UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO. 20-md-02924-ROSENBERG

IN RE: ZANTAC (RANITIDINE) PRODUCTS LIABILITY LITIGATION.

West Palm Beach, FL
September 21, 2020

STATUS CONFERENCE (through Zoom)
BEFORE THE HONORABLE ROBIN L. ROSENBERG
UNITED STATES DISTRICT JUDGE

FOR THE PLAINTIFFS:

TRACY A. FINKEN, ESQ.
Anapol Weiss
One Logan Square
130 N. 18th Street Suite 1600
Philadelphia, PA 19103
215-735-1130

ADAM PULASKI, ESQ.
Pulaski Kherkher PLLC
2925 Richmond Avenue Suite 1725
Houston, TX 77098
713-664-4555

CARMEN S. SCOTT, ESQ.
Motley Rice LLC
28 Bridgeside Boulevard
Mt. Pleasant, SC 29464
843-216-9161

ROBERT C. GILBERT, ESQ.
Kopelowitz Ostrow Ferguson
Weiselberg Gilbert
2800 Ponce de Leon Boulevard
Suite 1100
Miami, FL 33134
305-384-7270

JE YON JUNG, ESQ.
May Lightfoot PLLC
3200 Martin Luther King, Jr. Ave. SE
Washington, D.C. 20032
202-918-1824

FOR THE DEFENDANTS: **WILL SACHSE, ESQ.**
Dechert LLP
Cira Centre
2929 Arch Street
Philadelphia, PA 19104
215-994-4000

ROBERT B. FRIEDMAN, ESQ.
King & Spalding LLP
1180 Peachtree Street Suite 1600
Atlanta, GA 30309
404-572-4600

PAIGE H. SHARPE, ESQ.
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue NW
Washington, D.C. 20001
202-942-5000

JOSEPH G. PETROSINELLI, ESQ.
M. ELAINE HORN, ESQ.
ANNIE SHOWALTER, ESQ.
JESSICA B. RYDSTROM, ESQ.
Williams & Connolly
725 12th Street NW
Washington, D.C. 20005
202-434-5567

TOMMY HUYNH, ESQ.
Arnold & Porter Kaye Scholer LLP
Three Embarcadero Center 10th Floor
San Francisco, CA 94111

ANAND AGNESHWAR, ESQ.
Arnold & Porter Kaye Scholer LLP
250 West 55th Street
New York, NY 10019
212-836-8011

THOMAS J. YOO, ESQ.
Holland & Knight LLP
400 Hope Street 8th Floor
Los Angeles, CA 90071
213-896-2400

SARAH JOHNSTON, ESQ.
Barnes & Thornburg LLP
2029 Century Park East
Suite 300
Los Angeles, CA 90067
310-284-3798

LINDSAY COHAN, ESQ.
Dechert LLP
515 Congress Avenue
Suite 1400
Austin, TX 78701
512-394-3001

JULIA ZOUSMER, ESQ.
King & Spalding LLP
353 N. Clark Street 12th Floor
Chicago, IL 60654
312-995-6333

Official Court Reporter: Pauline A. Stipes
HON. ROBIN L. ROSENBERG
Ft. Pierce/West Palm Beach, Fl
772.467.2337

THE COURT: Good afternoon, everyone. I want to welcome you and am happy to have Judge Reinhart here as well. We both welcome you to the status conference that was scheduled for today at 1:00. We want to get started. I know people are still getting admitted, but I want to try to keep us on time.

I hope everyone is doing well and is healthy and continuing to manage the pandemic as well as can be expected both personally and professionally.

I want to express my gratitude for the hard work that you have been putting into this case, especially in these difficult times. I want to tell you that it certainly makes it more manageable and fulfilling from the standpoint of the Court to preside over this MDL proceeding knowing the diligence and professionalism that each of you has brought to the case.

As always, I want to emphasize the importance of collegiality, cooperation, and collaboration, and professionalism.

There is simply no way each of us can do our jobs at the level that we would like without these key ingredients. I thank you in advance for continuing to adhere to these guiding principles of this MDL and ask that you remain mindful of how important they are to the Court.

