

4. On February 25, 2015, seventeen (17) plaintiffs filed Short Form Complaints that name McKesson as a defendant directly to MDL No. 2502, pursuant to Case Management Order No. 8, ¶ 4. McKesson was served with these complaints on April 3, 2015. McKesson has not filed an answer in response to any of these direct-filed Short Form Complaints.

5. Plaintiffs' Long Form Master Complaint ("Master Complaint"), filed pursuant to Case Management Order No. 8, does not name McKesson as a Defendant. *See* Master Complaint (Docket Entry No. 160), ¶¶ 22-32. The Master Complaint only alleges claims against Pfizer, Inc., Pfizer International LLC, and Greenstone LLC, and does not mention McKesson. *Id.*

6. Defendants Pfizer, Inc., Pfizer International LLC, and Greenstone LLC have filed a Master Answer to Plaintiffs' Master Complaint. (Docket Entry No. 186).

7. Pursuant to Case Management Order No. 8, each plaintiff is obligated to file a Short Form Complaint. The form for the Short Form Complaint incorporates by reference the allegations stated in Plaintiffs' Master Complaint. (Docket Entry No. 168, Ex. A).

8. Question 2 on the Short Form Complaint form asks each individual plaintiff to identify which Defendants they allege claims against. There are checkboxes for "Pfizer, Inc.," "Greenstone LLC," and "Other" with an opportunity to fill in another Defendant's name. (Docket Entry No. 168, Ex. A).

9. As of the date of this Order, at least 91 individual plaintiffs that have filed Short Form Complaints selected the "Other" box and named McKesson as an additional Defendant. *See* Exhibits A, B.

10. Seventy-four (74) of the plaintiffs who have filed Short Form Complaints naming McKesson in the MDL previously filed complaints naming McKesson as a defendant in state or federal court, which have been answered. These plaintiffs' inclusion of McKesson in the "Other" box in the Short Form Complaint is directed at ensuring that these previously-made claims against McKesson are not somehow waived.

11. Seventeen (17) plaintiffs have filed Short Form Complaints that name McKesson as a defendant directly to MDL 2502. McKesson has not filed an answer in response to any of these direct-filed Short Form Complaints.

12. Because McKesson is not named in the Master Complaint, no prior Case Management Order creates an obligation for McKesson to respond to cases against McKesson in which only a Short Form Complaint has been filed. The parties therefore submit this agreed Case Management Order to establish a process for those responses.

Order

13. Regarding cases that were filed in state or federal court and subsequently transferred to MDL No. 2502, McKesson is not required, at this juncture, to separately answer Short Form Complaints that name it as a defendant because McKesson has already answered the original, long form complaint.

14. If, at any time, Plaintiffs amend their Master Complaint to include allegations against McKesson, McKesson shall file, within thirty (30) days, a Master Answer in response to the amended Master Complaint.

15. Regarding Short Form Complaints that are filed directly to MDL No. 2502 pursuant to Case Management Order No. 8, ¶ 4, and that name McKesson as a defendant,

McKesson shall file a General Denial, using the form attached as Exhibit A, unless McKesson has filed a Master Answer as stated in Paragraph 14. The deadline for each General Denial shall be either thirty (30) days after the date of service of the Short Form Complaint or thirty (30) days after the date of this Order, whichever is later.

16. The General Denial is not intended to and shall not waive any applicable defenses available to McKesson, including any objections to service, jurisdiction or venue, and any defenses to any state law claims, and McKesson may respond to any individual complaint by way of motions permissible under the Federal Rules of Civil Procedure. McKesson may also file counterclaims, cross-claims, and/or third-party complaints, pursuant to Rules 13 and 14 of the Federal Rules of Civil Procedure, in connection with any particular individual action, with such filing to be made within sixty (60) days of service of the direct-filed Short Form Complaint or, for those direct-filed Short Form Complaints currently pending in the MDL, within sixty (60) days of the date of this Order, unless good cause is shown for filing at a later date.

17. Except as provided in Paragraph 15 of this Order, McKesson is required to timely answer any complaints filed in state or federal court that name it as a defendant as is ordinarily required by the pertinent rules of civil procedure.

AND IT IS SO ORDERED.



Richard Mark Gerge
United States District Court Judge

April 21, 2015
Charleston, South Carolina

EXHIBIT A

Fed. R. Civ. P. 8(c), and has the right to assert any and all affirmative defenses at the time that Plaintiffs amend the Master Complaint to add allegations against McKesson. Until such time as McKesson is required to file its Master Answer to the amended Master Complaint, all affirmative defenses, including, but not limited to, those that assert jurisdictional defenses, improper venue, statute of limitations, or any other defenses listed in Fed. R. Civ. P. 8(c) are expressly preserved.

WHEREFORE, McKesson prays that:

1. Plaintiff take nothing by reason of their Short Form Complaint herein;
2. Plaintiff's Short Form Complaint be dismissed with prejudice;
3. For costs of suit herein, including reasonable attorney's fees; and
4. For such other and further relief as the court may deem just and proper.
5. If McKesson is found liable, the degree of its responsibility for the resulting damages be determined and that McKesson be held liable only for that amount of the total damages proportionate to its responsibility for the same.

DEMAND FOR JURY TRIAL

Defendant McKesson hereby demands a trial by jury of the above-captioned matters on all claims so triable.

Dated: _____.

Respectfully submitted,

s/

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