IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA CHARLESTON DIVISION

IN RE: LIPITOR (ATORVASTATIN)CALCIUM) MARKETING, SALES)PRACTICES AND PRODUCTS)LIABILITY LITIGATION)

MDL No. 2:14-mn-02502-RMG

CASE MANAGEMENT ORDER NO. 77

This Order relates to all cases.

Pending Motions for Summary Judgment

Pfizer has filed motions for summary judgment in the two bellwether cases, *Daniels v. Pfizer*, Case No. 2:14-cv-1400 and *Hempstead v. Pfizer*, Case No. 2:14-cv-1879. (Dkt. Nos. 1010, 1232). Since the filing of these motions, the Court has issued multiple rulings on the admissibility of expert testimony in these cases that may affect the summary judgment motions. (*See* CMO 54, Dkt. No. 1258; CMO 55, Dkt. No. 1283; CMO 67, Dkt. No. 1412; CMO 68, Dkt. No. 1469; CMO 72, Dkt. No. 1511; CMO 73, Dkt. No. 1512; CMO 74, Dkt. No. 1513; CMO 75, DKt. No. 1514; CMO 76, Dkt. No. 1517). Therefore, Pfizer's Motions for Summary Judgment (Dkt. Nos. 1010, 1232) are **DENIED WITHOUT PREJUDICE**. The motions to file certain documents related to these two motions under seal (Dkt. Nos. 1120, 1231) are **DENIED AS MOOT**.

The case *Smalls v. Pfizer*, Case No. 2:13-cv-00796, was stayed pending the outcome of these motions. *See Smalls v. Pfizer*, Case No. 2:13-cv-00796, Dkt. No. 151. Now that these motions have been resolved, the stay is lifted, and the Clerk is directed to re-open the *Smalls* case.

Scheduling Order

The Court seeks the parties' recommendations on how to proceed in this MDL in light of the Court's rulings regarding the admissibility of experts. Thus, the following scheduling order is entered in this MDL:

- (1) On or before Friday, May 27, 2016, the parties must submit a joint or competing proposal(s) on how to proceed with dispositive motions. The proposal(s) should discuss whether omnibus motions are appropriate and whether the Court should address dispositive motions in the two bellwether cases before addressing them in other cases. The proposal(s) should also include a proposed briefing schedule.
- (2) If the parties submit competing proposals, any responses/replies are due Friday, June 3, 2016.
- (3) The Court will hold a telephone conference with lead and liaison counsel on Wednesday, June 8, 2016 at 2 p.m. to discuss the parties' proposals.

AND IT IS SO ORDERED.

Richard Mark Gergel United States District Court Judge

May <u>[1</u>, 2016 Charleston, South Carolina