Today we are here for our case management conference. We are conducting the conference through the Zoom platform given the ongoing pandemic. I want to thank everyone who has

worked hard with the Court and with the attorneys and everyone else to provide the technology, platform, and the expertise to ensure our ability to convene remotely and hopefully experience today as seamless a conference as we have been fortunate to experience with our past conferences on the remote platform.

I want to thank the attorneys for providing me with the agenda for the conference and the designated speakers. I am really looking forward to hearing from everyone and especially learning from our Leadership Development Committee members, some of them today, how their experience has been regarding this novel structure that we have put in place in this MDL and what suggestions you may have on a going-forward basis as it relates to the LDC both from the Plaintiffs' side and the Defendants' side.

One overarching impetus for today's conference is the need to discuss the development of the discovery process between the Plaintiffs and the brand Defendants. While I look forward to hearing from counsel on other topics that have been outlined in the agenda, I do recognize that we are at a time in the litigation, over seven months since the inception of the MDL and about three months since PTO 30 was entered setting forth the case management schedule for the case, that the topic of discovery is of paramount importance to the parties. I recognize that.

And particularly for discussion today is a timeline of

discovery between the Plaintiffs and the brand Defendants. Each party, I believe, has reason to meet deadlines by which productions will be made and received to ensure that the 18-month discovery period that the parties set out for themselves, again contained within PTO 30, can be maintained.

So, to that end, the Court sought input from the Plaintiffs and the brand Defendants on realistic timelines for discovery, and the Court requested this so that the Court could have greater clarity as to the parties' vision for the future of the discovery process, and importantly, the parties' vision for completing discovery within the timelines that have been set forth by the parties in PTO 30.

The parties detailed in their submission spreadsheets that contained various proposed deadlines for discovery, which the Court has reviewed in depth. I thank you for those, they were very helpful.

So, let's begin with a discussion of those timelines. I will endeavor to recap in a very, very summary fashion my broad understanding of the parties' positions and pose some questions that I have, where I have those questions, and then I will invite counsel to supplement or clarify anything that the Court has said, or if the Court has misstated something, certainly correct the Court.

I have selected the order to discuss the timelines based on the sequence in which I reviewed the submissions.

So, first what I will try to do is recap the Plaintiffs' position generally and then I will turn to each brand Defendant one at a time and we'll begin with the Plaintiffs and BI.

So, if each counsel for these parties will turn the videos on. And just so the others can anticipate what comes next, after BI I will turn to Sanofi, then Pfizer, then GSK.

So, the counsel for Plaintiffs and BI -- when I say BI, it's Boehringer Ingelheim, if I have pronounced that correctly. You can correct me if I am off on that.

Let me say hello and welcome and if you could state your names for the record, your appearances.

MS. FINKEN: Good afternoon, your Honor, Tracy Finken on behalf of Plaintiffs.

THE COURT: Hi, Ms. Finken. How are you?

MS. FINKEN: Good, thanks. How are you?

THE COURT: Good, thank you.

MR. FRIEDMAN: Good afternoon, your Honor, Robert Friedman from King & Spalding on behalf of Boehringer Ingelheim.

THE COURT: Hi, Mr. Friedman. How are you?

MR. FRIEDMAN: Well, thank you.

THE COURT: Okay. So, as I understand it, the Plaintiffs' position varies as to specifics across the four brand Defendants, but Plaintiffs do have certain proposals that

are common as to all of the Defendants.

One is that Plaintiffs have divided their requested documents into two broad categories, noncustodial and custodial.

As to the first category, Plaintiffs want full and complete production by December 31, 2020. If any subsequent updates to those productions are necessary, Plaintiffs propose that Defendants do so on a rolling basis at least every 90 days until the close of discovery on December 31, 2021.

As to the second category, Plaintiffs propose five tranches of productions with the first tranche's production deadline on December 31, 2020, and the fifth and final tranches on September 30, 2021.

Additionally, Plaintiffs request that the Court enter a very detailed schedule that would include many different types of deadlines across several different facets of discovery, including depositions, electronic discovery, search terms, and conventional document discovery.

Finally, within the category of noncustodial documents, there are certain types of documents that Plaintiffs want to receive by November 25, 2020, and there are other types of documents that Plaintiffs want to receive by December 31, 2020.

