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1 (The following was heard in open court at 2:29
2 p.m.)

3 THE COURT: Good afternoon, everyone. Please
4 be seated.

5 ALL: Good afternoon, Your Honor.

6 THE COURT: Thank you.

7 We have some ground to cover today, and I have
8 received a joint proposed agenda. Thank you very much,
9 and I would like to follow it pretty much. I don't see
10 a reason to not go in the same order that counsel has
11 addressed this Court. So I will ask the parties to
12 please address, number one, status overview and case
13 filings.

14 MS. NAST: Yes, Your Honor.

15 Before we begin, I wanted to mention that one
16 of our PSC members, Stephanie O'Connor, over the weekend
17 injured two of her discs, and so she didn't really have
18 time to seek permission to be absent, but I said I would
19 do it for her.

20 THE COURT: I think that that's a very valid
21 reason, so I hope she --

22 MS. NAST: She wanted to know if she needed a
23 doctor's note. I said I didn't think so.

24 THE COURT: I hope she does not.

25 MS. NAST: Yes. So, okay, we're moving right

1 along. We have over 600 cases on file in front of Your
2 Honor, and you know that you're moving. You've issued
3 over 60 orders I think at last count. And our Special
4 Master has issued ten R&Rs. We've had quite a few
5 sessions with the Special Master, both by telephone and
6 in person and also with Your Honor since the last large
7 conference.

8 And we have a few issues to bring to the
9 Court's attention today which we'll do at the
10 appropriate sections of the agenda. Did you want any --

11 MR. CHEFFO: I'm good for now, Dianne. Thank
12 you, Your Honor.

13 MS. NAST: Okay. So that takes care of number
14 one, and Mr. Alystock, where did he disappear to? There
15 we go.

16 MR. ALYSTOCK: Good morning --

17 THE COURT: Good afternoon.

18 MR. ALYSTOCK: -- or good afternoon, Your
19 Honor.

20 Hopefully Your Honor has received the Multi-
21 District Coordinator Report Number 10, and as Ms. Nast
22 indicated, there are about 617 cases here before Your
23 Honor that represents the vast majority of -- of Zoloft
24 cases pending nationwide and certainly far more than any
25 other State Courts.

1 There are -- I won't go through every single
2 State because in a lot of them, there's just one case,
3 and it hasn't really moved unless the Court would like
4 me to. But there are three jurisdictions in particular
5 that have -- had some meaningful activity since the last
6 report. Those are California, Missouri and
7 Pennsylvania. Your Honor's certainly aware of your
8 orders in remanding cases in Missouri and Pennsylvania
9 back to those State Courts.

10 In -- but I'll start with California because
11 there was a recent hearing before Judge Kim Dunning.
12 She is the Judge appointed by the JCCP there to now
13 oversee all of the California Zolof cases. Currently,
14 there's 12 in front of her and probably another ten or
15 so on its way, or maybe I got those reversed, maybe ten
16 in front of her and 12 coming. But eventually there
17 will be -- there's 22 plaintiff families now pending in
18 California State Court. I'm sure there will be some
19 more filed.

20 And there was a recent hearing and there was a
21 proposed PSC and some of our -- my distinguished
22 colleagues are proposed to be on that PSC, Mr. Zonies,
23 Mr. Tracey and Mr. Robinson. And so I've had an
24 opportunity to speak with those individuals and
25 certainly there will be full coordination, having worked

1 with all of them for a long time with that.

2 There is another scheduling order, I think --
3 or some scheduling activity that Judge Dunning will
4 handle, but there's no trials or anything set in
5 California at this point.

6 THE COURT: Has there been any discovery yet
7 in California?

8 MR. ALYSTOCK: Not -- nothing yet. It's just
9 really getting off the ground. So certainly we're way
10 -- we're leaps and bounds ahead of California at this
11 point, but I know, you know, they're going to seek
12 discovery and so forth and represent those folks in that
13 Court.

14 The other Court where there's a lot of
15 activity right now is the Missouri Court, and that's the
16 Foster case. Your Honor did remand the Morgan case,
17 which had a significant number of plaintiff families,
18 25, and that order was issued June 2nd. But the Foster
19 case, as Your Honor is aware, has been progressing
20 toward trial.

21 The trial is after the trial in this Court,
22 and there has been some scheduling discussions in that,
23 and the plaintiffs' counsel, Mr. Tracey, has requested
24 that some of the expert disclosure deadlines kind of
25 readjust now that Your Honor has moved the trial here,

1 so that we can kind of keep them in line, not -- not in
2 front of, but a little bit behind, so that everything
3 can get done. And I'm not sure where that stands. I
4 think at this point there's some -- there may be some
5 resistance to that. And there's a hearing -- upcoming
6 status conference on June 30th in that case.

