

**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. 6

AND NOW, to wit, this 27th day of April, 2010, following an extended conference with counsel on April 21, 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 **all day on Friday, May 7, 2010 commencing at 9:30 a.m., the location of which is to be determined.**
2. All references to “filing dates” in the Case Management Orders shall refer to the date the pleading was entered on the court’s docket. Whenever the filing of a pleading or any document in this case triggers the running of a response period, the filing party shall notify the responding party of the time period in which the response is due, and also the actual date the response is due. In accordance with the Pennsylvania Rules of Civil Procedure (Pa.R.C.P. Rule 106), should the due date fall on a court-recognized holiday, Saturday, or Sunday, the due date shall be the next business day thereafter.
3. The posting of Orders and pertinent documents to the Discovery Master’s website

at www.adrdri.com is intended to provide a convenient resource to the parties and counsel. Under no circumstances shall the posting of any document to the website obviate or constitute a waiver of service or notice requirements set forth in the Case Management Orders, nor shall the posting accelerate any deadlines contained therein.

4. Ruling on the issue regarding **foreign regulatory matters** is deferred. Prior to the next conference, defense counsel shall investigate and report to the Discovery Master and PLC the burden they contend exists in locating and producing communications to the defendants from foreign regulatory agencies regarding safety issues and changes to warning labels for Reglan®/metoclopramide.
5. The Discovery Master finds, and Judge Moss has observed, that the **reports of designated experts (but not consulting experts) from prior litigation**, as well as their notes of testimony at trial or deposition, are relevant and discoverable. The remaining issue is the timing of the production of same. Counsel may submit letter memoranda on this issue by the close of business on Friday, April 30, 2010, accompanied by a proposed order.
6. The issue of **redaction protocols arising from proposed Case Management Order No. 6** will be addressed by further “off-line” communications between Lynn Seithel, Esquire and Sharon Sandell, Esquire, in an attempt to resolve outstanding issues. If a resolution cannot be attained, Ms. Seithel and Ms. Sandell shall make arrangements to have a conference call with my deputy, Michael L. Galbraith, Esquire, to address such remaining issues so that they may be finitely crystallized in a format that can easily be addressed at the next conference.

7. Plaintiffs' counsel will promptly submit to defense counsel the **Defendant Fact Sheet**, with previously discussed revisions. By the close of business on Friday, April 30, 2010, defense counsel will provide to plaintiffs' counsel all objections to the proposed fact sheet.
8. Upon agreement of the PLC and DLC, the MCS Group is designated as the **exclusive records copying service and document repository facility**, provided, however, that the MCS Group agrees to certify that it will not engage in any agency or paralegal services on behalf of the defendants and their counsel during the pendency of this litigation.
9. Plaintiffs shall prepare proposed Case Management Order No. 7 prior to the next conference, with respect to the issues involving **choice of law**.
10. The timing of raising the issue of *forum non conveniens* shall be deferred, as well as any discovery issues related thereto.
11. The Discovery Master makes the following determinations on specific outstanding disputes with respect to Plaintiffs' Master Second Set of Requests for Production of Documents Nos. 51 through 150,:
 - a. Nos. 54 & 55 – These requests are subject to the Discovery Master's forthcoming determination regarding foreign regulatory discovery.
 - b. Nos. 63, 64, and 65 – The reference to "sANDA" shall be modified so as to refer to "supplemental or amended" ANDA. Furthermore, all references in these requests, and any other request, that state "performed by Defendant, its agents and/or FDA personnel" shall be modified to "performed by or on behalf of Answering Defendant."

