

BRYAN F. AYLSTOCK (FL, AL, MS)^{*}
JUSTIN G. WITKIN (FL, MS)
DOUGLASS A. KREIS (FL)
NEIL D. OVERHOLTZ (FL)
R. JASON RICHARDS (FL, CO)
BOBBY J. "BRAD" BRADFORD (FL, AL)
STEPHEN H. ECHSNER (FL)



**Aylstock, Witkin,
Kreis & Overholtz, PLLC**
www.AWKOLAW.com

17 EAST MAIN STREET, SUITE 200 - PENSACOLA, FLORIDA 32502
PHONE: (850) 202-1010 - FAX: (850) 916-7449

D. RENÉE BAGGETT (FL)
DANIEL J. THORNBURGH (FL, MN)
NATHAN C. BESS (FL)
E. SAMUEL "SAM" GEISLER (FL, IL)
JAMES D. BARGER (PA, NJ)
ANGEL N. STULL (FL, NY)
CHELSE R. WARNER (MT, NV)
BEN H. ANDERSON (OH, CA)^{*}
DONNA TAYLOR KOLIS (OH)^{*}
CHRISTOPHER J. ZAMERMAN (OH)^{*}

^{*}States in which attorney is licensed to practice law
^{*}Of counsel

January 14, 2013

VIA FACSIMILE – 267-299-5077

The Honorable Cynthia M. Rufe
United States District Court
Eastern District of Pennsylvania
601 Market Street
Philadelphia, PA 19106-1797

RE: *In re: Zoloft (Sertraline Hydrochloride) Products Liability Litigation*, MDL No. 2342
Multi-District Coordinator's Report No. 4

Dear Judge Rufe:

This is the Multi-District Coordinator's Report No. 4 concerning pending Zoloft MDL cases and pending state court cases filed in Illinois, Missouri, New York, Pennsylvania and West Virginia.

Eastern District of Pennsylvania

There are approximately two-hundred-seventy-nine (279) Zoloft cases pending in this MDL Court.

Illinois

There are fourteen (14) cases pending in two-multi-party complaints and one individual complaint in St. Clair County, Illinois.

- Wilson et al. v. Pfizer* involves eight (8) Plaintiff families.
- Saville et al. v. Pfizer* involves five (5) Plaintiff families.
- Ratliff v. Pfizer* has one (1) Plaintiff family involving twins.

Wilson and *Saville* are pending before the Honorable Andrew Gleeson and *Ratliff* is pending before the Honorable Vince Lopinot.

In *Wilson* and *Saville*, the parties have exchanged initial discovery responses and protective orders have been entered in both cases. In both cases, Pfizer has also served written discovery limited to forum non conveniens issues and has moved to stay further discovery pending coordination with the MDL and resolution of its pending motions. The pending motions in *Wilson* and *Seville* are Pfizer's Motion to Sever, Motion to Stay Discovery and Motion to Dismiss on Forum Non Conveniens Grounds. Oral argument on Pfizer's pending motions was heard on July 24, 2012, and those motions are awaiting a decision by Judge Gleeson.

The Honorable Cynthia M. Rufe
January 14, 2013
Page 2

The parties have also exchanged initial discovery responses in the *Ratliff* matter. In addition, defendant St. Elizabeth's Hospital has filed a Motion to Dismiss, which has been noticed for hearing on January 23, 2013.

Honorable Andrew Gleason
Twentieth Judicial Circuit Court
St. Clair County Building
10 Public Square
Belleville, IL 62220
Telephone: Susan Brem (Clerk) – (618) 825-2338

Honorable Vince Lopinot
Twentieth Judicial Circuit Court
St. Clair County Building
10 Public Square
Belleville, IL 62220
Telephone: Susan Brem (Clerk) – (618) 825-2338

Additionally, on July 23, 2012, the Honorable G. Patrick Murphy of the Southern District of Illinois granted Plaintiffs' motion to remand in *Reeves et al. v. Pfizer*, which involved thirty-eight (38) Plaintiff families and was originally filed in St. Clair County, Illinois. Pfizer filed a Notice of Appeal with the Court of Appeals for the Seventh Circuit.

On July 31, 2012, the Seventh Circuit raised an issue as to whether the order appealed from is a final appealable order and ordered the parties to file briefs addressing the jurisdictional issue. Pfizer filed its jurisdictional memorandum on August 13th and the Plaintiffs filed their response on August 20th. The appeal is pending.

