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JAN 5 2016

NELSON C. JOHNSON, J.S.C.

IN RE: BENICAR
(Olmesartan Medoxomil)

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: ATLANTIC COUNTY

CASE NO: 299

CIVIL ACTION

**CASE MANAGEMENT
ORDER NO. 4**

THIS MATTER, having come before the Court in the November 30, 2015 Telephonic Case Management Conference, and the parties having agreed to the form of this order,

IT IS on this 5th day of January, 2016 **ORDERED** as follows:

A. PLAINTIFF FACT SHEETS

1. Plaintiffs shall be required to serve a completed Plaintiff Fact Sheet ("PFS") in all cases, regardless of whether previous responses to Defendants' written discovery demands had been served, within ninety (90) days of this order or ninety (90) days following service of each plaintiff's complaint, whichever date is later;

2. This Order supersedes in their entirety Paragraphs B and C of Case Management Order No. 2, dated August 7, 2015.

B. DEFENSE FACT SHEETS

1. Each served Defendant shall submit a Defense Fact Sheet ("DFS") in the form attached as Exhibit A within 60 days of the date the Defendants receive a substantially completed and verified PFS from a Plaintiff, or within 21 days of the date of this Order, whichever date is later. Defendants will not be required to serve a DFS in any case until Plaintiff supplies a

substantially complete PFS, which must provide all the Information requested in Section I of the PFS, including copies of prescription and/or pharmacy records demonstrating use of an Olmesartan product (Benicar®, Benicar HCT®, Azor®, or Tribenzor®) as well as medical records and/or a certification under oath demonstrating that he or she sustained “serious gastrointestinal injury, including sprue-like enteropathy, lymphocytic colitis, microscopic colitis, and collagenous colitis.” If plaintiff does not presently have contemporaneous medical records demonstrating “serious gastrointestinal injury, including sprue-like enteropathy, lymphocytic colitis, microscopic colitis, and collagenous colitis,” then a certification under oath describing same shall be permitted.

3. A true and correct copy of this order shall be served on all parties within seven (7) days of the date hereof.



Nelson C. Johnson, J.S.C.

EXHIBIT A

IN RE: BENICAR (Olmesartan Medoxomil)	: SUPERIOR COURT OF NEW JERSEY : LAW DIVISION: ATLANTIC COUNTY : : CASE NO: 299 : : CIVIL ACTION : : DEFENDANTS' FACT SHEET : : Plaintiff: _____ : Name of Plaintiff : : Individual Case Docket No. _____
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For each case, each served Defendant must complete this Defendant Fact Sheet (DFS). Each response must either provide the substantive information requested (and documents, as applicable).

In accordance with Case Management Order No. 4, within 60 days of the date of this Order, or within 60 days of receiving a substantially completed and verified Plaintiff Fact Sheet ("PFS"), whichever date is later, Defendants must complete and serve this DFS on each Plaintiff's counsel identified in the PFS. Defendants will not be required to serve a DFS on each Plaintiff's counsel until Plaintiff supplies a substantially complete PFS, which must provide all of the information requested in Section I of the PFS, including copies of prescription and/or pharmacy records demonstrating use of an Olmesartan product (Benicar®, Benicar HCT®, Azor®, or Tribenzor®) as well as medical records and/or a certification under oath demonstrating that he or she sustained "serious gastrointestinal injury, including sprue-like enteropathy, lymphocytic colitis, microscopic colitis, and collagenous colitis." If plaintiff does not presently have contemporaneous medical records demonstrating "serious gastrointestinal injury, including sprue-like enteropathy, lymphocytic colitis, microscopic colitis, and collagenous colitis," then a certification under oath describing same shall be permitted.

I. CASE INFORMATION

This defendant fact sheet pertains to the following case:

Case Name and Docket Number:

II. CONTACTS WITH PRESCRIBING PHYSICIAN(S)

A. Prescribing Physician

1. Please indicate if the Prescribing Physician(s) identified in Section I (C) of the PFS has/have contacted the company through the call or contact centers within the five years before Plaintiff's first prescription for Benicar®, Benicar HCT®, Azor®, or Tribenzor®, through the time Plaintiff stopped using any of the products, by identifying the name and address of the prescribing physician, the date of the contact, the name and address of the recipient, nature of contact, and whether a response was sent.

Prescribing Physician: _____

Date of Contact: _____

Recipient Name and Address: _____

Nature of Contact: _____

Response Sent: Yes No.

B. Consulting Relationships

1. If Plaintiff's Prescribing Physician(s) identified in Section I (C) of the PFS has/have been retained and/or compensated by Defendants as a speaker or consultant relating to any Daiichi or Forest products, please identify whether the Prescribing Physician(s) was/were retained or compensated and the nature of the affiliation.