That's a very summary broad recap. Sit tight, Ms. Finken, because I know if there is anything you want to

supplement or clarify you will have an opportunity.

I always like to just tell you what I have gleaned so you can correct me or supplement, because if you don't know what I am thinking, then you would be shooting in the dark a little bit, so I tend to use this technique in different hearings that I hold.

And then from BI's submissions, what I have learned is that your proposal, Mr. Friedman, on behalf of your client contains substantial completion dates for custodial and noncustodial documents.

Regarding noncustodial documents, BI proposes to achieve substantial completion of pharmacovigilance share files by October 3rd, 2020; four categories of documents, such as OTC Zantac financial reporting data, by October 3, 2020; complaint files by November 13, 2020; marketing documents by January 8, 2021; and manufacturing documents by January 29, 2021.

As mentioned before, Plaintiffs have proposed complete production of documents from noncustodial sources by December 31, 2020.

The parties' proposals regarding noncustodial documents, to the Court, thus appear largely consistent.

Regarding custodial documents, BI contemplates separate substantial completion dates for U.S. based and non U.S. based custodial files.

As to U.S. based files, BI proposes substantial

completion by January 15, 2021, and as to non U.S. based files, BI proposes February 26, 2021.

Plaintiffs' proposal did not differentiate between the location of custodial files. It instead proposes the five tranche production timeline running from the end of this year through September 30, 2021.

That was a lot of dates. I did my best to glean them from your submissions. Again, if I didn't get something right, you will be sure to let me know.

So, before your opportunity to speak in terms of supplementing or clarifying, let me just go to a few questions that I have based on my summary. Your answer isn't limiting you to what you are ultimately going to be able to tell me in the more general sense, but if you could try to help me understand the questions I have, and that will help focus the Court's attention as you give your more general presentation.

Ms. Finken, I have one question to start off with which is: Why is your five tranche model for custodial files across Defendants more effective than the non-tranche individualized proposals from the Defendants?

And that, you know, could be construed as a general question, I know it doesn't just apply to BI. So, if I could get a sense of your view on that.

MS. FINKEN: Yes. Well, your Honor, first of all, the one thing I want to the really make clear is that we firmly

believe that a production and discovery schedule should be uniform across the four brands, just as the deadlines in PTO 30 are uniform across all Defendants, and recognizing that the scope of the productions may differ from brand to brand as to each has a unique situation in terms of the products, the length of the time they were involved, the accessibility of documents, but the uniformity of the schedule keeps both sides moving forward in a linear fashion from stepping stone to stepping stone to reach the end date.

The way that we set forth our schedule is that our deadlines are actual stepping stones of what we need to get done to get to the next deadline.

For example, we put a deadline in there for search terms because search terms are necessary to be agreed upon for us to identify custodial files that we would like to request, and those are the search terms that are run across the custodial files and ultimately that is how the documents are pooled.

As far as the tranches of custodial files go, we did it in such a way that we would have the noncustodial productions first so that we could identify custodians that we would like to request their custodial file for witnesses we may want to take depositions of, but recognizing that we can't have the Defendants do their entire custodial file production at one time. That wouldn't necessarily be a reasonable position from

our perspective.

So, we tried to space it apart that we would be identifying custodians in tranches. It would give the Defendants an opportunity to collect them, review them, produce them. It would give us an opportunity as they are produced that we can review them, determine which ones we would want to take depositions of.

And then, we may find within those documents that are produced that there are additional custodians that we want to request, and that is usually what happens.

So, moving forward, as we get more substantial productions we can identify additional custodians that are relevant across the different functional areas, and request those custodial files, but it keeps the whole process moving forward in a linear fashion, in a reasonable way that the Defendants can cull the material, review it on their side, produce it, and in the meantime, we are on our end reviewing what has been produced, identifying witnesses for deposition, and it all builds upon each other through our schedule, and we have factored all of that in.

THE COURT: If a Defendant, however, is willing to give you all of the information, or what we will call like the substantial amount of information at a date that would ultimately be sooner than the final date that the Plaintiff has proposed over the series of the five tranches, would that not

be, I guess, acceptable or maybe even preferable to the Plaintiffs?

