

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

In Re: TAXOTERE (DOCETAXEL)  
PRODUCTS LIABILITY  
LITIGATION

MDL NO. 2740

THIS DOCUMENT RELATES TO:  
ALL CASES

SECTION "N" (5)

**PRETRIAL ORDER NO. 65**  
**[Procedure for Severance of Multi-Plaintiff Cases]**

The Court is aware of a number of complaints that have more than one plaintiff, excluding a plaintiff with a derivative claim. For these multi-plaintiff cases,<sup>1</sup> the Court deems it appropriate to sever the individual claims and assign to each plaintiff's claim an individual civil action number.

The Court therefore issues this Order on these multi-plaintiff cases, as well as any multi-plaintiff cases later removed or transferred to this MDL, and the procedure to sever plaintiffs from these cases in order that each plaintiff (and any plaintiff with a derivative claim) has her own individual complaint.

To facilitate the efficient administration of these actions, **IT IS ORDERED** that:

- (1) Within thirty (30) days of transfer into the MDL for cases not currently pending in the MDL, the lead plaintiff in each multi-plaintiff action shall file an *ex parte* motion and proposed order requesting severance of the individual plaintiffs in these multi-plaintiff cases. With regard to all pending multi-plaintiff cases as of the date of the entry of this Order, plaintiffs, through the PSC, shall file a single omnibus *ex parte* motion to sever within thirty (30) days of entry of this Order. Any motion and proposed order shall treat

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<sup>1</sup> In the multi-plaintiff City of St. Louis cases referenced in Plaintiffs' Omnibus Motion to Remand Certain Cases to the Twenty-Second Judicial Circuit, City of St. Louis, State of Missouri (Rec. Doc. 467), those plaintiffs have agreed to withdraw their motions for remand and acquiesce in the transfer of their cases to this Court and, thus, this Order is applicable to those plaintiffs.

an individual plaintiff who has used a docetaxel product who is joined with a plaintiff with a derivative claim based on the other plaintiff's use of a docetaxel product as one "individual plaintiff."

- (2) Upon the filing of any *ex parte* motion to sever by plaintiffs, this Court shall issue an Order of Severance for those cases.
- (3) Within 45 days from the Order of Severance, the individual plaintiffs (and any plaintiff with a derivative claim) must file a Short Form Complaint,<sup>2</sup> as well as pay the filing fee. The Short Form Complaint shall have two attachments when filed: (1) the Severance Order; and (2) the originally filed complaint. The Clerk will assign a new docket number to each individual plaintiff's Short Form Complaint and the docket number that had been assigned to the original multi-plaintiff case will be terminated once 45 days from the Order of Severance have passed.
- (4) Generally, neither Civil Cover Sheets nor Summons will be required for the severed civil actions. If a defendant has already been served in the case, no further service shall be required on that defendant. Service of the filed Short Form Complaint according to the procedures set forth by prior Pretrial Orders entered in this MDL shall be sufficient to effectuate service of the severed civil actions if service on the defendant(s) had not yet been accomplished in the multi-plaintiff action. Plaintiffs are not permitted to add new defendants when filing the Short Form Complaints in multi-plaintiff cases pursuant to this Pretrial Order. Rather, any substantive amendments to severed actions are governed by the Local Rules of the Eastern District of Louisiana.

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<sup>2</sup> See Pretrial Order No. 41. The Short Form Complaint shall be filed as an original complaint and not in the master docket. See attached "Exhibit A" for detailed filing instructions.

- (5) Any individual Short Form Complaint filed within the time provided by this Pretrial Order and subject to the terms of this Pretrial Order will be deemed to have been filed on and relate back to the original filing date of the multi-plaintiff civil action from which the applicable action was severed. Additionally, any statute of limitations defense that existed as of the filing dates of the original multi-plaintiff complaints shall be preserved.
- (6) Defendants' obligations with respect to filing responsive pleadings are not affected by this Order and are governed by prior Pretrial Orders entered in this MDL.
- (7) For plaintiffs in multi-plaintiff cases removed to this Court, plaintiffs shall complete their Plaintiff Fact Sheets within the deadlines set forth in Amended PTO No. 22 (Rec. Doc. 325) as if the case were filed in the MDL on the date an individual civil action number is assigned.
- (8) The named plaintiffs in the proposed class action, in which certification has been denied (Rec. Doc. 647), shall complete their Plaintiff Fact Sheets within the deadlines set forth in Amended PTO No. 22 (Rec. Doc. 325) as if the case were filed in the MDL on the date an individual civil action number is assigned.
- (9) Upon denial of subsequent motions to remand or motions for class certification, the plaintiffs in those cases shall complete the Plaintiff Fact Sheets within the deadlines set forth in Amended PTO No. 22 (Rec. Doc. 325) as if the case were filed in the MDL on the date of the Court's order denying plaintiffs' motion to remand or for class certification.

New Orleans, Louisiana, this 16<sup>th</sup> day of October, 2017.



**KURT D. ENGELHARDT**  
**UNITED STATES DISTRICT JUDGE**

### **Documents Needed**

Have the following PDFs available before starting the severed civil case opening process:

- Short Form Complaint
- Severance Order
- Original Complaint

Note: A civil cover sheet is not required

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### **Opening the Individual Severed Cases**

Login to CMECF and select Civil on the main menu bar, then under Open a Case, click on the link **CIVIL CASE**.

- In the "Other Court Name" field enter "EDLA"
  - In "Other court number" field enter the original case number of the Multi Plaintiff Complaint
  - Jurisdiction is "4" (Diversity)
  - For most cases: Cause of action is: 28:1332pl (Diversity - Product Liability)
  - Nature of suit: 367 (Personal Injury: Health Care/Pharmaceutical Personal Injury Product Liability)
  - Citizenship of 1<sup>st</sup> named pla: either 1-Citizen This State, or 2-Citizen Other State
  - Citizenship of 1<sup>st</sup> named defendant: either 3 - Citizen or Subject of a Foreign Country (if Sanofi is named as a defendant), or 5 - Incorporated/Principal Business Other State
  - Jury demand "p" for plaintiff, no Class Action, no \$ demand
  - County is the Louisiana parish of residence for the 1<sup>st</sup> named plaintiff, or "Out of State", or "Out of Country"
  - Add individual plaintiffs as listed in the Short Form Complaint
  - Add defendants as selected and indicated in the Short Form Complaint
  - Do not select or enter named defendant with aliases.
    - *Ex.*(incorrect party name). **Hospira Worldwide, LLC fka Hospira Worldwide, Inc.)**
    - *Ex.* (correct party name) - select **Hospira Worldwide, LLC** then separately enter the alias name (**Hospira Worldwide, Inc.**) under the alias field for the applicable defendant.
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### **Docketing the Lead Event/Individual Severed Complaint**

- Select the link "Docket Lead Event", select the event "Complaint"
- Select the plaintiff(s) as the filer
- Create the attorney/party association
- Select the defendant(s) that this filing is against

The Short Form Complaint will be the **Main document** with **Attachments** of:

- Severance Order
- Original Complaint