

In Re: Singulair ® Litigation

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: ATLANTIC COUNTY

MCL 637

MASTER DOCKET NO. ATL-L-481-22

**CASE MANAGEMENT ORDER #8  
DEFENDANTS' CUSTODIAL WITNESS  
DISCOVERY PROTOCOL**

THIS MATTER, having come before the Court with the consent of all Counsel, and for good cause having been shown:

IT IS on this 26<sup>th</sup> day of July, 2023, ORDERED as follows:

**1. GENERAL**

- a. This Order will apply to any currently pending and any future cases filed in the New Jersey MCL 637, In Re: Singulair® Litigation (hereinafter "MCL 637").
- b. Plaintiffs are defined as all plaintiffs who have filed claims in MCL 637, either pending at the time of the entry of this Order or in the future while MCL 637 is an active pending litigation.
- c. Defendants are defined as MERCK & CO., INC.; MERCK SHARP & DOHME LLC<sup>1</sup>; ORGANON & CO.; and ORGANON LLC.
- d. The Parties are defined as Defendants and Plaintiffs, collectively.

---

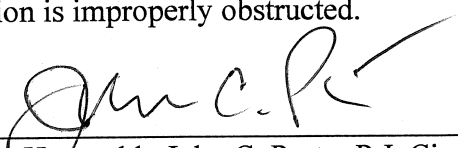
<sup>1</sup> One of the named defendants in cases filed in MCL 637 is "Merck Sharp & Dohme Corp." Merck Sharp & Dohme Corp. recently changed its name to "Merck Sharp & Dohme LLC." This CMO applies equally to all currently pending and any future cases in MCL 638 in which either "Merck Sharp & Dohme Corp." or "Merck Sharp & Dohme LLC" are named defendants.

## 2. REQUEST FOR PRODUCTION OF DOCUMENTS

- a. Plaintiffs' Second Request for Production of Documents served on Defendants in *Bueno, et al. v. Merck & Co., Inc., et al.*, No. 3:22-cv-00522-H-BLM (S.D. Cal.) are deemed to be served in MCL 637. Defendants' Objections and Responses to Plaintiffs' Second Request for Production of Documents in *Bueno, et al. v. Merck & Co., Inc., et al.*, No. 3:22-cv-00522-H-BLM (S.D. Cal.) are deemed served in MCL 637.
- b. The search terms to be used to cull documents collected from custodial files for further production review shall be limited to those agreed to by the parties as memorialized in the email exchange between counsel for Plaintiffs, Kimberly L. Beck, and counsel for Defendants, Michaela F. Roberts, on July 21, 2023. (hereinafter "The Search Terms").
- c. The Search Terms shall be applied to the custodial files of Dr. Margaret ("Peggy") McCann, Ms. Eleftheria Tsatsos and Dr. George Philip (hereinafter "Three Initial Custodians"), and Defendants shall review those documents returned for responsiveness and related production reviews, and produce responsive, non-privileged documents contained therein.
- d. After December 1, 2023, the Parties will agree upon the specific identification of up to seven (7) additional custodians (hereinafter "Additional Custodians") for custodial file document production subject to The Search Terms.
- e. Defendants are not obligated to produce any additional custodial files other than for the Three Initial Custodians prior to December 1, 2023.
- f. Nothing in CMO #8 prevents Defendants from producing custodial files for the Three Initial Custodians or Additional Custodians on a rolling basis.

### 3. DEPOSITIONS OF DEFENDANTS' CUSTODIANS

- a. The Three Initial Custodians or Additional Custodians who may be deposed will have their depositions cross-noticed in all litigation pending in federal court in California, federal court in Massachusetts and any future jurisdictions where current counsel of record in MCL 637 files suit alleging products liability/personal injury/wrongful death claims alleging injury due to ingestion of Singulair® and/or generic montelukast (hereinafter “the Singulair® Litigation”).
- b. The Three Initial Custodians or any Additional Custodian(s) who may be deposed in MCL 637 or crossed noticed in MCL 637 will be deposed only once in the Singulair® Litigation. No employee, agent, representative, or designee of any Defendant other than the Three Initial Custodians, any Additional Custodian(s) identified, or any sales/pharmaceutical representative(s) in connection with an individual case subject to case-specific work-up, may be deposed absent a showing of good cause.
- c. The depositions of the Three Initial Custodians and any Additional Custodian(s) identified shall be limited to eleven (11) hours of testimony in total, exclusive of breaks. Plaintiffs reserve the right to seek extension of those limitations by a court of competent jurisdiction if their examination is improperly obstructed.

  
\_\_\_\_\_  
The Honorable John C. Porto, P.J. Civ.