MS. FINKEN: Well, if the Defendants are able to take the custodial file requests that we have identified and produce them sooner, there is nothing to prevent them from doing that. Of course that would be preferable.

But we are trying to be reasonable in terms of the timeframes that we are giving them, so this is all rolling over a period of time and we can be productive and continue our review process, take depositions in the meantime.

Just to back up for a moment, your Honor, to get to that point where we can identify custodians and request custodial files we need a substantially complete noncustodial file production because at this point -- and some of the Defendants have already, you know, they have agreed with me on this point.

We don't have even enough information produced that we can identify the universe of custodial files that we would want to request as potential depositions that we would want to take or witnesses that we feel are relevant or critical to trial.

I understand that the Defendants have identified people that they believe are relevant. We don't know who they are. They are certainly entitled to do that and they are required to do that under the Federal rules, but it shouldn't prejudice our ability for us to identify the witnesses that we

believe are relevant to the areas that are critical to not just the personal injury side of this case, but also the class side of this case, because the discovery deadlines are applicable to both, and we have to prove both cases during this 18-month timeframe that we have agreed upon.

So, the way that we put our schedule in place was that the stepping stones we need to get to the next point are in place in a linear fashion that ultimately get us to the end result of the discovery deadline in December of 2021.

So, from our perspective, it makes sense to have a uniform schedule across all four Defendants, and then in terms of the scope of those individual categories of production, that is something that would still be subject to the meet and confer process.

We are not trying to eliminate the meet and confer process, that wasn't the purpose of our schedule; it was to impose a uniform deadline to keep us on track, but the meet and confer process and the scope of the individual categories of documents within that schedule would still be subject to a meet and confer process.

Ultimately, it gives us a final deadline that if we are not getting to an agreement that we can raise the issue before your Honor and get some guidance from the Court on how to resolve these issues to move the ball forward.

As your Honor is probably aware, at some point the

meet and confer process becomes inefficient when you have reached an impasse and we need the Court to step in and give us some guidance and resolutions so that we can move forward and get to where we need to be, for multiple reasons, either the Defendants' clients may require it before they would agree, or we may need to preserve the record, or for a variety of reasons.

So, we have tried to put those mile markers all in place, recognizing the disputes that we are going to have, disputes that will likely be uniform across the four Defendants, and there are scope issues that some will be uniform across the Defendants and some will differ.

It wasn't meant to surpass the meet and confer process or the ability to discuss the scope with each individual Defendant. We anticipate that would still occur, but it would be those goal posts thats we need to reach in time for where we need to be.

THE COURT: Okay, I appreciate that.

Let me just go to my next question, which again is a little more general, and then I have two more questions that are related to the BI proposal and then I will turn to BI.

You have proposed dates for final completion of productions rather than dates for substantial completion, which most of the Defendants -- I think one, maybe Pfizer only, but perhaps another, you know, had a specific date for final

completion, but predominantly the proposals from the Defense were substantial completion. We know, of course, that PTO 30 has deadlines for completion of the different aspects of discovery.

And so, I just wanted to make sure I understood Plaintiffs' position on final completion dates. Is that more appropriate than substantial completion dates?

Would it not be helpful to have a substantial completion date sometime out before the final completion date, final completion date being that memorialized in PTO 30, so that if something is not done to one's liking, one side or the other, there is ample opportunity to go through the meet and confer and come to the Court if necessary to right it?

MS. FINKEN: Your Honor, I think that with our goal posts and our mile markers that we have put in place with our proposed schedule, we used final completion dates for certain categories of information, like I said, that we believe are stepping stones to the next step.

However, in terms of document production substantially complete, it is a matter of semantics. There is going to be an obligation for Defendants to supplement their productions regardless moving forward if there is additional information that becomes available.

Our schedule actually contemplates that. We just want to be in a position that if the categorical documents, so to

speak, the noncustodial categorical documents such as the pharmacological vigilance departmental files, that they are produced in a certain period of time so that we can then review the entirety of those documents and really plan on the depositions that we want to take going forward.

I understand that for us to do that, we need to know the universe, we need to know the universe of what is out there so we can really plan what depositions we want to take.

