

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)

\* States in which attorney is licensed to practice law  
 \* Of counsel



# 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)  
 ANCEL N. STULL (FL, NY)  
 CHELSIE R. WARNER (MT, MN)  
 BEN H. ANDERSON (OH, CA)\*  
 DONNA TAYLOR-KOLIS (OH)\*  
 CHRISTOPHER J. ZIMMERMAN (OH)\*

February 20, 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. 5

Dear Judge Rufe:

This is the Multi-District Coordinator's Report No. 5 concerning pending Zoloft MDL cases and pending state court cases filed in California, Illinois, Missouri, New York, Pennsylvania and West Virginia.

**Eastern District of Pennsylvania**

There are approximately three-hundred-twenty-three (323) Zoloft cases pending in this MDL Court.

**California**

On November 28, 2012, a complaint was filed on behalf of twelve (12) Plaintiff families in the Superior Court of San Francisco County, California. The Presiding Judge for the Superior Court, the Honorable Cynthia M. Lee, has set a case management conference for May 1, 2013. There are no pending motions.

Honorable Cynthia M. Lee  
 Presiding Judge, San Francisco Superior Court  
 Department 206  
 400 McAllister Street  
 San Francisco, CA 94102  
 Clerks: Emalyn Bura/Rochelle Veluz/Jhulie Roque  
 Telephone: (415) 551-3705

The Honorable Cynthia M. Rufe  
February 20, 2013  
Page 2

### Illinois

There are two cases pending in St. Clair County, Illinois. Plaintiffs in a third case that was previously reported to the Court, *Saville*, recently filed notices of voluntary dismissal and at least three of the five Plaintiff families have re-filed or are expected to re-file their cases in the MDL. The remaining cases are:

*Wilson et al. v. Pfizer*—eight (8) Plaintiff families; and  
*Ratliff v. Pfizer*—one (1) Plaintiff family involving twins.

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

In *Wilson*, the parties have exchanged initial discovery responses and a protective order has been entered. Pfizer has also filed motions to sever and to dismiss on forum non conveniens grounds, served written discovery limited to forum non conveniens issues, and moved to stay further discovery pending coordination with the MDL and resolution of its pending motions. Oral argument on Pfizer's pending motions was heard on July 24, 2012, and those motions are awaiting a decision by Judge Gleeson.

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 March 20, 2013.

Honorable Andrew Gleeson  
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-

The Honorable Cynthia M. Rufe  
February 20, 2013  
Page 3

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

*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*.

On February 6, 2013, the parties in *Lancaster, et al. v. Pfizer*, involving twenty (20) Plaintiff families, filed a stipulation of voluntary dismissal without prejudice. The majority of the Plaintiff families are expected to re-file in the MDL.

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

### New York

There is one case pending in Oneida County before Justice Bernadette Clark (the *Hernandez* case), and written discovery has been served in that case.

There are three cases pending in New York County before Justice Carol E. Huff (*Petroci, Weese, and Jones*). Written discovery has been served in *Petroci*. On December 21, 2012, the *Weese* Plaintiffs filed a motion to dismiss Pfizer's affirmative defenses related to duty. On February 7, 2013, Pfizer cross-moved to dismiss the complaint on the ground that Pfizer has no duty or liability because Plaintiff allegedly used a generic version of sertraline made and sold by another company. There are no other pending motions in either of the remaining two New York County cases.

Honorable Justice Bernadette Clark  
Supreme Court, Oneida County  
200 Elizabeth Street  
Utica, NY 13501

The Honorable Cynthia M. Rufe  
February 20, 2013  
Page 4

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.

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 one case that remains pending before Circuit Court Judge James H. Young, Jr. Judge Young denied Pfizer's motion and the West Virginia Supreme Court of Appeals denied Pfizer's petition for a writ of prohibition. On February 13, 2013, Judge Young held a telephonic status and scheduling conference and directed the parties to proceed with discovery in coordination with the MDL and to set a status conference for May 2013.

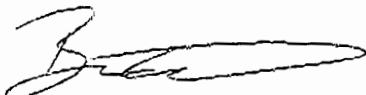
On September 25, 2012, the Honorable Robert C. Chambers of the Southern District of West Virginia issued an order remanding the eighteen (18) cases to the Circuit Court of Wayne County. Pfizer filed a Notice of Appeal with the Fourth Circuit Court of Appeals. Briefing is complete, and oral argument has been tentatively set for mid-May 2013.

Honorable James H. Young, Jr.

The Honorable Cynthia M. Rufe  
February 20, 2013  
Page 5

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)