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

IN RE: LIPITOR : 2:14 MN 2502

Status Conference in the above-captioned matter held on Thursday, March 26, 2015, commencing at 9:00 a.m., before the Honorable Richard M. Gergel, in Courtroom III, United States Courthouse, 83 Meeting Street, Charleston, South Carolina, 29401.

REPORTED BY DEBRA LEE POTOCKI, RMR, RDR, CRR  
Official Reporter for the U.S. District Court  
P.O. Box 835  
Charleston, SC 29402  
843/723-2208

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A P P E A R A N C E S

APPEARED FOR PLAINTIFFS:

- Ramon R. Lopez, Esquire
- Mia L. Maness, Esquire
- Mark C. Tanenbaum, Esquire
- Ann Estelle Rice Ervin, Esquire
- Joseph F. Rice, Esquire
- Blair H. Hahn, Esquire
- Joshua Mankoff, Esquire
- Elizabeth M. Burke, Esquire
- David F. Miceli, Esquire
- Mitchell Brent, Esquire
- Andrew Bierstein, Esquire
- Aaron Dias, Esquire
- James McHugh, Esquire

APPEARED FOR DEFENDANTS:

- Michael T. Cole, Esquire
- David E. Dukes, Esquire
- Amanda S. Kitts, Esquire
- Mark S. Cheffo, Esquire
- Sheila Brodbeck, Esquire

1 THE COURT: Miss Ravenel, we have the telephone  
2 operational?

3 THE CLERK: Yes, sir.

4 THE COURT: Okay. We are in the monthly status  
5 meeting, March 2015, of the MDL In Re: Lipitor.

6 Could counsel identify themselves for the record, who will  
7 be speaking during the status conference.

8 MR. HAHN: Blair Hahn for the plaintiffs, Your Honor.

9 MR. CHEFFO: Morning, Your Honor, Mark Cheffo.

10 THE COURT: Very good. Okay. Folks, as we march on  
11 our scheduling order, we're about to pass certain milestones  
12 in the docket. We have 1985 pending cases.

13 When do we hit 2000, Mr. Hahn?

14 MR. HAHN: We'll try and make that happen this  
15 afternoon.

16 THE COURT: We have over 800 docket entries, 31 case  
17 management orders. I figure we've got a lot more to come.  
18 We've got expert reports. I guess the plaintiffs' reports  
19 have been issued and we're deposing plaintiffs' experts, is  
20 that right?

21 MR. HAHN: That's correct.

22 THE COURT: And we will have, sometime late summer  
23 early fall, we'll have argument on Daubert, and then we've got  
24 our first bellwether trial in the fall. So we're staying on  
25 schedule.

1           Okay. First, counsel have anything they would like to  
2 raise with me concerning matters of concern that need to be  
3 addressed by the Court? First from the plaintiff.

4           MR. HAHN: Nothing from the plaintiff, Your Honor.

5           THE COURT: Okay. And from defendant?

6           MR. CHEFFO: No, Your Honor. As you said, a lot is  
7 happening, but we've been able to work out many issues, and  
8 also with Your Honor's assistance in some of them.

9           THE COURT: Right. I know that y'all have written me  
10 about some of the discovery issues in Daniels, and let me just  
11 sort of reiterate a little bit on the record a discussion we  
12 had in my chambers yesterday among counsel.

13           There are a number of discovery requests for materials  
14 dating back to the time prior to 2000, physician information  
15 request letters, sales representative information, other  
16 requested information. And the defendant has asserted that it  
17 has not been able to locate the requested information; does  
18 not dispute it would be discoverable, just hasn't been able to  
19 find it. Plaintiffs have indicated they might have some idea  
20 where it might be. I've asked them to share those with the  
21 defendant. And I have asked the defendant to continue its  
22 efforts to locate the material, and at some point it's going  
23 to need to explain, in some detail, its efforts to locate the  
24 material. And any consequences of that, any motions relating,  
25 if it does not appear, is something that the parties can raise

1 later, if they wish.

2 But I do want Mr. Cheffo to reiterate the Court's view  
3 that the defendant needs to be very diligent, for you  
4 personally to interrogate those who are sharing that  
5 information, I know it's a large company. And if I  
6 understand, a great deal of these records are actually from a  
7 predecessor company, is that right?

8 MR. CHEFFO: That's right, Your Honor. And I think  
9 as Your Honor knows from the motions, we're talking about a  
10 relatively small portion. A huge number of documents have  
11 been found and located. And as you said, these are not -- our  
12 issue here is not whether they would be responsive or  
13 discoverable, it really is that we have gone and made the good  
14 faith efforts to do reasonably diligent searches. And I  
15 certainly hear Your Honor and I will go back again and make  
16 sure. But I am very confident that with respect to these  
17 issues, that really the trees have been shaken and people have  
18 looked, but we'll continue to look.

19 THE COURT: Obviously lawyers on both sides of this  
20 case have a great deal of litigation experience, and all of us  
21 know one of the consequences on something that when you're  
22 looking back a decade or more, that sometimes documents simply  
23 can't be located, there's nothing nefarious about it. If the  
24 plaintiffs have evidence of intentional destruction, obviously  
25 I want to hear about that. But it's not a shocking thing that

1 you can not locate every document for something that dates  
2 back into the 1990s.

3 Okay. Now, you know, one of the purposes of this monthly  
4 status conference is to afford not just the folks in the  
5 courtroom, but folks on the phone, the opportunity to raise  
6 issues of concern with the Court.

7 So let me just first, in the courtroom, any counsel  
8 present have any issues they'd like to raise with the Court?

9 Let the record show no one has stood.

10 On the phone, is there anyone who wishes to raise any  
11 issues with the Court?

12 MS. HEACOX: I have no issues.

13 THE COURT: Okay. Well, all those folks who are not  
14 on the phone, we ought to take her name, she gets a special  
15 star for actually being on the phone.

16 Who is that who spoke?

17 MS. HEACOX: I'm sorry, that's Catherine Heacox for  
18 the Lanier law firm.

19 THE COURT: Thank you, Miss Cox, for being on the  
20 phone with us. I think the folks in Charleston are having  
21 more fun than you, but who knows, right?

22 Okay. The next status conference is April 23rd at  
23 9:00 a.m. I do think that as we get closer as we're getting  
24 into the expert discovery, and as we get towards those Daubert  
25 motions and dispositive motions, we're going to have a lot

1 more meaty issues that are going to be addressed at status  
2 conferences.

3 Let me remind parties that if an issue arises which really  
4 is obstructing your ability to timely proceed, we need not  
5 wait till the next status conference to raise it. I'm glad to  
6 address it by telephone or in person or on shorter notice, as  
7 long as it's necessary to keep the discovery process going.

8 Okay. With that, I will adjourn this monthly status  
9 conference. We'll see everyone else, if not sooner, in the  
10 April meeting.

11 Thank you very much.

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13 (Court adjourned at 9:14 a.m.)  
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REPORTER'S CERTIFICATION

I, Debra L. Potocki, RMR, RDR, CRR, Official Court Reporter for the United States District Court for the District of South Carolina, hereby certify that the foregoing is a true and correct transcript of the stenographically recorded above proceedings.

S/Debra L. Potocki  
\_\_\_\_\_  
Debra L. Potocki, RMR, RDR, CRR