We don't have time in this case -- and I have expressed this to some of these Defendants. We don't have time to do a scorched earth policy where we can take thousands of depositions in this case and just run rampant with discovery. We need to be judicious, we need to be judicious in the depositions we select moving forward because of the time constraints that we are under.

So, for us to be judicious in doing that we need to know the universe of documents that exist and really get the bulk of the noncustodial production done within a certain period of time so then we can focus on what witnesses and custodial files we want to request.

That would be the bulk of what we are doing from January up until the fall of next year when we are getting expert reports together. This is all information that our experts are going to need to rely on for expert reports.

So, we need to be able to really understand the

universe of what is out there, with the understanding that there may be additional materials that become available of known to Defendants and, of course, they would supplement as they move forward.

We are trying to keep these mile marker stepping stones in place that we foresee to get us to where we need to be in December of next year and stay on track with your Honor's order and the agreement that we put in place under PTO 30.

THE COURT: Thank you. Okay.

So, as I indicated earlier, my take was that the dates proposed by the Plaintiffs and BI are close and largely consistent. Nonetheless, I want to ask you, are there dates in BI's proposal that you consider problematic?

MS. FINKEN: I think there are a couple of things that I consider problematic. It is not necessarily the dates, it is the way that it is categorized, for example, the differentiation between U.S. based custodial files and foreign custodial files.

At this point in time, we don't have the documents that we need to identify whether or not there are foreign custodial files that we want to request. It is premature to do those types of tranches because it may be very few foreign custodial files and the bulk of it may be U.S. based. It's hard to say where those numbers are going to fall out.

From our perspective, it doesn't really make sense to

do it that way. It makes sense to have it as a rolling production based on as identifying custodial files that we want to take, and certainly working with Defendants should some of those custodial files be foreign witnesses, and maybe there are different issues for the Defendant where they might need additional time to collect a foreign witness custodial file or produce them for a deposition.

And I anticipate that when those issues arise, which I'm certain they will, we would sit down and have a meet and confer and talk through that process and if we can't come to a resolution, certainly we would come before your Honor.

From our perspective, it doesn't make sense to break it down the way that it is broken down because we are shooting into the dark right now. Based upon the discovery that has been done to date and the types of documents that have been produced to date, we really don't know what we don't know at this point.

THE COURT: Okay. That was actually my next question, was what issues, if any, did you have with the breakout of the U.S. versus non U.S.

So, you are saying you don't have an issue with the dates, just the way it was categorized?

MS. FINKEN: Yes, and I think that -- some of the dates are certainly on target and consistent with some of our dates, and just for your Honor's perspective, we created a

chart, which I am looking at right now, that has our positions next to the four brand Defendant positions, and if it would be helpful for the Court, we can certainly provide that to you after the conference so you have it in front of you so you can see everything in one spot.

I think that there are dates that are consistent with BI. It is more of an issue of the limitations, and looking at their particular schedule, they are identifying specifically documents that they will produce on certain dates, but it is very specific, it's very narrow, and it narrows our ability of, you know, the remainder of the production or the document requests that are out there and the documents that we need to move forward.

And it also subsumes -- or presumes that the Defendants will identify their custodians and produce the custodians without input by the Plaintiffs, which is not something that is typically done. The custodial files that we request will be based upon witnesses that we want to take depositions of and presumably we would want to put up at trial, or maybe we want their depositions because we need them for motion practice or for expert reports.

But it is not appropriate for the Defendants to dictate which custodial files they produce and base their schedule based upon custodians that they have identified, but have not even disclosed to us at this point, and without our

ability to have input and request custodial files that we need for purposes of our case on both the class side and the personal injury side.

THE COURT: Okay. Just on that offer to provide the chart where you have endeavored to put the Plaintiffs' schedule next to all of the Defendants, that would be helpful, of course, if you also provide it to all of the Defendants as well.

If we can all get it, that would be great, and if the Defendants have done their version of it, I would be happy to take that as well. You can't have too many charts.

MS. FINKEN: Absolutely, your Honor. I realized the difficulty in looking at them all separately as I was preparing for today's conference, and we just put this together this morning because it certainly became very apparent the difficulty the Court would have in looking at these all as separate submissions. So, I am happy to produce it and we will produce it to the Defendants as well.

