UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

IN RE: ABILIFY (ARIPIPRAZOLE) PRODUCTS LIABILITY LITIGATION	Case No. 3:16-md-2734
This Document Relates to All Cases	Chief Judge M. Casey Rodgers Magistrate Judge Gary Jones

ORDER REGARDING SELECTION OF THE SECOND GROUP OF POTENTIAL TRIAL CASES

The second discovery and trial pool will be determined as follows:

1. The Court will use the set of complete Plaintiff Profile Forms in the MDL Centrality database to select the potential pool of Plaintiffs for the second trial pool.

2. On or before July 6, 2018, the Court—with the assistance of BrownGreer—will randomly select 100 cases from the pool of complete Plaintiff Profile Forms. From that pool of 100 cases, the Court and BrownGreer will then identify all Plaintiffs who checked the box for (a) either Bipolar Disorder or Major Depressive Disorder/Depression as the diagnosis leading to their Abilify® prescription in Question II.D. of the Plaintiff Profile Form, and (b) "Gambling" as an obsessive/compulsive/impulsive behavior they claim was caused by Abilify® in Question III.B. From this reduced pool, the Court will randomly select 40 cases to proceed with the next step in the discovery process.

3. By July 20, 2018, Plaintiffs will advise the Court as to whether *Lexecon* will be waived for each of the 40 cases.[1] Any individual case in which Plaintiffs do not waive venue will be removed from the second discovery pool and immediately replaced with another randomly selected case from the reduced pool described in Paragraph 2 above.

4. Once the pool has been narrowed to 40 cases, each side will notify the Court within 14 days of five cases to be struck from the pool, taking the total pool down to 30 cases. In each of the 30 remaining cases, Plaintiff must provide by September 28, 2018 a completed Plaintiff Fact Sheet, medical, financial, or gambling records authorizations for each of the sources identified in the Plaintiff Fact Sheet, and copies of relevant medical, financial, and gambling records in Plaintiff's or Plaintiff counsel's possession. Should any additional authorization(s) be required for healthcare providers, financial, or gambling entities not identified in the Plaintiff Fact Sheet, Plaintiffs shall provide such authorization(s) within two (2) business days of Defendants' notifying Plaintiffs of the need. Once Defendants receive authorizations, they must begin collecting medical, financial, and gambling records from third parties in each of the 30 pool cases. Plaintiffs' "first look" period to review records collected by RecordTrak shall be limited to five (5) days.

[1] *See Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998).

5. By December 21, 2018, each side will strike an additional five (5) cases, taking the total second discovery pool down to 20 cases. The Parties will meet and confer on the reasonable scope of fact discovery for the 20 cases, including the number and sequence of depositions, the timing and production of Defendant Fact Sheets, and the timing of production, if any, of additional documents from both sides.

6. Within 7 days after the completion of the discovery identified in Paragraph 5, each side will select five cases for trial, for a total of 10 cases in the second trial pool. The Parties will meet and confer on the timing and scope of expert discovery for those 10 cases. If any of these 10 cases must be removed from the second trial pool, then the Court will randomly select a replacement from the remaining cases in the second discovery pool, provided sufficient time remains to prepare these new cases for trial.

7. The Court is continuing to consider the possibility of consolidating some number of cases for trial and trying the remaining cases individually. At this time, the Court is leaning towards conducting a consolidated trial. However, before making a final decision on consolidation, the Court will allow briefing on the issue and, if applicable, on the question of which specific cases will be consolidated.

DONE and **ORDERED** on this 22nd day of June, 2018.

M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE