

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

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

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

DISCOVERY MASTER ORDER NO. 4

AND NOW, to wit, this 9th day of April, 2010, following a conference with counsel on April 7, 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 in the offices of **Golkow Technologies, One Liberty Place, 1650 Market Street, Suite 5150, Philadelphia, Pennsylvania, 19103, all day on Wednesday, April 21, 2010 commencing at 9:30 a.m.**
2. Further conferences with the Discovery Master and all counsel electing to participate will be held all day on Friday, May 7, 2010, and Wednesday, May 26, 2010, commencing at 9:30 a.m., the locations for which are to be determined.
3. Counsel shall attempt to agree upon a proposed Case Management Order No. 3 addressing response time to specified discovery to be presented to Judge Moss at the conference with the Court scheduled for April 16, 2010. If counsel are unable to reach an agreement prior to or at the conference with Judge Moss, each liaison team shall provide to the Discovery Master by the close of business on Monday,

April 19, 2010 their respective proposed orders.

4. With respect to the global protective order pertaining to production of documents:
 - a. In lieu of requiring signatories executing the protective order to do so in the presence of a notary public, a duly licensed attorney may acknowledge the authenticity of the signatory's execution.
 - b. Counsel shall produce the fully executed acknowledgements of testifying experts contemporaneous with the production of said expert's report.
 - c. The reference therein to the application of the protective order in other "state courts" shall be restricted to other "Pennsylvania state courts."
5. Counsel shall continue to exchange information to select the records services entity to serve as the exclusive record copying service and the repository for such records. Although the Discovery Master is not desirous of delving into this area, he will be compelled to do so if an agreement is not reached by April 21, 2010.
6. On or before the April 21, 2010 Discovery Master conference, counsel shall submit to the Discovery Master the final agreed-upon Plaintiffs' Master First Set of Revised Interrogatories to Generic and Brand Defendants, which will be posted on the online docket at www.adrdri.com.
7. With respect to the Short Form Complaint:
 - a. Paragraph No. 4 shall include "Product" and "Manufacturer" only, and will not include "NDC No.," "Description," "Date(s) of Ingestion," or "Pharmacy."
 - b. Paragraph No. 6 shall include "Diagnoses" but shall not include diagnosis dates.

- c. Paragraph No. 7 shall be stricken.
 - d. A final Short Form Complaint shall be submitted to the Discovery Master for posting online.
8. With respect to Plaintiffs' Master Second Set of Requests for Production of Documents Nos. 1 through 150, the Discovery Master makes the following determinations on general outstanding disputes:
- a. Defendants have objected to plaintiffs' requests for information related to submissions by the defendants to foreign regulatory agencies. While the Discovery Master is inclined to disallow this request, the parties are invited to submit simultaneous briefs by the close of business on April 16, 2010 regarding whether this information is discoverable.
 - b. Defendants have objected to plaintiffs' requests insofar as they seek information regarding the manufacturing of the drug. The Discovery Master makes the following determinations:
 - i. No. 17 – This request shall be permitted so long as the reference to “manufacture” is removed therefrom.
 - ii. No. 127 – This request is permitted so long as it pertains to the product only, and not the facility.
 - iii. No. 129 – This request is permitted so long as the phrase “other aspects” is changed to “other safety aspects.”
 - c. Defendants have objected to the plaintiffs' requests for organizational charts. In an attempt to resolve this issue, defendants will draft a proposed Request for Production on this issue that they believe will yield the information that

plaintiffs are seeking as a result of the discussion held on this issue at the conference.