7 And then finally the other jurisdiction with a
8 significant amount of activity is Pennsylvania. Your
9 Honor's aware of the -- your recent order involving six
10 cases issued May 29th remanding cases back to the Court
11 of Common Pleas in Philadelphia. The other case, the
12 Robinson case, is in front of Judge Rau and that
13 proposed trial date remains February 2nd, 2015.

14 THE COURT: On that one, I'm not certain, but
15 I do believe that Judge Rau will continue to coordinate
16 all of the Zolof cases in Philadelphia County. I don't
17 know if that means that she would be trying them. She's
18 a team leader. But I think they will be coordinated.

19 And there are two other Judges, State Judges,
20 that had requested the transcripts of the Zolof Daubert
21 hearings. We provided them as a courtesy an unofficial
22 copy and further advised them that they were not allowed
23 to be disseminated except to the Judges and the judicial
24 staff as they were not achieved through Pacer and the
25 appropriate way to make them properly admissible in any

1 proceeding.

2 But each of those Judges did wish to thank
3 this Court for helping them to try to get ready. I
4 don't know how I would like to get ready by reading
5 those Daubert transcripts without being in Court, and I
6 gave them my best wishes, but I think that they are very
7 receptive to coordination in that regard. So we -- we
8 did also suggest that they contact counsel involved in
9 their cases to tell them that they had requested and
10 were going to review these transcripts. I thought that
11 was appropriate but I didn't know who they were and it
12 wasn't my -- my place to do that, and they said they
13 would.

14 So -- so you all know that the hard work that
15 you performed and presented in this courtroom is
16 probably more important than just this courtroom,
17 although that's going to be important enough. We're
18 working on those opinions right now, and we are trying
19 to finalize them.

20 It brings home the point that in any suggested
21 agendas, scheduling agendas, it is always difficult to
22 have a hearing, science hearings in particular, and then
23 schedule within three to four weeks a trial or another
24 set of deadlines. Some things are not decisions that
25 can be made on the bench. They require much more

1 consideration than that, and so we are working very
2 hard, and that's all I can say.

3 And as you can see with all the other orders
4 we've been entering in not just this MDL but two others,
5 we are really determined to keep all of them moving, all
6 of the issues get resolved one way or another. But we
7 hope we're helping counsel to move their cases forward
8 no matter what position you are on, and that's -- that's
9 what we can do. We're spending most of our time on MDL
10 23.

11 MR. ALYSTOCK: I'm sure you are, Your Honor.

12 THE COURT: But this is a very thorough report
13 and thank you very much, Mr. Alystock. It will be filed
14 as we always file them into the official docket.

15 MR. ALYSTOCK: Thank you, Your Honor.

16 THE COURT: Thank you.

17 MR. CHEFFO: As you know, Your Honor, we do --
18 we do work jointly on those reports --

19 THE COURT: I do know that, Mr. Cheffo.

20 MR. CHEFFO: -- so I -- and I was just going
21 to say -- so I'm not going to add anything else other
22 than -- because Brian was good enough to share that, and
23 we have an opportunity to put anything in there.

24 I would just say, West Virginia, there is a
25 status conference coming up there with the Mass

1 Litigation Panel, Your Honor. I know that was one of
2 the Courts that you sent --

3 THE COURT: That's right.

4 MR. CHEFFO: -- some of the materials as well,
5 so we will report after that. And, of course, I'm
6 encouraged to hear that there is coordination
7 anticipated in the various Courts.

8 You know, frankly, we were a little surprised
9 to see a ten-member PSC being proposed in California
10 with at the time 12 cases with several of the PSC
11 members here primarily because we had understood that
12 the plaintiffs had indicated that they were going to
13 filing all their cases in the MDL, but I suppose, you
14 know, that has -- that has changed to some extent. So I
15 guess we'll work with them in coordinating there.

16 But other than that, I think we have nothing
17 else, Your Honor.

18 THE COURT: I share your observations, and yet
19 I don't question a Court -- a State Court's ability to
20 coordinate in their own way. Given certain remands that
21 had been granted, motions that were pending, I think
22 those Courts need to prepare, where that goes, I don't
23 know.

24 I remember that there was an early gentlemen/
25 gentlewomen's agreement that our PSC members would be

1 concentrating in this MDL. I don't think that means
2 that if there's a State case, they want to be no part of
3 it. So I'm anxious to see what happens.

