

**IN THE COURT OF COMMON PLEAS  
OF PHILADELPHIA COUNTY, PENNSYLVANIA**

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION - CIVIL**

IN RE	:	
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REGLAN®/METOCLOPRAMIDE	:	JANUARY TERM, 2010
LITIGATION	:	NO. 01997
	:	

**DISCOVERY MASTER ORDER NO. 12**

**AND NOW**, to wit, this 18th day of August, 2010, following an extended conference with counsel on August 17, 2010, the Court-appointed Discovery Master, Harris T. Bock, Esquire, hereby **ORDERS** as follows:

1. The next conference with the Discovery Master and all counsel electing to participate will be held on the day of the Conference with the Court **on Thursday, September 23, 2010 commencing at 9:30 a.m.**, the location of which is to be determined.
2. **Product ID Dismissal Protocol:** Counsel shall meet and confer and submit to the Discovery Master by the close of business on Monday, August 23, 2010 a Product ID Dismissal Protocol.
3. **Case Management Order No. 10 – Dismissal and Tolling Agreement as to Defendant Pfizer, Inc.:** Counsel have agreed to submit to Judge Moss for the Court’s approval CMO No. 10 with respect to the dismissal without prejudice of claims against Pfizer pending resolution of litigation against the Wyeth defendants.

4. **Case Management Order No. 11:** Counsel shall meet and confer to develop a CMO incorporating the Defendant Fact Sheet, Document Production Protocol, Requests for Production of Documents, as well as the agreed upon protocol with respect to Deficient Plaintiff's Fact Sheets. In addition, with respect to unidentified defendants, counsel shall meet and confer to develop language to incorporate into CMO No. 11 regarding an effective stay on the obligation of "unidentified defendants" to respond to all discovery requests until their "identification."<sup>1</sup>
5. **Procedure re: Dismissal of Defendants / Amendment of Pleadings:** PLC shall prepare a draft procedure to alleviate the need for consent of all parties for cases involving the dismissal of defendants, amendment of pleadings, etc., which complies with the Pennsylvania Rules of Civil Procedure. The foregoing shall be incorporated into CMO No. 11.
6. **Discovery Deadlines:** CMO No. 11 shall also incorporate the following discovery deadlines:
  - a. **Hassett:** Rolling production of documents shall begin no later than September 1, 2010, and shall be completed no later than December 31, 2010.
  - b. **For Identified Defendants in All Other Cases:** Rolling production of documents shall begin no later than October 8, 2010, and shall be completed no later than January 15, 2011.
  - c. **For Unidentified Defendants in All Other Cases:** Rolling production of documents shall begin no later than sixty (60) days from the date of identification, and shall be completed no later than sixty days plus four

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<sup>1</sup> These terms should be defined in CMO No. 11.

months from the date of identification. Counsel should meet and confer to establish a clear protocol for determining the date of identification.


7. **Motion to Compel Procedure re: Answers to Interrogatories:** In accordance with CMO No. 3(III)(B)(2), Defendants' responses to Master First Set of Interrogatories to all Defendants were due on July 7, 2010. In lieu of a formal Motion to Compel procedure to address any alleged deficiencies in responses or lack thereof, all deficiencies alleged by Plaintiffs shall be addressed as follows:
- a. **Notice of Alleged Deficiencies to Defendants:** By the close of business on Monday, August 23, 2010, PLC shall provide to the Discovery Master, DLC, and all specific Defendants involved a comprehensive list of all alleged deficiencies broken down by specific Defendant, which identifies the specific nature of each alleged deficiency.
  - b. **Response of Defendants to Alleged Deficiencies:** By the close of business on Thursday, September 2, 2010, Defendants shall either cure alleged deficiencies, or submit to the Discovery Master and PLC a written response detailing each Defendant's position regarding the alleged deficiency showing cause why the alleged deficiency cannot and/or should not be cured.
  - c. **Resolution by the Discovery Master:** Upon receipt and review of any responses by Defendants regarding their inability to cure alleged deficiencies, the Discovery Master shall make a determination on the papers, following a teleconference with interested counsel, or at a scheduled Discovery Conference, at the Discovery Master's discretion. The Discovery Master may also recommend to the Court the imposition of sanctions, where appropriate,

in accordance with Pa.R.C.P. No. 4019.

d. **Continued Allegations of Deficiencies:** If, upon receipt of an attempt by a Defendant to cure any deficiencies in accordance with subparagraphs (b) and (c) hereof, PLC contends that deficiencies remain or that further deficiencies exist, PLC shall provide to the Discovery Master, DLC, and all specific Defendants involved a comprehensive list of all alleged deficiencies within ten (10) days of receipt of said attempt to cure. Within ten (10) days thereafter, Defendants shall either cure alleged deficiencies, or submit to the Discovery Master and PLC a written response detailing each Defendant's position regarding the alleged deficiency showing cause why the alleged deficiency cannot and/or should not be cured. The Discovery Master shall make a determination in accordance with subparagraph (c) hereof.

8. **Agenda:** As soon as practicable, counsel shall submit to the Discovery Master a specific agenda regarding issues to be addressed at the September 23, 2010 Conference, along with any supporting materials for the Discovery Master to review prior to the conference.

**BY THE DISCOVERY MASTER:**



HARRIS T. BOCK, ESQ.