

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION
(at Covington)

JUDITH ROMO, et al.,)	<u>Lead Case</u>
)	Civil Action No. 2: 15-089-DCR
Plaintiffs,)	
)	
V.)	CASE MANAGEMENT ORDER
)	No. 4
MCKESSON CORP., et al.,)	(Document Production Protocol and
)	Cost of Production Order)
Defendants.)	

*** **

Being sufficiently advised, it is hereby **ORDERED** as follows:

This Document Production Protocol and Cost of Production Order (the “Document Production Protocol”) shall apply to all cases actions consolidated in the lead case of *Romo, et al., v. McKesson Corp., et al.*, Civil Action 2: 15-cv-089-DCR.

1. Definitions

(a) “Protective Order” shall refer to Case Management Order No. 3, entered contemporaneously herewith.

(b) “Discovery Management Order” shall refer to Case Management Order No. 5, entered contemporaneously herewith.

(c) “Brand Defendants” shall mean defendants that sold propoxyphene-containing pain products pursuant to an NDA at any time.

(d) “Documents” and “Electronically Stored Information (ESI)” shall be defined as they are in Federal Rule of Civil Procedure 34. The definitions of these terms do not include voicemail; instant messages; information on hand-held devices synchronized to

other electronic media that store such data; or temporary, transient, residual, or fragmented data.

2. Schedule for Production of Plaintiffs' Documents. Each plaintiff shall produce documents requested in the Plaintiff Fact Sheet ("PFS") when the plaintiff serves responses to the PFS.

3. Format of Production for Plaintiffs' Documents.

(a) Each plaintiff shall produce documents in either hard-copy format or electronically on a disk or equivalent media.

(b) The documents produced by plaintiffs shall be Bates-stamped and, where appropriate, endorsed with a stamp identifying the document as confidential, in accordance with the Protective Order.

(c) Every plaintiff shall affix a prefix to the Bates stamp on every document produced. The prefix shall be the plaintiff's first initial and last name (and, if needed, additional plaintiff-specific identification).

(d) This section shall not apply to require plaintiffs who already have produced documents prior to the entry of this Order to produce their documents a second time in the format described above.

4. Cost.

(a) The cost of production of any Copied Documents pursuant to this Document Production Protocol shall be \$0.10 per page. The cost shall be allocated/paid as follows:

i. One-half the cost (i.e., \$0.05 per page) shall be paid by the requesting party at the time of production.

ii. One-half the cost shall be deemed a taxable cost available for recovery by the producing party, subject to the producing party's application for the award of such costs pursuant to law depending on the ultimate disposition of the litigation.

(b) Defendants shall reimburse each plaintiff for every document produced directly by the plaintiffs consistent with paragraph 8.a., above.

(c) Defendants will provide copies of every document obtained from third parties through the use of any authorization described in the Discovery Management Order if the plaintiff has paid to the Defendants:

i. One-half the cost charged by the provider, employer, or other entity that provided such documents pursuant to a release, plus

ii. \$0.10 per page for hard copies of produced documents.

iii. No costs in addition to those set forth in paragraph 8(c)(i) will be applicable if third parties produce documents in electronic format and plaintiffs request electronic copies in lieu of hard copies.

(d) Notwithstanding the foregoing, the parties reserve the right to revisit issues regarding cost sharing and the costs of production as additional discovery requests are served or exchanged or as circumstances change.

5. Organization of Production. The documents produced shall be either:

(a) Organized and labeled to correspond with the number of the specific request to which the documents are responsive; or,

(b) Produced in the order in which they are kept in the usual course of business.

6. Avoidance of Duplicate Production. Each party will take all reasonable steps to reduce duplication of documents within production sets. De-duplication will be performed globally across data sets. The parties may also use e-mail thread suppression to reduce duplicative production of e-mail threads by producing the most recent e-mail containing the thread of e-mails, as well as all attachments within the thread.

7. Privilege Log. Any document withheld on the basis that the producing party believes production of the document is protected by the work product doctrine or an applicable privilege (“Privileged Material”) shall be described that document in a privilege log, as set forth in the Discovery Management Order.

(a) No party need list on a privilege log:

i. Documents generated after December 3, 2010. Documents produced and redacted for privilege, so long as:

A. For emails, the bibliographic information (e.g, to, from, cc, bcc, date/time) is not redacted; and

B. For non-email documents, the redaction is noted on the face of the document in the redaction field.

ii. An e-mail thread may be logged in a single entry provided that such entry identifies all senders and recipients appearing at any point in the thread.

iii. Documents that are presumptively privileged need not be logged. These are:

A. Internal communications within (a) a law firm, (b) a legal assistance organization, (c) a governmental law office, or (d) a legal department of a corporation or of another organization.

B. Communications solely between outside counsel and in-house counsel.

(b) After the receipt of a privilege log, any party may dispute a claim of privilege; however, prior to any submission to the Court for an in camera review, the party disputing a claim of privilege shall provide in writing the identification of the documents for which it questions the claim of privilege and the reasons (including legal support) for its assertion that the documents are not privileged. Within thirty days, the party seeking to support the claim of privilege shall provide a written response supporting the claim of privilege (including legal support). The parties will then meet and confer in good faith as to the claims of privilege. If agreement cannot be met after thirty days, any party may thereafter submit the Discovery Material under seal to the Court for a determination as to privilege.

8. Inadvertent Disclosure of Privileged Material. The inadvertent production of Privileged Material shall be governed by Section X of the Protective Order.

9. Authenticity and Admissibility. Nothing in this protocol shall be construed to affect the authenticity or admissibility of any document or data. All objections to the authenticity or admissibility of any document or data are preserved and may be asserted at any time.

10. Confidential or Highly-Confidential-Attorneys' Eyes Only Information. For the avoidance of doubt, nothing herein shall contradict the parties' rights and obligations

with respect to any designated Confidential Information, as governed by the Protective Order regarding the protection of such information.

This 26th day of January, 2016.



Signed By:

Danny C. Reeves DCR

United States District Judge