

**FILED**  
DEC 13 2018

IN RE ABILIFY

:  
: **JOHN C. PORTO, J.S.C.**  
: SUPERIOR COURT OF NEW JERSEY  
: LAW DIVISION: ATLANTIC COUNTY  
: CASE TYPE: MCL NO. 626  
:  
: MASTER DOCKET NO. ATL-L-1098-18  
:  
: Hon. John C. Porto, J.S.C.  
:  
: Civil Action  
:  
: **IN RE ABILIFY**  
:  
:  
:  
:  
:

**[PROPOSED] CASE MANAGEMENT ORDER NO. 1**

**THIS MATTER** having come before the Court for centralized management by the Superior Court in Atlantic County by Order of the Supreme Court of New Jersey, dated May 7, 2018; and the Court having held the First Case Management Conference on November 2, 2018; and appearing that an equitable, economic and expedient resolution of these cases require an orderly management plan for this litigation; and the parties having met and conferred; and for good cause shown:

IT IS on the 13<sup>th</sup> day of December, 2018,

**ORDERED** as follows:

**GENERAL APPLICABILITY**

1. This Order applies to all cases previously filed and all those hereinafter filed or transferred to Atlantic County pursuant to the Supreme Court Order of May 7, 2018. The cases are centralized to avoid duplication and to prevent conflicts. Each case will retain its own docket number.
2. All orders by transferor Courts imposing dates for pleading or discovery are hereby vacated. However, all prior Orders entered in the previously consolidated litigation in

Bergen County not specifically imposing dates remain in force and effect, except to the extent that they are inconsistent with this Order.

3. Orders and notices common to the entire litigation are available on the Judiciary web page for Multicounty Litigation, which may be accessed at [www.njcourts.gov](http://www.njcourts.gov).

4. This court shall use its best efforts to coordinate with the Multi-District litigation-venued in the United States District Court for the Northern District of Florida, Pensacola Division, now pending before the Hon. M. Casey Rodgers, U.S.D.J., MDL No. 2723.

5. The Parties shall utilize their best efforts to coordinate all proceedings/discovery with other jurisdictions and federal courts to avoid unnecessary conflicting obligations and duplicative productions.

#### **CAPTIONS, PLEADINGS, & SERVICE**

1. All parties are to submit their pleadings via uploading the same onto “e-Courts,” with their captions noting that said Complaints are filed with the Superior Court, Law Division, in Atlantic County. All of the Court’s Orders and notices will likewise be posted on e-Courts, unless otherwise noted by the Judge presiding over this MCL. All proceedings will be conducted in the Atlantic County Civil Courthouse at 1201 Bacharach Boulevard, Atlantic City, New Jersey. The Case Information Statement accompanying the pleadings shall identify the matter as Case Type 626.

2. Each complaint is limited to one plaintiff or a related household of plaintiffs. No plaintiff may use the same caption on individual complaints. If a complaint has been filed with multiple unrelated plaintiffs, new individual complaints must be filed within thirty (30) days, and upon request, the Court will sign an Order preserving the original date of filing.

3. All pleadings, all motion papers, all correspondence shall add the title "In re Abilify," Case Type No. 626.
4. Atlantic County shall maintain a master docket and case file caption "In re Abilify." All Case Management Orders, Scheduling Orders and other documents filed therein are deemed filed and docketed in each individual case.
5. Individual case specific pleadings shall not be filed in the master docket.
6. Plaintiffs' Liaison Counsel shall file the Master Long Form and Master Short Form Complaint by December 15, 2018.

#### **ATTORNEYS**

1. Counsel are expected to act in a courteous, professional manner at all times during the conduct of this litigation. Each attorney should make a good faith effort to resolve disputes out of Court and in an expeditious manner. Counsel shall attempt to resolve motions before any matter is submitted to the Court and must certify to that attempt at the time of filing any motion.
2. Counsel for defendant(s) shall provide to the Court an official service list updated every 60 days. The list must contain the case names, docket numbers and the date. For each party, counsel must be identified by name, firm name, address, telephone number, fax number, and e-mail address. From these lists, the Court will maintain on the Multicounty Litigation website an official counsel list for purposes of facilitating service.
3. Counsel lists are *not to be appended* to any Court submission. The counsel list shall be incorporated by reference on all certificates of service, all pleadings, all motions, all correspondence. The reference should be to all counsel on the list and identify by the date the last official service list for the cases.

4. Multiple Counsel: Where a party is represented by more than one counsel of record, that party shall designate the name and address of the single counsel to be the recipient of all notices, communications and pleadings. The designated counsel will be responsible for notifying co-counsel of all such matters.

5. *Pro Hac Vice* Admissions:

- a) An attorney seeking to appear *pro hac vice* shall apply by formal notice of motion with supporting affidavit and proposed form of order, in compliance with Rule 1:21-2 of the Rules Governing the Courts of New Jersey.
- b) *Pro hac vice* counsel may try the case but is not to be designated trial counsel. No proceeding shall be adjourned because *pro hac vice* counsel is not available.
- c) All pleadings, motions and correspondence to the Court must be submitted by New Jersey counsel.
- d) Out-of-state attorneys representing plaintiffs must certify that all retainer agreements with clients in the subject litigation do not, and in the future will not, violate any of the contingency fee provisions found in the Rules Governing the Courts of New Jersey for the current year.
- e) All out-of-state attorneys seeking admission to represent a corporate defendant must certify as to his or her prior involvement with that corporation or its related entities, including the capacity in which he or she was involved. Further, the attorney must include in the affidavit a statement of his or her good faith belief that he or she was not involved with the policy of management decisions which would require him or her to be called as a witness in any matter for the Court.