4 MR. CHEFFO: Thank you, Your Honor.

5 THE COURT: Thank you. Ms. Nast.

6 MS. NAST: Your Honor, moving to point three,
7 we filed jointly, plaintiffs and defendants, filed a
8 joint motion to amend the various scheduling orders and
9 also a proposed pretrial order. If I may, we -- after
10 we filed it, we agreed to change one more date, so I'd
11 like to hand up copies with that one corrected date in
12 it, please.

13 THE COURT: Very well. Okay.

14 (Pause in proceedings.)

15 THE COURT: On the second page, the generic
16 and case specific expert deadline?

17 MS. NAST: We changed it -- well, if I may
18 walk through it just a little bit just because we -- it
19 actually imposes some early duties on the Court, and we
20 say that with all modesty. You may decide not to accept
21 the proposed duties.

22 The first date is this week in which counsel
23 on both sides will designate three cases from the
24 discovery pool to be trial pool cases. And then within
25 several days we submit to you a description of those

1 three cases, so that Your Honor can choose the cases
2 that are going to go to trial. And we need to ask you
3 to do that very quickly because you'll see the next date
4 provides that our expert reports for those cases are due
5 on August 11th. So that's what we need you to do as
6 quickly as can be --

7 THE COURT: All right.

8 MS. NAST: -- is to choose the cases.

9 And then the other thing we'll need a decision
10 on, the only open issue on the trial picks other than
11 which cases are going to be picked are how many the
12 Court would like us to prepare for trial. We've
13 discussed two per side, we've discussed three per side,
14 we've discussed one per side. It's your -- obviously,
15 your call. So we would need to know that, too, so that
16 we can get the appropriate experts in the cases.

17 And then you'll see the next day is Pfizer's
18 responsibility, and then there's a period of time in
19 there for depositions of these experts, and the one date
20 that was changed right after the generic and case
21 specific expert discovery shall be completed, the next
22 -- the date after that, Daubert motions and dispositive
23 motions -- no, I'm sorry. It's the generic and case
24 specific. You were right when you said that the first
25 time. That was changed from October 1st to October 27

1 to allow the appropriate period of time for the
2 depositions to be taken.

3 THE COURT: All right. That makes sense.

4 MS. NAST: Then there's a period of time for
5 filing various motions and for designating testimony and
6 documents that we're going to use, filing motions in
7 limine. These are very, very tight deadlines, but we
8 think that, you know, they're realistic in order to make
9 the trial date in January.

10 The Daubert hearing on these expert reports
11 that we're filing and the dispositive motions, we've
12 asked you to set that date, and it's -- you know,
13 December's a difficult month for anything, but that's
14 likely, I guess when it looks like it's going to have to
15 be held, some time in December, for a trial that starts
16 in the beginning of January.

17 We have also picked a date, frankly, kind of
18 out of thin air, December 16 and December 17. December
19 16 is the oral argument, the proposed oral argument on
20 the motions in limine, and then December 17th, the
21 following day, is the final pretrial conference. Now,
22 we fully recognize those dates might have to be adjusted
23 depending on the Court's calendar.

24 THE COURT: But close thereto you would
25 suggest?

1 MS. NAST: Yes. We've put them back to back
2 for obvious reasons, that everybody's in town, you know,
3 at the same time, so it -- it seemed to make sense. But
4 they -- you might want to move them up or do something
5 with them, but we're getting, you know, so close to the
6 holidays.

7 Then after the holidays, we propose to have
8 the jury impaneled on -- or have the jury come in on
9 January 5, and we'll do the jury questionnaires, and the
10 other things that need to be done in connection with the
11 -- that part of it. The next day we make the jury
12 selections which gives counsel the evening before to
13 review the jury questionnaires. And then the trial
14 would start on January 7 which is a Wednesday.

15 Again, you might feel that, you know, we need
16 to adjust those dates a little bit, but we talked it
17 through quite a bit on each side, and it just seemed to
18 flow okay.

19 THE COURT: I think it does, and this is an
20 agreed schedule.

21 MS. NAST: Yes.

22 THE COURT: I think it makes very good sense
23 in that you would do it that way. Jury questionnaires
24 should be distributed ahead of time, and selection
25 should take about an entire day for two or three trials.

1 MS. NAST: And then the testimony begins.
2 There's a Martin Luther King holiday in there, but as
3 Your Honor is aware, we've agreed -- each side has
4 agreed to be limited to a certain number of hours, so we
5 feel pretty confident that with that time limitation
6 agreement, we'll be able to finish the trial by the end
7 of January.

