding relating to more than a single person allegedly injured through his or her treatment with Chantix (other than that person’s spouse) shall be severed by counsel for Plaintiff in that action into individual actions. Nothing in this section shall be construed to deny the Court of jurisdiction where jurisdiction otherwise existed.

7. Filing of Papers. When a paper has general application to all the Chantix cases, the caption (as set forth above) shall so indicate and shall bear the assigned Index Number, and the Clerk of New York County shall file such a paper in the Master File. No further copies of the papers need to be filed. Any document so filed shall be deemed to have been filed in each case to which this Order applies and shall constitute part of the record of each such case. When a paper is applicable only to an individual case, the attorney submitting such paper for filing shall caption the paper (as set forth above) to indicate the case(s) to which it is applicable. The Clerk of New York County shall not file such a paper in the Chantix Master File. Rather, after receipt by the Clerk, the Clerk shall file the original in the first captioned individual case file under the appropriate index number and shall file copies of the paper in any other cases to which it applies. It shall be the responsibility of the attorney submitting the paper for filing to supply the County Clerk with sufficient copies of any such paper to facilitate compliance with the directions of this

paragraph. The filing of a motion or other paper in the Chantix Master File or individual case file shall not confer standing on a party where it does not otherwise exist.

8. Use of Electronic Filing. The parties are urged to utilize the New York Supreme Court Electronic Filing system ("NYSCEF"). Unless otherwise directed by the Court, all documents filed with the Court electronically should be accompanied by courtesy copies of all such documents to be delivered to the Court. For documents filed by NYSCEF, no further service is required upon parties who have consented to such service when registering for NYSCEF. All counsel of record are urged to register for NYSCEF. All electronically filed documents shall be e-filed in the master docket, unless a document pertains only to one or only some of the pending actions, in which case the document shall be e-filed in the case-specific docket(s) to which the document pertains.

III. Master Pleadings

9. Master Complaint. By June 1, 2011, Plaintiffs' Liaison Counsel shall serve upon Pfizer a Master Complaint.

10. Notice of Adoption of Master Complaint. Such Master Complaint shall be accompanied by a Notice of Adoption of the Master Complaint, which shall contain a short form of the Master Complaint and which shall include allegations specific to the individual Plaintiff, including the name and residence of the person who allegedly took Chantix, the name(s) of any individuals asserting any derivative claims (*e.g.*, loss of consortium), the date(s) the primary plaintiff allegedly took Chantix, the injury or injuries the plaintiff allegedly suffered, and the specific causes of action in the Master Complaint which the Plaintiff(s) asserts.

a. Notice of Adoption for Claims Pending as of the Date of This Order. Any plaintiff who, prior to the date of this Order, has filed a complaint that has been or later is made part of

the Coordinated Proceeding may, within 60 days of the date of this Order, amend the complaint without further leave of Court to adopt causes of action set forth in the Master Complaint. For purposes of application of statutes of limitation and/or repose, any such amendment shall be deemed to have been filed as of the date of the filing of the Master Complaint.

b. Notice of Adoption for Claims Filed After the Date of This Order. For purposes of the application of statutes of limitation and/or repose, any plaintiff who files a complaint after the date of this Order and who adopts the causes of action in the Master Complaint shall be deemed to have so amended his or her complaint as of the date of such adoption, not the date of filing of the Master Complaint.

11. Response to Master Complaint. On July 1, 2011, Pfizer will respond to the Master Complaint either by serving upon Plaintiffs a motion to dismiss or an answer to the Master Complaint. If Pfizer files a motion to dismiss, and any portion of the Master Complaint remains after the Court resolves that motion, Pfizer shall file a Master Answer within thirty (30) days of this Court issuing its order on the motion to dismiss. Until its filing of a Master Answer (if applicable), Pfizer is relieved of the obligation to answer any complaint not yet answered or any complaints subsequently made a part of the Coordinated Proceeding.

12. Adoption of Master Answer. If applicable, the Master Answer will be deemed to be adopted in every case that is part of the Coordinated Proceeding, without any further action required on the part of Pfizer. As a result, any plaintiff whose claims are made part of the Coordinated Proceeding who wishes to dismiss his or her claims voluntarily without prejudice after the date of this order must obtain Pfizer's consent.

13. Further Amendment and Challenges to Master Complaint. For cases that are selected for a discovery or trial pool, the parties shall meet and confer with respect to the timing

and procedure for any amendment or challenge to the Master Complaint (and/or any adoption thereof) or Master Answer and shall include such procedure as part of any proposed order for the process of selecting a discovery or trial pool.

14. Request for Judicial Intervention. Plaintiffs shall be required to file a Request for Judicial Intervention and pay the appropriate fees therewith, designating the case as a matter which should be assigned to the New York Chantix Litigation calendar of this Court, no later than 60 days after service of Pfizer's Master Answer to the Master Complaint.

IV. Motions In General

15. Coordination of Motion Practice & Meet and Confer Requirement. It shall be the responsibility of the Plaintiffs' and Defendants' Liaison Counsel to coordinate, to the extent practicable, motion practice in these cases. Any party wishing to file a motion first must notify that side's respective Liaison Counsel, after which Plaintiffs' Liaison Counsel (or its designee) and Defendants' Liaison Counsel shall meet and confer with each other to make a good faith effort to resolve all disputes before resorting to motion practice. Any motion relating to discovery shall contain counsel's statement (made by affidavit or affirmation) that, prior to moving, the movant has conferred with the affected adversary parties and made a good faith effort to resolve the dispute without need of court intervention.

16. Motion Dates. To obtain a hearing date for any motion, Plaintiffs' Liaison Counsel and Defendants' Liaison Counsel shall meet and confer on dates available to counsel. Once they have agreed to potential dates, counsel shall jointly contact the Court's clerk to obtain a hearing date.

V. Other Provisions

17. Attorney Admissions. An attorney seeking to be admitted *pro hac vice* for the purposes of this litigation shall provide written notice to all parties identifying the attorney seeking *pro hac vice* admission, the party he or she is seeking to represent, the law firm, if any, he or she is associated with, and the state(s) and bars where such attorney is admitted to practice. If no party objects in writing to the admission of the attorney *pro hac vice* within five (5) days of receipt of such notice, the attorney shall be deemed admitted *pro hac vice* for purposes of this litigation with no further action by this Court. If a party does object in writing, the attorney seeking admission *pro hac vice* shall submit the letter providing notice as well as the letter objecting to the admission to the Court for a ruling on the application.

18. Status Conferences and Agendas. This Court will convene periodic Status Conferences at the request of Plaintiffs' Liaison Counsel and Defendants' Liaison Counsel or on its own motion, with Plaintiffs' Liaison Counsel to give notice of such scheduled Status Conferences. In order to aid the Court and the parties in preparing for future conferences, Plaintiffs' Liaison Counsel and Defendants' Liaison counsel shall confer at least one week prior to each future status conference to attempt to agree upon a proposed agenda for the conference. The parties shall submit a joint agenda to the extent they agree, and separate agendas for items on which they do not agree, not less than three court days prior to the conference. The agendas

are intended to aid the Court in informing itself of the issues that the parties desire to raise at the Status Conference, and the Court may amend the agendas as it deems appropriate.

DONE and ORDERED this 15 day of

April, 2011.



HONORABLE CAROL E. HUFF

Justice of the Supreme Court