- f) Counsel admitted *pro hac vice* are required to make annual payment to the Ethics Financial Committee and to the New Jersey Lawyers Fund for Client Protection.

### **LIAISON COUNSEL**

1. There are matters common among all Plaintiffs and all Defendants that require the coordinated efforts of counsel, including discovery, communications with the Court, and motion practice, and the appointment of liaison counsel would aid in these efforts. Plaintiffs' liaison counsel shall (1) serve as the primary contact for communication between the Court and other Plaintiffs' counsel; (2) ensure that all notices, orders and material communications are properly distributed (to the extent they are not otherwise served on Plaintiffs' counsel); (3) convene meetings of counsel as determined to be necessary; and (4) otherwise assist in the coordination of activities and positions of plaintiffs in this litigation. Defendants' liaison counsel shall serve the same function with respect to all defendants in this litigation.
2. Rayna Kessler and Gary Wilson of Robins Kaplan LLP are hereby appointed as Co-Plaintiffs' Liaison Counsel.
3. Anand Agneshwar of Arnold Porter LLP is hereby appointed as Defense Liaison Counsel for the BMS Defendants.
4. Luke Connelly of Winston Strawn LLP is hereby appointed as Defense Liaison Counsel for the Otsuka Defendants.
5. Counsel shall copy liaison counsel and all adversaries on all Court filings, e-mails and other electronic correspondence submitted to the court.
6. The Court may, from time to time, conduct phone conferences with liaison counsel.

### **CONFERENCE PROCEDURES**

1. The Court will conduct, and the parties may request, periodic status and scheduling conferences to assess the progress regarding the matters scheduled herein. Reasonable notice of all such conferences will be provided to all counsel of record.
2. Transcripts: The official record for all case management conferences or parts thereof shall be CourtSmart. The parties may retain an official court reporter as a supplement to the official record. In any proceeding in which a transcript is ordered, counsel shall ensure that one copy of the transcript is also sent to the Court.
3. Appearances: The date of a case management conference established by Court order is a firm date, not readily adjourned except upon exceptional circumstances. Counsel appearing at each case management conference must sign an attendance sheet, be familiar with the issues to be discussed and shall not schedule other matters for the date of the conference.
4. Compliance: All counsel are required to comply with the provisions of each case management order whether or not he or she was in attendance at the conference giving rise to the Order.

### **MOTIONS**

1. Filing requirements: All motions are to be filed with e-Courts, directed to the attention of the Multicounty Litigation Team, Superior Court of New Jersey, Atlantic County Courthouse, 1201 Bacharach Boulevard, Atlantic City, New Jersey 08401. All motion papers must include a return date scheduled for a regular motion Friday.
2. Courtesy copies of the motions pleadings for the Judge are generally not required. Counsel shall contact the Judge's Law Clerk to inquire whether or not the Judge may wish to receive a courtesy copy. Effective September 4, 2018, the Honorable John C. Porto, J.S.C., shall be responsible for managing this MCL.

3. Any motion that is applicable to all cases shall be filed in one omnibus motion using the master docket number assigned to the caption "In re Abilify." In the event any motion, including *pro hac vice* motions, involve more than one individual case but not all cases, an omnibus motion and omnibus Order, shall be filed with a Schedule A attached listing the individual cases and docket numbers involved in the omnibus motion.
4. Any motion that is applicable to more than one party in a case shall be jointly filed by counsel.
5. Where the motion applies to more than one case, motion fees will be charged for each case, but if the motion is related to all cases filed under the master docket number, the court will charge for one motion.
6. Copies: When filing "hard copies" when/if so directed by the Court (see Paragraph 2 above) Counsel shall file no more than one original copy of each Notice of Motion, supporting documents and proposed Order, with a self-addressed stamped envelope for the return of the signed Order. One additional copy of these papers may be supplied if a request is made for a return of that copy marked "filed", along with a self-addressed stamped envelope.
7. Captions: Captions on motions are the same as on pleadings and require the docket number and the designation "In Re Abilify."
8. An on-the-record telephonic conference or case management conference with the Court is required prior to the filing of any motion related to discovery issues.
9. No motions for Summary Judgment shall be filed prior to the completion of discovery, except as permitted by the Court.

10. All motions *in limine*, or motions for a *Kemp/Rubanick, Daubert* type, or *Lopez* hearing shall be scheduled by the Court during pre-trial management conferences or as otherwise directed by the Court.

11. Oral Argument: No oral argument shall be heard for discovery motions unless granted by the Court in response to the request of a party.

**NEXT CASE MANAGEMENT CONFERENCE**

1. The next Case Management Conference is scheduled for January 17, 2019 at 1:30 p.m. The parties shall submit a joint agenda to the Court listing the issues for the case management conference, via e-mail, by January 11, 2019. Counsel for Plaintiffs shall circulate a dial-in to all counsel of record and the Court prior to the conference.

2. The following Case Management Conferences are also hereby scheduled and ordered as follows:

February 14, 2019 at 9:30 a.m.

March 7, 2019 at 1:30 p.m.

April 10, 2019 at 1:30 p.m.

May 14, 2019 at 1:30 p.m.

June 13, 2019 at 1:30 p.m.

  
Hon. John C. Porto, J.S.C.