THE COURT: I appreciate it. That explains why the early morning Friday request to at least do that added step which is a little closer, but it sounds like what you have done is even better. I look forward to looking at that.

So, turning now to BI, let me just ask a threshold question. How do you define noncustodial documents? Just so I know what you are talking about, that I am not drawing any

assumptions that are incorrect.

MR. FRIEDMAN: Sure. Your Honor, at a high level, a noncustodial document would be any document that a particular witness doesn't treat as their personal file.

So, a custodial document would include anything from a person's email to the paper that they might keep in their drawers, back when some of us had desks and drawers and offices, to an online file maybe in a -- a network file that is their online source where they can keep stuff, their personal working file. So, anything that a custodian identifies as their files we would consider a custodial file.

On the other hand, a noncustodial file would be anything that is not really specific to a custodian. These would be databases that the company uses in the conduct of its business, files that are shared by a business unit. So, if the marketing department has a set of online shared files where it stores all their advertising pieces or minutes from meetings, those would be considered noncustodial data.

One thing that might be helpful, your Honor, is to think about it as noncustodial data is typically either structured or unstructured; structured meaning it is some sort of database, it could be a financial database, but it's data that is structured in a way that you produce reports from it or it delivers some sort of output.

Then there is unstructured data which could be just a

set of folders on a network drive that people can store anything in, they can store PDFs in it, they can store Word documents in it, they can store emails in it. We think of that as unstructured data.

So, those are kind of the two halves of it.

Is that helpful?

THE COURT: That is very helpful, thank you.

My understanding, based on your proposal, is that you achieve substantial completion of custodial and noncustodial document productions by February 26, 2021; is that correct?

MR. FRIEDMAN: That is correct, your Honor. We have spent a lot of time looking at various sources of data, the places where the data is, including which country is it in, and trying to be thoughtful about the most efficient way to get through discovery. I can, at some point, give you some more thoughts on how we got to these dates, but to answer your specific question, yes.

That is not to say that we don't envision that there would be supplemental discovery after that point. This is not intended to be here is what we want to provide you and we are done, but that is the date by which, based on what we anticipate being produced based on the issues in the case, the Plaintiffs' claims, our defenses, as well as the fact -- you can't overlook that written discovery was served and BI responded to interrogatories and requests for production last

week and they asked for a lot of things.

So, it doesn't make necessarily complete sense to us to wait for the Plaintiffs to say, oh, we want this person's or this person's files when they have already in written discovery said we want all of the files either from this group or on this topic, whether they are custodial or not custodial, and we are working to give them what they have asked for in a way that makes the most sense to us.

THE COURT: Ms. Finken mentioned that she appreciates -- I am going to put words in her mouth right now -- that, but she, too, on behalf of the Plaintiff wants to and has the right to exercise the discretion to determine certain types of discovery, including custodial documents and depositions and deponents and witnesses. I mean, surely you agree with that, so if she receives certain discovery that you have called substantially complete as it relates to custodial, but based on things they have looked at in the noncustodial, there is more that they believe they need, it would be a rolling process after February 26th.

You would continue to supplement, communicate, and produce and/or make available those persons whom you otherwise aren't objecting to and then go through the meet and confer and coming to the Court if it comes to a stalemate.

I mean, are you talking the same language in that regard?

MR. FRIEDMAN: I think we are, your Honor. Ms. Finken and I spoke about this yesterday. It goes back to the fundamental principle of discovery, that a Defendant or a party, either party, is typically in the best position to understand the best way for it to produce what it has.

So, you know, while there may be some issues that we don't anticipate or some people that the Plaintiffs want to have files for or depose that we just haven't envisioned, the reality is that we can probably identify whatever, that 75, 80, 85 percent of the things that the Plaintiffs are going to want.

We know who the witnesses are, the individuals are who worked on Zantac or have responsive information, and so, we believe in moving forward with identifying and collecting and producing the things that we know they are ultimately, or we have a very good sense that they are ultimately going to want, to do that now and to do that in a manner that is efficient.