8 Obviously, we did not file the briefs since
9 this was an agreed upon proposed order. So we will
10 have, by the beginning of next week, to you the list of
11 cases that we have selected from the discovery pool, and
12 the defendants have the same obligation.

13 Do you have any questions on the amended
14 schedule?

15 THE COURT: I do not.

16 MS. NAST: Okay.

17 THE COURT: I don't think it's unreasonable.
18 I know it gives counsel as little time as in places it
19 gives the Court. But where there are problems, they
20 will come up as they do naturally.

21 MS. NAST: Right.

22 THE COURT: I don't think they're evident from
23 this schedule, so I'm happy to approve a schedule that,
24 number one, is agreed to by both sides. But we've done
25 that before, and things do present themselves that cause

1 a delay or a change. We have to be open to that. But I
2 don't have a problem with the deadlines that you're
3 putting here even when you're suggesting that the Court
4 needs to hurry up in the beginning and then hurry up
5 every time there's a decision to be made. I get that.

6 MS. NAST: I said to somebody the other day on
7 a conference call that the way the schedule is laid out,
8 it will give us all material to write how I spent my
9 Christmas vacation.

10 THE COURT: And your summer.

11 MS. NAST: Yes, and our summer. Mr. Cheffo,
12 did you have anything you wanted to add?

13 MR. CHEFFO: No. I think you covered it, Ms.
14 Nast.

15 MS. NAST: Okay.

16 THE COURT: Thank you. I think one more
17 thing.

18 MS. NAST: Brian.

19 MR. ALYSTOCK: The only thing, Your Honor, I
20 would add is we did this schedule in contemplation that
21 we'd be able to move some of those Foster dates which,
22 frankly, Mr. Tracey agreed to move that trial so that it
23 would be behind this MDL trial. And I didn't -- I don't
24 know whether that's going to be possible or not. I
25 think there is some interplay there with the -- with

1 those two dates, and --

2 THE COURT: That's a February trial date,
3 isn't it?

4 MR. ALYSTOCK: It is, and we'd kind of like
5 to, you know, move those dates behind these dates so
6 that it can be coordinated. And I'm not sure if we have
7 agreement on that.

8 MR. CHEFFO: Well, here's a few things. One
9 is I don't think we -- I think these were completely
10 separate schedules, but that's beside the point. We can
11 talk about Foster. I don't think this schedule had
12 anything to do with that. In fact, I think there were
13 just a few folks -- here's what's going on in Foster to
14 the extent Your Honor would like some of the details.

15 Foster is a case, St. Louis. It's -- I want
16 to say about 18, 19 plaintiff families, could be 20, but
17 I think it's 18. It's all in one complaint. About
18 seven or eight of the cases, I think are Mr. Robinson's.
19 Sean has, you know, five or six. So, basically, these
20 are -- I mean, there could be a few, I think, there are
21 a few, but they're their cases that they filed. There's
22 a lawyer who I think is --

23 THE COURT: And they were originally, that's
24 what you're saying. They were filed by certain
25 attorneys that are in the PSC, Mr. Robinson in

1 particular?

2 MR. CHEFFO: Correct.

3 THE COURT: They're not just filings that all
4 of a sudden our experienced PSC attorneys are recruited
5 to join and be trial counsel?

6 MR. CHEFFO: No, no, no. I mean, these were
7 cases -- this case has been around for some period of
8 time. But the point being, so we've worked on some
9 schedules, and, you know, it's not a matter of
10 frustration. It just is what it is, but there's about
11 seven or eight different firms.

12 So when -- you know, when I'm -- and our team
13 is trying to talk to one person on a scheduling order,
14 we sometimes think we have agreement, and then somebody
15 else will file a motion. This is in that Court, and the
16 Judge, obviously, will handle it, and then you'll kind
17 of go back and talk to the folks and say, well, what --
18 what about that motion? Didn't we talk about it? And
19 then they say, well, that wasn't my case. And you say,
20 well, but that's the problem when you have 20 cases
21 under a single complaint with ten different law firms.

22 THE COURT: Right.

23 MR. CHEFFO: So we -- we, in the Foster case,
24 worked out a comprehensive schedule with Mr. Niemeyer
25 and ironically he and I have been exchanging emails.

1 I'm supposed to talk to him at 5:00 today. I assume
2 it's maybe some of these scheduling issues. And I think
3 -- and Sean and I talked earlier. The concept of, you
4 know, coordination, is something that -- I mean, it
5 would be disingenuous to me to say, well, no, I don't
6 want to coordinate. I've been saying that and will
7 continue to say that for a long time, probably forever,
8 in this litigation.