- d. Defendants have objected to the plaintiffs' requests for information regarding the financial information related to the sale/purchase of the drug, Reglan®/metoclopramide, between the branded companies and the mergers of the generic companies. With respect to these requests (e.g. Nos. 80 and 90), defendants shall produce the pertinent agreements of sale and/or asset purchase documents and/or merger summaries.
 - e. Defendants have agreed to produce the declaration sheets for pertinent insurance policies. Plaintiffs have agreed to limit their request at this time without waiver of their right to request the production of full policies, for good cause shown.
9. With respect to Plaintiffs' Master Second Set of Requests for Production of Documents Nos. 1 through 50, the Discovery Master makes the following determinations on specific outstanding disputes:
- a. No. 1 – Defendants' objection is overruled.
 - b. No. 2 – Defendants' objection is sustained in part and the request for "all raw data compiled for the study in its native electronic format" is disallowed.
 - c. Nos. 6 & 7 – Plaintiffs will amend the language of these requests to make them clearer.
 - d. No. 15 – Plaintiffs shall clarify this request by breaking it down into sub-parts.
 - e. No. 16 – Plaintiffs will amend the language of this request to make it clearer.
 - f. No. 19 - Defendants' objection is sustained in part and the request shall be

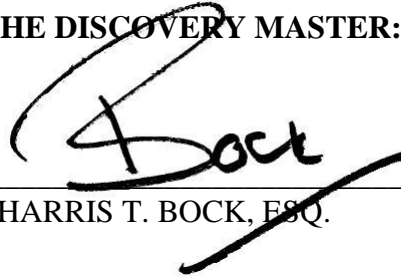
amended to remove the term “attended.”

- g. No. 20 – This request shall be permitted with the caveat, of course, that defendants do not need to produce work product or expert information, subject to the outcome of the pending dispute regarding the scope of discovering expert reports and expert deposition transcripts from previous cases.
- h. No. 21 – This request shall not be permitted, subject to the outcome of the pending dispute regarding the scope of discovering expert reports and expert deposition transcripts from previous cases.
- i. No. 22 – This request shall be permitted so long as it is restricted to studies “conducted, completed, or published.”
- j. No. 23 – This request is subject to the determination of the Discovery Master following the briefing schedule regarding foreign regulatory agencies set forth in Paragraph 8(a), *supra*.
- k. No. 24 – This request is disallowed. However, plaintiffs will instead draft an Interrogatory seeking the information not submitted to the FDA.
- l. No. 25 – Defendants’ objection is overruled.
- m. Nos. 26, 27, and 28 – These requests are subject to the determination of the Discovery Master following the briefing schedule regarding foreign regulatory agencies set forth in Paragraph 8(a), *supra*.
- n. No. 34 – Plaintiffs will amend this request to include a universal definition of “Data Safety Monitoring Board.”
- o. No. 38 – This request shall be permitted.
- p. No. 39 – This request is disallowed.

- q. No. 41 – Plaintiffs will redraft this request and combine it with No. 29.
 - r. No. 45 – Plaintiffs will amend the language of this request to make it clearer.
 - s. No. 47 – This request shall be permitted, so long as it is restricted to Reglan®/metoclopramide.
 - t. No. 48 – Plaintiffs will amend the language of this request to make it clearer.
 - u. Nos. 49 & 50 – These requests are subject to the determination of the Discovery Master following the briefing schedule regarding foreign regulatory agencies set forth in Paragraph 8(a), *supra*.
 - v. CAVEAT – The foregoing is intended to be inclusive of all changes discussed. However, the Discovery Master clearly recognizes that some agreements or rulings may not have been addressed. If this is the case, the Discovery Master encourages counsel to advise him accordingly.
10. By the close of business on April 16, 2010, defense counsel shall submit to the Discovery Master a brief in support of their contention that reports generated by experts in previous cases, as well as transcripts of expert depositions, are not discoverable until the submission of expert reports in the instant matter. Plaintiffs' counsel shall submit a responsive brief in support of their position by the close of business on April 19, 2010.
11. As soon as practicable prior to the upcoming conference, counsel shall submit to the Discovery Master a specific agenda regarding issues to be addressed at the April 21, 2010 conference, along with any supporting materials for the Discovery Master to review prior to the conference.

12. All documents that are exchanged between counsel and provided to the Discovery Master shall be marked with some indicia to ensure that all participants at the discovery conferences are reviewing the same document.

BY THE DISCOVERY MASTER:



A handwritten signature in black ink, appearing to read "H. Bock", is written over a horizontal line. The signature is stylized and cursive.

HARRIS T. BOCK, ESQ.