That is not to say that it is a -- it is a collaborative process. For example, with custodians, we have a very good sense of who that sort of 80 percent group is, and we have started collecting and reviewing their documents.

I do want to address the U.S. and rest of the world issue. I suspect that is something your Honor is going to ask about.

But the way we would envision it is that we have been moving forward with the custodial documents on both sides of

the Atlantic Ocean, but that is not to say -- because these are the ones we are pretty certain that they are going to want.

But if they come to that process and they get our list of custodians, which we intend to provide them very soon, and say so and so is missing, we don't understand why this person is on your list, then we will certainly have a conversation about that. It may be that we say, well, that person is no longer employed and there are no documents for that person.

That is sort of the problem with doing it the other way, is if we wait until they have whatever information they need to say, here is our list, then that list could contain people who don't have files, are no longer employed, and it is not very efficient. That is how we have set it up that way.

As to U.S. and rest of the world, that is a necessary way that we have to do the process. While -- it is obvious that every Defendant is differently situated here. I don't think I am saying anything that any other Defendant will disagree with.

While BI may not have marketed the product as long as some Defendants, and while it may not have invented Zantac or even still market it, there are still unique challenges that BI faces in discovery, and we have been working on discovery of operations in the U.S., in Mexico and in Germany, and there are different challenges that comes with discovery in each of those countries.

Here in the U.S. we have the challenge that BI no longer has a consumer health care business, we sold it at the beginning of 2017. That is a practical challenge in that there aren't people we can necessarily go to and say how did we do this for Zantac, or how did we do such and such process in 2009, because all the people that did that thing, let's say it is marketing, are not there. We don't have any consumer marketing department anymore. So, that is one example of a complication.

Mexico, where BI manufactured Zantac, continues to struggle with COVID-19, but we are working around that challenge. We don't believe it is going to keep the parties from meeting deadlines in this case.

Discovery of BI's operations in Germany has different challenges. As the Court may know, Germany has some of the most strict data privacy laws in the world which require certain processes in order to comply with them when conducting U.S. litigation.

This is why BI's proposal for how it will stage discovery in this MDL distinguishes between data in the U.S. and the rest of the world. It's a reflection that the data from different countries has to be handled differently as a result of different work flows and different timing issues.

Frankly, if we wait until the Plaintiffs come to us and say we think we would like this German witness' data, it

takes -- it always takes longer than anyone thinks it will, so we wanted to get a head start with the witnesses that we anticipate being relevant to this litigation.

THE COURT: Okay. Thank you.

MS. FINKEN: Your Honor, may I just say something along the lines of the BI schedule? This applies across the board to all four of the brand Defendants' proposed schedules.

That is that we have certain requirements under PTO 30 that we have to meet, one of them is which we have to identify cancers in January.

Our schedule when we sat down to create it takes into account those deadlines and the documents that we need beforehand so that we can provide them to our experts and do what we need to do under a schedule that has already been put in place by the parties and by the Court under PTO 30, and for us to be able to do that we need certain categories of documents ahead of time. We need 30(b)(6) depositions of certain types of witnesses ahead of time.

We accounted for all of that in the schedule that we proposed. That is why the noncustodial source files and productions that we set out in our schedule are the way they are with a priority batch and then a final batch.

That is because -- the same goes for the 30(b)(6) depositions being completed by the end of December, it is because we need that information to review, to provide to our

experts so that we can meet those deadlines in PTO 30.

When we sat down and did this, we accounted for all of the deadlines that are already in place, and all of the claims that are set forth not just in the personal injury case, but in the class case. And we looked at the deadlines that already exist, and we created our proposed schedule to ensure that we would have what we need to meet those deadlines.

Specifically, the January deadline of identifying cancers in play requires that we be able to review their preclinical trials, clinical trials, pharmacovigilance documents, adverse event reports, and their science and safety documents, as well as all of their chemistry manufacturing documents that pertain to the formation of NDMA, and all of the regulatory submissions that they made across the globe when they recalled this product and undertook testing of Zantac forming NDMA and testing of the safety of this product. These are all documents that we need in advance of being able to intelligently provide that information in January. We took this all into consideration when we put the schedule together.