9 The only thing I'm -- you know, suggesting
10 right now is Brian or -- has talked about one date, and
11 there are certain dates and things that need to cascade.
12 So I need to talk to Mr. Niemeyer at 5:00 and find out,
13 you know, if, in fact, he wants to change X date, how
14 does that affect the others? I don't have the CMO kind
15 of, you know, in my head memorized, in terms of what
16 those dates are.

17 But, you know, I would add that, you know,
18 there is -- there has been an effort at coordination,
19 but there's also been sometimes an effort of kind of
20 using -- in my view, not necessarily from these lawyers
21 -- but using that date in order to -- for strategic
22 positions to try and get trial dates.

23 So I need to look at this holistically. I'm
24 not saying no. I'm not saying I'm not going to
25 coordinate, but I just don't think I'm prepared right

1 now to be able to agree to move one date in a
2 comprehensive and holistic CMO until I've had an
3 opportunity to talk to Mr. Niemeyer and find out what
4 the parameters are because we did negotiate that over
5 some significant period of time.

6 THE COURT: Well, besides the Foster case,
7 isn't there a trial in Philadelphia that was moved by
8 Judge Rau to coordinate with this MDL so her case -- her
9 one case at that time, would be tried after the first
10 bellwether here?

11 MR. CHEFFO: Sure.

12 MR. TRACEY: Yes, that's true, Your Honor. In
13 fact, these cases, the deadlines that are in place in
14 this case, were negotiated so that we trailed the MDL.
15 Once the MDL trial got moved and these experts got
16 moved, they're now in front of the MDL.

17 What I'm trying to do because I'm working with
18 most of these experts, is to coordinate the designation
19 and the deadlines with a trial that is actually after
20 our MDL trial so that we can travel along the same path
21 with the MDL still either being first or at least
22 simultaneous designations.

23 MR. CHEFFO: And, again, I don't necessarily
24 disagree with that except -- you know, and in fairness
25 to Mr. Tracey, I said, well, if you want -- you know,

1 let's say move it two or three weeks, are you prepared
2 to then move everything and then move the other dates,
3 and I've heard from him, I don't have authority to do
4 that.

5 So my response is, you know, if we can't talk
6 about moving any other dates, we need to talk about how
7 the schedule fits in place and then, you know, as we
8 typically do, I think we'll come to agreement on this.
9 But I think we both have to have folks who have
10 authority to negotiate the schedule.

11 THE COURT: Well, there are more plaintiff
12 moving parts when it comes to decision making and
13 authority than you have, of course. But I can -- I can
14 see that the Judges in State would need to be apprised
15 of these various machinations. I think it would be --
16 well, it's hard for me to believe that there's any
17 benefit in setting up simultaneous trials. I don't
18 understand that. But maybe there is. Maybe I just
19 don't understand that.

20 MR. TRACEY: Well, it's not simultaneous --
21 not the trials. I'm trying to get the designations
22 coordinated so that my same experts that are going to be
23 designated here soon, pursuant to that scheduling order
24 you're about to sign, I don't have to designate them
25 Monday which is now my current obligation because we

1 moved everything back in the City of St. Louis at my
2 insistence to trail the MDL, and now that is out of
3 whack.

4 THE COURT: Okay. So does it make any sense,
5 counsel, for both of you in a coordinated way to not
6 designate even cases for the trial pool from the initial
7 discovery pool by June 11th until this Court issues its
8 written opinions and orders in the Daubert matters?

9 MR. CHEFFO: I think that makes --

10 THE COURT: Does that make --

11 MR. CHEFFO: -- a lot of sense.

12 THE COURT: -- everybody more knowledgeable?
13 I mean, don't you really want to know?

14 MR. CHEFFO: And I think -- that's what we --
15 that's what was -- and I thought and I don't want to
16 speak for Your Honor. I think when we initially had
17 done that, that was contemplated.

18 THE COURT: Yes. I mean, it's closer than
19 that. But like I said, there's three different
20 opinions.

21 MR. ALYSTOCK: The concern, Judge, is that we
22 don't want -- we need to know those three on both sides,
23 so he can get the case specific experts rolling, because
24 that takes time, too.

25 THE COURT: Okay.

1 MR. ALYSTOCK: They've got to, you know, maybe
2 see everything, and we'd prefer to just go ahead and
3 make the designations and -- and you've made clear that
4 the first tranche is heart cases, so that's what we
5 intend to do. So we'd like to keep it where it is.