- c. No. 66 – This request has been withdrawn by plaintiffs.
- d. No. 69 – This request will be limited to Answering Defendants.
- e. No. 73 – This request is subject to the Discovery Master’s forthcoming determination regarding production of expert reports from prior litigation.
- f. Nos. 74-2, 76, and 77 – These requests will be clarified by amending the general instructions.
- g. No. 80 – Consistent with the Discovery Master’s prior determination, this request will be limited to safety.
- h. No. 83 – Defendants do not object to the substance of the request, but seek to ensure that the request will be controlled by the document production protocol.
- i. No. 85 - These requests are subject to the Discovery Master’s forthcoming determination regarding foreign regulatory discovery.
- j. No. 87 – For this request, the reference to medical associations will mean, *inter alia*, trade groups, as opposed to individual medical practices.
- k. No. 88 - These requests are subject to the Discovery Master’s forthcoming determination regarding foreign regulatory discovery.
- l. No. 90 - Consistent with the Discovery Master’s prior determination, this request will be limited to safety.
- m. No. 92 – Defendants have withdrawn their objection.
- n. Nos. 93, 94, and 95 – Defendants will draft a proposed request for production to resolve their objections that these requests are overly broad. Said proposals shall be consistent with the Discovery Master’s determination that “sales” and

“profits” are relevant.

- o. No. 104 – This request shall be limited to “codes” in effect during the time Answering Defendant sold or manufactured metaclopramide. Further, the revised request shall eliminate the language “or labeling of.”
- p. Nos. 105 & 106 – Plaintiffs shall endeavor to revise these requests.
- q. Nos. 109 & 110 – As stated *supra*, the references to “Defendant or its agents” shall be modified to “by or on behalf of Answering Defendant.”
- r. No. 111 - This request shall be limited to the time period Answering Defendant sold or manufactured metaclopramide.
- s. No. 112 – Plaintiffs shall revise the grammar of this request to clarify same.
- t. No. 114 - Plaintiffs shall revise this request.
- u. Nos. 116 & 125 – Counsel shall further confer in an attempt to resolve any outstanding issues regarding these requests.
- v. No. 117 – Plaintiffs have withdrawn this request.
- w. No. 118 - As stated *supra*, the references to “Defendant or its agents” shall be modified to “by or on behalf of Answering Defendant.”
- x. No. 121 – A separate Order will follow with respect to the issue presented by this request.
- y. Nos. 127 & 129 – These requests will be modified in accordance with Discovery Master Order No. 4.
- z. No. 128 - Plaintiffs shall revise this request.
- aa. Nos. 130 & 131 – Defendants have withdrawn their objections.
- bb. No. 133 – The reference to expert in this request shall not refer to experts retained for purposes of litigation.

cc. No. 134 - This request shall be limited to the time period Answering Defendant sold or manufactured metaclopramide.

dd. No. 138 – This request shall pertain to agreements between Answering Defendant and other defendants, only.

ee. No. 142 – This request shall require defendants to produce their “glossy brochures” (i.e. annual report to shareholders), and shall be limited to the time period Answering Defendant sold or manufactured metaclopramide.

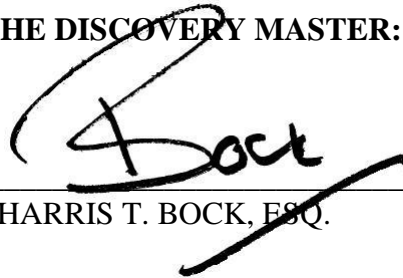
ff. No. 145 – The Discovery Master determines that this request shall be stricken. If plaintiffs so choose, they may submit a brief to the Discovery Master prior to the next conference supporting their position as to why the Discovery Master should reconsider his preliminary ruling.

gg. No. 146 – This request shall be limited to the period of time from when the NDA was filed to the present.

12. The Discovery Master and his deputy have worked diligently to craft this Order to accurately reflect what was addressed, what was agreed upon, and what was ordered. However, because of the absence of a stenographic record, it is recognized that errors and omissions may exist. If this is the case, the Discovery Master encourages counsel to advise him accordingly.
13. 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 May 7, 2010 conference, along with any supporting materials for the Discovery Master to review prior to the conference.
14. As stated at the April 21, 2010 Discovery Master conference, counsel are

reminded that all Discovery Master Orders are subject to reconsideration by the Court upon request of counsel. If any party is desirous of requesting such reconsideration, the party shall do so upon filing such request with the Discovery Master within five (5) days of the entry of the Discovery Master Order. Upon submission of any such request, the Discovery Master will specify the protocol to be followed.

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.