

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

IN RE: TAXOTERE (DOCETAXEL)) MDL No. 2740
PRODUCTS LIABILITY LITIGATION)
) SECTION: "H" (5)
)
THIS DOCUMENT RELATES TO:)
ALL ACTIONS)

DRAFT TAXOTERE SCIENCE DAY PROTOCOL

On June 27, 2018, the Court will hold a "Science Day" for the Parties to provide the Court with an overview of general medical and scientific issues in this litigation, presented in an objective direct examination lecture format without advocacy. The Parties have agreed to the following ground rules in order to educate the Court on general medical and scientific issues in a non-adversarial manner:

1. On June 18, 2018, Plaintiffs, the Sanofi Defendants, and the 505(b)(2) Defendants each shall submit to Chambers a Preliminary Statement of the facts and legal issues presented in this litigation, not to exceed ten (10) pages. These statements will not be filed with the Clerk, will not be exchanged, will not be binding, will not waive claims or defenses, and may not be offered into evidence against a party or participating expert in any legal proceedings.

2. On June 18, 2018, Plaintiffs, the Sanofi Defendants, and the 505(b)(2) Defendants each shall submit to Chambers and exchange scientific articles of moderate length discussing medical and scientific issues involved in this litigation. The Plaintiffs may submit 2, the Sanofi Defendants and the 505(b)(2) Defendants may submit a combined 2.

3. Each side will make presentations of no more than an hour-and-a-half through one expert witness' direct examination. The 505(b)(2) Defendants reserve the right to call a second expert witness. Should the 505(b)(2) Defendants exercise that right, those Defendants must notify

the Plaintiffs by June 13, 2018, of the exercise of this right and the discipline of the second witness. In the event the 505(b)(2) exercise that right, all Defendants are limited to the hour-and-a-half presentation, must decide among themselves how to divide the allotted time, and the Plaintiffs have the right to call a second expert. The experts shall not be redundant. There will be no cross-examination.

4. Science Day will follow the approximate schedule below. The Court will have the opportunity to ask questions of the Parties' experts during or after each presentation, and also may ask questions of any expert at the close of both Parties' presentations:

- a. Plaintiffs' direct examination – 1.5 hours
- b. Defendants' direct examination – 1.5 hours

5. The presentations may incorporate the use of PowerPoints or other demonstrative aids, which will not be exchanged by the Parties, but which will be provided to the Court on Science Day. The Federal Rules of Evidence will not be enforced during the presentations or during the questioning of experts during or after the presentations.

6. Because the Science Day presentations are purely for the Court's benefit to gather background medical and scientific information, the Court session shall be "off the record," closed to the public and to any persons other than the Parties, admitted counsel for the Parties, the Parties' experts who will make the presentations, and court staff. There will be no court reporter or transcript taken. No recording of the presentation or telephonic access will be permitted; however, the Court may have the proceedings videotaped under the circumstances the Court will determine. After viewing by the Court and Court staff, the video will be destroyed. Only the Court may use the video.

7. Neither the PowerPoints or other demonstrative aides nor any statement or

presentation by any expert or by counsel during Science Day shall be discoverable, admissible, used in any fashion for impeachment purposes or for collateral attack on any presenter expert or other witnesses, shared beyond the instant litigation, or used for any purpose other than for this Court's benefit to gather informal knowledge at Science Day. The participation of any expert or physician in Science Day shall not be an independent basis for subjecting them to discovery and shall not waive any consulting expert privilege. No party shall conduct discovery on the presenting experts regarding their presentations or Science Day itself, whether or not later designated as a testifying expert.

8. The Court encourages the parties to confer at least 14 days in advance of Science Day in an effort to avoid repetition.



HON. JANE T. MILAZZO
UNITED STATES DISTRICT COURT JUDGE