6 MR. CHEFFO: And I would just say, Your Honor,
7 obviously it's clearly the Court's decision, to the
8 extent that we had the benefit of your -- your view and
9 your opinions, from our perspective, you know, we think
10 that would be helpful because as you've said all along,
11 the idea here is to get the benefits of the Court's
12 thinking. Then, obviously, have an ability to pick
13 representative cases, but, clearly, that's within the
14 Court's purview.

15 THE COURT: All right. I see the pros and
16 cons. I do understand the needs of each side, and I
17 think this is, as a comprehensive order, this joint
18 motion to amend pretrial orders, I think it's very
19 sensible.

20 (Pause in proceedings.)

21 THE COURT: Thank you. Very interesting.
22 So stick to this for now, but you'll all know
23 I think fairly soon what's going on. Okay?

24 MR. TRACEY: So back to our original point
25 which is this deadline which is June 16th, if we can't

1 get it worked out, can we sort of seek your guidance
2 this week --

3 THE COURT: Absolutely.

4 MR. TRACEY: -- and get some help?

5 THE COURT: Well, if you can't get what worked
6 out? Right now you have an agreed order.

7 MR. TRACEY: No, Your Honor. I'm talking
8 about the designations in the City of St. Louis cases --

9 THE COURT: Right.

10 MR. TRACEY: -- where we're requesting of
11 Pfizer that that designation deadline be the same
12 deadline that we have in the MDL. That's what we're
13 getting resistance from.

14 MR. CHEFFO: Your Honor, I mean, what they're
15 -- I'm sorry.

16 THE COURT: Understandably, but I hesitate to
17 impose my even assistance on a State deadline. I like
18 coordination, but that's something I'd have to do Judge
19 to Judge, not Judge to lawyers, to other State lawyers.

20 I have a good reputation right now. I don't
21 want it sullied by me looking like I don't know what I'm
22 doing. Quite frankly, it is something that you have to
23 agree to and so does your other Judge, I think.

24 MR. ALYSTOCK: Perhaps, Judge, if Mr. Tracey,
25 and I'm happy to be on the phone as well with Mr.

1 Niemeyer and Mr. Cheffo, we can all coordinate and all
2 be on the same page on this call and then hopefully be
3 able to handle it --

4 THE COURT: And if I know your positions
5 clearly by that time, and I -- whether I agree with them
6 or not, I have no problems with talking to the Judge
7 myself just to say is this something that you and I can
8 deal with? Is there any reason for us to deal with it
9 or is it really counsel's issue? I think that those
10 Judges might appreciate me not controlling this
11 decision. I'm very careful about that.

12 MR. TRACEY: Yes, I didn't mean to --

13 THE COURT: And I know you weren't asking me
14 to do that --

15 MR. TRACEY: Oh, no, no.

16 THE COURT: -- but it could be perceived that
17 way. Okay?

18 MR. TRACEY: Understood.

19 MR. ALYSTOCK: We understand, Your Honor.

20 THE COURT: All right. Okay. So let's leave
21 it for now, and these dates will stand for now for our
22 MDL. And you gave me an order, right? Yes.

23 MS. NAST: Yes, Your Honor.

24 THE COURT: Okay. Good. Thank you.

25 Discovery and pending motions. I --

1 MS. NAST: Okay. On discovery, we've had 30
2 -- or, rather, six 30(b)(6) depositions, 12 substantive
3 depositions. We've taken six two-day depositions of the
4 12 that we agreed with Mr. Cheffo that we would take.
5 There are a number of depositions scheduled for next
6 month, and we're still trying to get some others
7 scheduled -- depositions scheduled as we speak.

8 There are two discovery motions, one that's
9 ripe and one that is not fully briefed. We filed on
10 June 5th a motion to compel production of employment
11 files. Pfizer has not had an opportunity yet to respond
12 to that.

13 Some time ago, not that long ago, May 5th, I
14 believe, Pfizer filed a motion to quash two depositions
15 that we had noticed. That is fully briefed, and we
16 are prepared to argue it today if Your Honor wants to
17 hear it.

18 THE COURT: That hasn't yet been before the
19 Discovery Master, correct?

20 MS. NAST: No, it has not.

21 THE COURT: Because I think this just became
22 fully briefed or shortly ago.

23 MS. NAST: Like a week ago, yes.

24 THE COURT: All right. And I am aware -- I
25 reviewed the pleadings in that and I think that that's

1 one that, given that there is some precedent and
2 arguments either way, I would like a thorough review by
3 Mr. Chirls on that. So I will refer that one
4 immediately to Mr. Chirls as the Special Discovery
5 Master.