Prescribing Physician: _____

Compensation: _____

Nature of Affiliation: _____

C. Other Contacts

1. For the Prescribing Physician(s) identified in Section I (C) of the PFS, please identify by name any of the Defendants' Detail Representatives ("Representative") who called on the Prescribing Healthcare Provider(s) in the five years before Plaintiff's first prescription for Benicar®, Benicar HCT®, Azor®, or Tribenzor®, through the time Plaintiff stopped using any

of the products, and attach the call notes that related in any way to Benicar®, Benicar HCT®, Azor®, or Tribenzor®.

Prescribing Physician: _____

Detail Representative: _____

Company Name: _____

Current or Former Employee: _____

2. For the five-year time period before Plaintiff's first prescription for Benicar®, Benicar HCT®, Azor®, or Tribenzor® through the time Plaintiff stopped using any of the products, have Defendants or their representatives provided any Olmesartan product samples to Plaintiff's Prescribing Physician(s) identified in Section I (C) of the PFS?

To be answered only if Plaintiff answers in the affirmative to Section I of the PFS.

Yes _____ No _____ Not Applicable _____

- a. If the answer is "Yes," for the Prescribing Physician(s) identified in Section I (C) of the PFS who received the samples, state: the dates on which such samples were provided; the amount, and dosage of such samples; and the name of the Representative(s) who provided the samples.

Prescribing Physician: _____

Dates Samples Provided: _____

Product, Amount and Dosage: _____

Detail Representative: _____

III. INFORMATION REGARDING THE PLAINTIFF

- A. Have you been contacted through the call or contact centers by Plaintiff, or anyone acting on behalf of Plaintiff (other than Plaintiff's counsel)?

Yes _____ No _____ Don't Know _____

1. If yes, please state the name of the person(s) who contacted you and the name and address of the person(s) who responded to the contact on your behalf, and produce any documents relating to the contact or response.

- B. Please produce a copy of any MedWatch form which relates to the Plaintiff. Any MedWatch form produced shall be redacted as necessary per federal law.
- C. If you contend that any person, entity, medical condition, food, medication, or product, other than the Defendants and the Olmesartan Product(s) is a cause of the plaintiff's injuries ("Alternate Cause") (to be provided with Defendants' expert reports):
1. Identify the Alternate Cause with specificity.
 2. Set forth the date(s) and mechanism of alternate causation.

DEFENDANT'S CERTIFICATION

I am employed by _____, one of the Defendants in this litigation. I am authorized by _____ [names of other Defendants] to execute this certification on each corporation's behalf. I hereby certify that the information provided in the accompanying Response to Defendants' Fact Sheet is not within my personal knowledge, but the facts stated therein have been assembled by authorized employees and counsel, upon which I relied. I hereby certify, in my authorized capacity, that the responses to the aforementioned Defendants' Fact Sheet are true and complete to the best of my knowledge on information and belief.

Name:

Date: _____



SUPERIOR COURT OF NEW JERSEY

Nelson C. Johnson, J.S.C.

Civil Division
1201 Bacharach Boulevard
Atlantic City, New Jersey 08401
Telephone: (609) 594-3384
Facsimile: (609) 343-2214

January 5, 2016

TO ALL COUNSEL

Re: In Re: Benicar (Olmesartan Madoxomil)
Case No. 299

Dear Counsel:

I am in receipt of Mr. Carroll's letter of December 29, 2015 and Ms. Kessler's reply letter of December 30, 2015, regarding the competing language for paragraph "B. 1" of Case Management Order No. 4.

As best I can discern, the only difference in the language is the phrase "or within 60 days of the date of this Order, whichever is later." Defendant urges the inclusion of said language; the Plaintiff urges its exclusion. Though I appreciate "the importance of avoiding further delay," I also understand the potential for a DFS to "become[s] instantly due."

While I do not know the work effort or intricacies involved in providing a fully responsive DFS, my examination of the form of DFS – and the limited information sought – makes me confident that if defense counsel and their clients work efficiently, they can complete the necessary DFSs within less than 60 days. That said, I believe it would be unreasonable to expect Defendants to *immediately* produce a DFS for any PFS submitted prior to the entry of my Order, or risk being tardy in producing discovery.

You will find accompanying this correspondence an executed/filed Case Management Order No. 4 which modifies the language for paragraph "B. 1" to provide for 21 days in lieu of 60 days.

I trust this modified language resolves this issue. As per counsels' request for a conference call, as contained in the emails of December 30, 2015, if either of you believe a discussion with the Court is still necessary, I am available.

Sincerely,

A handwritten signature in black ink, appearing to read "Nelson C. Johnson".

NELSON C. JOHNSON, J.S.C.
NCJ/sam
Enclosure