

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
AT LEXINGTON

Eastern District of Kentucky
FILED
SEP 06 2018
AT LEXINGTON
ROBERT R. CARR
CLERK U.S. DISTRICT COURT

IN RE: ONGLYZA (SAXAGLIPTIN) AND
KOMBIGLYZE XR (SAXAGLIPTIN AND
METFORMIN) PRODUCTS LIABILITY
LITIGATION

Master File No. 5:18-md-2809-KKC
MDL No. 2809

ALL CASES

ORDER
APPOINTING PLAINTIFFS' LEADERSHIP STRUCTURE

The Court hereby ORDERS that the unopposed motion (DE 160, 5:18-md-2809, *et al.*) by certain counsel, who represent the majority of plaintiffs in this matter, for appointment to the following leadership positions ("Designated Counsel") is GRANTED as follows:

The Designated Counsel are appointed to the following positions for the duration of the litigation or until such time as the Court determines that a change in the duration of service shall be made. The Court may decide from time-to-time to modify these appointments, depending upon the needs of the litigation.

A. Plaintiffs' Co-Lead Counsel

The Court appoints the following counsel as plaintiffs' co-lead counsel:

Timothy Clark
SANDERS PHILLIPS GROSSMAN, LLC
2860 Michelle Drive, Suite 220
Irvine, CA 92606
tclark@thesandersfirm.com

Jennifer A. Moore
GROSSMAN & MOORE, PLLC
401 West Main Street, Suite 1810
Louisville, KY 40202
jmoore@gminjurylaw.com

Defendants' counsel may rely upon all agreements made with Plaintiffs' co-lead counsel and such agreements shall be binding on all Plaintiffs whose cases are subject to the Court's jurisdiction.

The duties of Plaintiffs' Co-Lead Counsel are as follows:

- i. Determine, based upon consultation with other members of Plaintiffs' Executive and Steering Committees and other co-counsel, and present in the most efficient and reasonable fashion, to the Court and opposing parties the position of Plaintiffs on all matters arising during pretrial proceedings;
- ii. Initiate and coordinate all pretrial discovery on behalf of Plaintiffs in actions consolidated in this multi-district litigation, including developing and proposing to the Court schedules for commencement, execution, and completion of all discovery on behalf of Plaintiffs;
- iii. Submit and argue verbal and/or written motions presented to the Court on behalf of Plaintiffs' Designated Counsel, and oppose any motions submitted by Defendants or other parties;
- iv. Submit, if appropriate, additional counsel and/or committees for designation by the Court;
- v. Delegate specific tasks to other counsel in an effective and efficient manner that ensures the pretrial preparation for Plaintiffs is conducted efficiently, effectively, and economically;
- vi. Enter into stipulations with opposing counsel necessary for the advancement and conduct of this litigation, which will be submitted to the Court for approval;

- vii. Maintain adequate files of pretrial matters, establishing and maintaining document or exhibit depository, and ensuring those documents are available under reasonable terms and conditions for examination by all MDL plaintiffs and/or their respective counsel;
- viii. Conduct settlement negotiations on behalf of Plaintiffs, without entering into binding agreements except to the extent expressly authorized;
- ix. Hold meetings for Plaintiffs' counsel for any appropriate purpose, including coordinating responses to questions of other parties or of the Court;
- x. Prepare and distribute periodic status reports to the parties;
- xi. Coordinate responsibilities of Plaintiffs' Designated Counsel, schedule leadership counsel meetings, appear at status conferences, and perform other necessary logistic and administrative functions as required, and carry out duties as ordered by this Court;
- xii. Act as spokesperson for Plaintiffs at status conferences and pretrial proceedings and in response to any inquiries by the Court, subject to the right of any Plaintiffs' counsel to present non-repetitive individual or differing positions;
- xiii. Maintain time and disbursement records covering services of Designated Counsel and establishing guidelines for approval by this Court as to the keeping of time records and expenses;
- xiv. Monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided; and

- xv. Perform any such other duties as may be incidental to proper and efficient coordination of Plaintiffs' pretrial proceedings or authorized by further order of this Court.

B. Plaintiffs' Liaison Counsel

Laraclay Drake Parker
GOLDEN LAW OFFICE
771 Corporate Dr., #750
Lexington, KY 40503
LParker@goldenlawoffice.com

The duties of Liaison Counsel are as follows:

- i. Maintain and distribute an up-to-date service list to co-counsel and Defendants' Liaison Counsel;
- ii. Receive and distribute to co-counsel Orders from the Court, and documents from opposing parties and counsel;
- iii. Coordinate the establishment of a document depository, maintain and make available to co-counsel and other Plaintiffs' counsel a complete electronic file of all documents served by or upon parties;
- iv. Submit necessary documents to the Court and the Clerk of the Court; and
- v. Any other such duties as Ordered by this Court.

C. Plaintiffs' Executive Committee

In addition to Plaintiffs' Co-Lead Counsel, the Plaintiffs' Executive Committee shall consist of:

Daniel C. Burke
BERNSTEIN LIEBHARD, LLP
10 East 40th Street
New York, NY 10016
dburke@bernlieb.com

Fred Olinde
THE OLINDE FIRM
400 Poydras Street, Suite 1980
New Orleans, LA 70130
folinde@olindefirm.com

Tim Porter
PORTER MALOUF
825 Ridgewood Road
Rigeland, MS 39157
tporter@portermalouf.com

Plaintiffs' Executive Committee will work closely with Plaintiffs' Co-Lead Counsel and Plaintiffs' Liaison Counsel regarding management of the litigation, including assisting in organizing subcommittees and delegating tasks to subcommittees. Plaintiffs' Executive Committee will also assist in scheduling meetings for Plaintiffs' counsel, keeping minutes and/or records of Plaintiffs' counsel meetings, and any other administrative functions as necessary.

D. Plaintiffs' Federal-State Court Liaison Counsel:

Erin Copeland
FIBICH, LEEBRON, COPELAND & BRIGGS
1150 Bissonnet St.
Houston, TX 77005
ecopeland@fibichlaw.com

The duties of Plaintiffs' Federal-State Court Liaison Counsel include:

- i. Monitor and report to the Court the status of various state court litigations and proceedings when necessary;
- ii. Organize and submit any necessary documents to both the Court and the Clerk of the Court; and
- iii. Any other such duties as this Court may order.

E. Plaintiffs' Steering Committee

Plaintiffs' Steering Committee members shall consult with Plaintiffs' Co-Lead and Liaison Counsel in coordinating the plaintiffs' pretrial proceedings, in planning and conducting discovery, and in planning and preparing for trial. Subcommittees shall be formed as necessary.

Plaintiffs' Steering Committee members shall include Plaintiffs' Co-Lead Counsel and Executive Committee and the following additional members:

Raymond Boucher
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F. Privileged Communications

Cooperation among counsel and the parties is essential for the orderly and expeditious resolution of the litigation. The communication, transmission, or dissemination of information among plaintiffs' counsel shall be subject to the joint attorney-client privilege and the protections afforded by the attorney work-product doctrine; provided, however, that the conditions necessary to create such a privilege or protection have been satisfied and the privilege or protection has not been waived.

SO ORDERED, this 6 day of September 2018.



Karen K. Caldwell
United States District Judge