6 MS. NAST: Okay. And we're prepared to go
7 forward immediately with it at the convenience, of
8 course, of the Special Master.

9 I don't -- I think everything else right now
10 is on track and resolved or it's being discussed and
11 hopefully resolved. I get worried when I heard Mr.
12 Cheffo say that he will do anything forever in this
13 case, because it does make you wonder how long this case
14 will be here. But --

15 THE COURT: I have a lifetime position. Not a
16 problem for me.

17 MS. NAST: And we may well be rejoicing
18 because of that. I don't have anything to add. Mr.
19 Cheffo, do you?

20 MR. CHEFFO: No. I'm not even going to
21 clarify my statement, but we're good. We're good here.

22 THE COURT: We're good.

23 MS. NAST: Okay. Your Honor, unless we have
24 any -- you have any questions, I think I covered
25 everything.

1 THE COURT: I think I'm just going to ask Mr.
2 Chirls to supplement your report, Ms. Nast.

3 MS. NAST: Okay. Excellent.

4 THE COURT: Thank you.

5 MS. NAST: Thank you.

6 MR. CHIRLS: Thank you, Your Honor. Andrew
7 Chirls, Special Discovery Master.

8 I have one motion pending before me which is
9 the PSC's motion to compel more complete responses to
10 the second set of document requests, if I'm recalling it
11 correctly. We've had some discussions about it. I'm
12 continuing to try to see if I can narrow some of the
13 issues. At the same time, I'm working on writing a
14 motion.

15 There are, of course, many issues that don't
16 reach me that the parties resolve, and there are issues
17 that reach me that -- and don't reach the Court, which
18 is one of my purposes, and then there are issues that do
19 reach the Court, and now there are two referred to me.

20 And the parties continue to meet with me
21 almost every week, we've skipped a few, some in person,
22 some on the phone, and we're working amicably to try to
23 get a lot, a lot, a lot done. And it is getting done,
24 and there are fits and starts, and, you know, hiccups,
25 which some reach you and some don't, and I don't feel

1 it's appropriate to talk about the ones that don't in
2 any way unless the Court has questions.

3 THE COURT: No, I have no questions.

4 We do get your billing statements, and we know
5 that there is more than I specifically refer to you on a
6 motion, but that is not the only way that the Court
7 refers you discovery matters.

8 MR. CHIRLS: Right.

9 THE COURT: It is sometimes because we receive
10 a letter and that letter is a joint letter and it
11 outlines issues that need to be dealt with immediately,
12 and we know that you are particularly helpful in getting
13 with the attorneys who always make themselves available
14 for you. As far as I can see, most everything that is
15 referred to you is worked out in some way, and the rest
16 is written up for my decision.

17 MR. CHIRLS: Right. And I appreciate the
18 opportunity to do so. Thank you, Your Honor.

19 THE COURT: Thank you.

20 Well, there is another motion, and that's --
21 well, motions, I would say, plural. Pfizer has moved to
22 dismiss a number of cases for failure to comply with
23 discovery obligations, about three dozen, I believe,
24 medical authorizations or plaintiffs' fact sheets
25 missing.

1 And about two dozen responses have been filed
2 to my understanding. But most of those responses state
3 that they have now complied. So excepting the two
4 plaintiffs that apparently are not locatable, there's
5 one plaintiff mother who recently passed away. One has
6 an extension of time, and those others have not
7 responded. The Court believes, as has been its
8 practice, and it seems to have worked pretty well in the
9 first MDL I managed that was similar in case management
10 to this one, that I would initially, without prejudice,
11 deny motions where plaintiffs have complied, and on the
12 other cases, issue a rule to show cause where there is
13 none as to why I should not dismiss, one more chance.

14 And if that is acceptable, and if it is not,
15 we'll know, but, initially, that's what the Court
16 contemplates doing. I wanted Pfizer's response, if any?

17 MR. CHEFFO: Really, you know, I don't have
18 much response other than to say this, Your Honor. I
19 mean, obviously, the recourse we are seeking is the
20 records, you know. At the end of the day, we understand
21 that the Court takes these seriously, and sometimes, you
22 know, having made the motion, written the letters, we
23 did get some responses, and I think in our reply, we
24 kind of withdrew it as to a certain number of folks.

25 And I would just probably put them into three

1 categories. There is the folks -- plaintiffs, excuse me
2 -- who have, you know, we think complied because there
3 was relatively discrete issues, and they've sent it to
4 us, and we, in good faith, said we'll withdraw it as to
5 those, because, you know, they've done what they needed
6 to do, albeit, a little late.