Missouri

There are forty-three (43) cases pending in two multi-party complaints filed in St. Louis County Circuit Court, St. Louis, Missouri.

Foster, et al. v. Pfizer involves twenty-three (23) Plaintiff families and is pending before Judge Steven R. Ohmer. Written discovery has been served by the Plaintiffs and responses have been served by Pfizer. There are no pending motions in *Foster*.

Lancaster, et al. v. Pfizer involves twenty (20) Plaintiff families and is pending before Judge Bryan Hettenbach. Written discovery was served by Plaintiffs and responses were served by Pfizer. Plaintiffs have also served deposition notices. Pfizer filed a Motion to Sever in *Lancaster* which was denied by the court by order dated September 12, 2012. Pfizer filed a petition for Writ of Prohibition with the Missouri Court of Appeals relating to the court's denial of the Motion to Sever. Pfizer's Writ of Prohibition was denied on October 17, 2012.

The Honorable Cynthia M. Rufe
January 14, 2013
Page 3

Honorable Steven Russell Ohner
Twenty-First Judicial Circuit of the State of Missouri
10 N. Tucker Blvd.
St. Louis, MO 63101
Telephone: (314) 622-5606

Honorable Bryan Hettenbach
Twenty-First Judicial Circuit of the State of Missouri
10 N. Tucker Blvd.
St. Louis, MO 63101
Telephone: (314) 622-4381

New York

There is one case pending in Oneida County before Justice Bernadette Clark (the *Hernandez* case). Written discovery has been served in the *Hernandez* matter.

There are three cases pending in New York County before Justice Carol E. Huff: *Petroci*, *Weese*, and *Johnson*. Justice Huff has dismissed five cases on forum non-conveniens grounds and five other cases on motions to dismiss. Written discovery has been served in *Petroci* and *Weese*. On December 21, 2012, the *Weese* Plaintiffs filed a motion to dismiss Pfizer's affirmative defenses. There are no other pending motions in either of the remaining New York County cases.

Honorable Justice Bernadette Clark
Supreme Court, Oneida County
200 Elizabeth Street
Utica, NY 13501
Telephone: (315) 266-4310

Honorable Carol E. Huff
Supreme Court, Civil Branch, New York County
60 Centre Street
New York, NY 10007.
Telephone: Guy Owen (Clerk) – (646) 386- 3281

Pennsylvania

There is one (1) case pending in the Philadelphia County Court of Common Pleas, *Robinson v. Wolters Kluwer, Inc. et al.* Written discovery has been served by Plaintiff and responses served by Pfizer. There are no pending motions.

The Honorable Cynthia M. Rufe
January 14, 2013
Page 4

Honorable Marlene Lachman
Court of Common Pleas of Philadelphia County
1413 Criminal Justice Center
1301 Filbert Street
Philadelphia, PA 19107
Telephone: (215) 683-7136

West Virginia

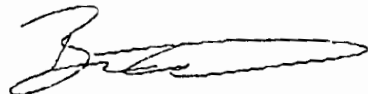
There is one case pending in the Circuit Court of Wayne County, West Virginia, before the Honorable James H. Young, Jr., involving a single Plaintiff family. The complaint was filed on behalf of nineteen (19) Plaintiff families. Each Plaintiff family was docketed as a separate civil action and eighteen (18) of the nineteen (19) cases were removed to federal court by Pfizer.

Pfizer filed a Motion to Dismiss on grounds of *forum non-conveniens* in the case that remains pending before Circuit Court Judge James H. Young, Jr. Judge Young denied Pfizer's motion, and Pfizer filed a writ petition with the Supreme Court of Appeals of West Virginia, which was denied on January 9, 2013. No discovery has been served to date.

On September 25, 2012, the Honorable Robert C. Chambers of the Southern District of West Virginia issued an order remanding the eighteen (18) cases to the Circuit Court of Wayne County. Pfizer filed a Notice of Appeal with the Fourth Circuit Court of Appeals. Initial briefing has taken place, and Pfizer filed its Reply brief on January 7, 2013. The appeal is pending.

Honorable James H. Young, Jr.
Twenty-Fourth Judicial Circuit, Wayne County
P.O. Box 38
Wayne, WV 25570
Telephone: (304) 272-6332

Respectfully,



Bryan F. Aylstock

cc: Katherine Armstrong (via e-mail)
Mara Cusker Gonzalez (via e-mail)
Mark Cheffo (via e-mail)
Catherine Stevens (via e-mail)
Rachel Passaretti-Wu (via e-mail)
Kim Lambert (via e-mail)