7 Then there's a category of folks who have
8 said, well, we have complied in their responses, and I
9 think as to those, my answer would be, you know, to the
10 extent that you have complied, great, but it's not
11 always clear. You know, so they may send some
12 authorizations at the time or just sent them the day
13 before, so, you know, I think what we ask for and would
14 just, however Your Honor wants to deal with it, is, you
15 know, that's why I think the relief we sought was to the
16 extent they haven't complied, you know, they need to do
17 it within 15 days or 21 days, just to make sure that we
18 don't have to then go back.

19 And then the third category, and, albeit, I
20 think it is a small group after the motion practice.
21 It, you know, unfortunately, is a -- the plaintiffs who
22 have not yet complied, and I think the way Your Honor
23 has sought to address those makes, you know, good sense
24 to us as well.

25 THE COURT: Thank you. Thank you, Mr. Cheffo.

1 There are pending motions to dismiss based on
2 Michigan and Texas law and a motion to dismiss under
3 Ohio law. That's filed by a supplier, Cardinal Health.
4 And another remand motion on a California McKesson case.

5 Other than that, the only remaining motions
6 are Daubert, which I told you we are working diligently
7 on.

8 Are there any other motions that this Court is
9 not aware of or hasn't mentioned? Because we think
10 we're --

11 MR. CHEFFO: I'm not aware of any.

12 MR. ZONIES: Your Honor --

13 THE COURT: Mr. Zonies.

14 MR. ZONIES: Thank you, Your Honor. Joe
15 Zonies. One of the motions that Ms. Nast mentioned is
16 the motion about seeking personnel and employment files,
17 a motion to compel those?

18 THE COURT: Yes.

19 MR. ZONIES: There is a bit of an issue on
20 timing on that only because we have depositions coming
21 up July 1st and 2nd? 2nd and 3rd, yes. 2nd and 3rd and
22 then another for Ms. Fisher on the 7th and 8th of July.
23 And I understand Pfizer hasn't had an opportunity to
24 respond to that motion yet, but we would like to somehow
25 have that on an expedited resolution so that we can get

1 the documents.

2 THE COURT: I think that type of discovery
3 motion can also be referred to the Master ahead of an
4 actual response, and if it's agreed to by then or if
5 there's some further delineation, you can agree to
6 parts, and then it's only going to be expedited. So I
7 will do that. I will expedite it by suggesting right
8 now that all parties direct their responses to the
9 record but make arrangements to meet with Andy Chirls
10 right away.

11 MR. ZONIES: Much appreciated, Your Honor.
12 That's three --

13 THE COURT: All right. So we don't have to
14 move a deadline.

15 MR. ZONIES: That's three --

16 THE COURT: Is that all right?

17 MR. CHEFFO: Of course, it's all right, Your
18 Honor. Thank you.

19 THE COURT: Thank you. All right. So that's
20 three. And if there's nothing else there, we will --
21 what else is on the agenda that the parties would like
22 to take up with this Court concerning any matter related
23 to the Zoloft MDL or coordinating with other MDLs?
24 Anything?

25 MR. CHEFFO: I think we've covered a lot

1 today, Your Honor.

2 THE COURT: I think so. And because counsel
3 does their usual professional work product here, I think
4 you agreed to most everything, and I know that you're
5 all being very diligent in representing your clients and
6 working together. I thank you for that.

7 MS. NAST: Your Honor, I think you've set July
8 1 as our next conference, and that's a small group in
9 chambers meeting.

10 THE COURT: Is that still a good date?

11 MS. NAST: Yes.

12 THE COURT: Well, we're keeping it, too. We
13 will look forward to keeping that meeting as productive
14 as our other alternate meetings. We realize that travel
15 at that week isn't optimum for most people, but we
16 appreciate the effort. It's still better to meet in
17 person, and I'm really sorry to say that because that's
18 the week that I would allow everybody to be on the
19 telephone with me.

20 So if something happens that there are really
21 relatively few issues or only one major one, and we can
22 do it that way and I can save you some time and money in
23 airfares and hotels, fine. Otherwise, I didn't make it
24 so close to July 4th that you would be here in
25 Philadelphia for the beautiful fireworks and

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CERTIFICATION

I, Donna M. Anders, do hereby certify that the foregoing is a true and correct transcript from the electronic sound recordings of the proceedings in the above-captioned matter.

6/25/14
Date

Donna M. Anders
Donna M. Anders