The way that individual schedules are set forth they don't account for that. We have -- I'm sorry, your Honor.

THE COURT: It looks like two deadlines of BI's come after January 8pharmacovigilance the January 29 for manufacturing and the -- but for U.S. based, so January 15, that is a week later, and then non U.S. by February 26.

MS. FINKEN: Yes, and it also has -- you know, there is a January 8th deadline of custodial files. From our schedule, we have an initial batch of custodial files that we request in October, with the rolling productions beginning November 15th on those files and those being completed by December 31st.

We have very specific deadlines set forth for receipt of the pharmacovigilance files, the adverse event reports, the preclinical, clinical, post marketing studies, with underlying documents and data, the stability and chromatography testing and the other testing they performed related to NDMA impurities or degradation of Zantac, and that is included in their worldwide regulatory submissions, as well as their own internal documents relating to the evaluation or analysis of NDMA or nitrosamines in or formed from Zantac.

These are all documents that they have and that we will need in advance of that January deadline not just for our own review, but for our experts to review so that we can meet these deadlines moving forward.

When we sat down to form the schedule we really put a lot of thought into how we get to where we need to be with the very tight deadlines that are already in place under PTO 30.

I don't feel that the Defense schedules, the proposed schedules, not just BI's, but across the board, really account for some of this.

For example, not to talk about a different Defendant, but GSK --

THE COURT: We will get to GSK.

MS. FINKEN: We did it -- just so your Honor is aware, just from our thought process, when we did schedules uniformly across the board we did it using GSK as the lowest common denominator, and the reason being is that GSK is the innovator, GSK has 50 years of conduct here, GSK has 50 years of regulatory and research and development, and we did this uniform schedule with the thought process that if GSK as the lowest common denominator meets these deadlines, then it keeps us on track for the rest of them moving forward until next year or at the conclusion of discovery.

The other piece of this that we really put in place was that there are issues that are going to be uniform across all four brands, and that is things like the search term issue. There are certain categories of documents that are -- the scope of which will need to be resolved across all four brands.

For example, I can tell you that -- for example, like the pharmacovigilance departmental files, these are typically files that are what I consider -- in the past 20 years doing this in pharmaceutical cases it's considered the low hanging fruit.

Typically, you don't argue about standard operating procedures and pharmacovigilance departmental files. These are

documents that are considered foundational documents in every pharmaceutical case and they just get produced.

Essentially, here we have some brand Defendants that have objected to that. They think that pharmacovigilance documents -- departmental files should only be produced if they relate specifically to cancer, and that is just not the case.

The way this works is, it is as important for us to know what they were not discussing in their pharmacovigilance department over periods of time as to what they were discussing.

If there was information coming out over time that indicated a risk of cancer and they weren't discussing it in their pharmacovigilance departmental meetings and minutes, that is important for us to know. It is an essential, actually a critical part of our case.

So, we have some Defendants here that are objecting to that type of scope, and that is a scope that we believe is uniform across all four brand Defendants, and the way that our schedule lays this out is that it allows for meet and confer process and resolution on the issues that are uniform across the four brands.

It is more efficient that way because there are multiple issues that will need to be uniform in resolution, and then it also allows for the individual scope issues because there are categories of documents where the scope will be

different for some of these Defendants based upon what they did.

For example, BI, I know Mr. Friedman said that they divested their consumer health department in 2017, but they also continued to manufacture Zantac and do the pharmacovigilance for Zantac for Sanofi after 2017, straight up until the product was recalled from the market. So, they do have access to a lot of information that has not been produced yet.

My point of this is just to let your Honor know that there are instances where we have uniform disputes that are going to need to be addressed and there are instances where the scope is going to vary from witness to witness.

The uniformity of a production schedule that we put in place allows for us to address the uniform issues that need a resolution, as well as the individual issues. And we factored all of that in in conjunction with the deadlines that are already set in PTO 30 and which were part of a very substantial negotiation process with all four brand Defendants.

Those deadlines are uniform across the board and it is our position that these custodial deadlines -- not custodial -- these production deadlines should also be uniform across the board because, to the extent that they have these types of categories of documents that we need, for example, the January 8th cancer identification, that is a uniform deadline and we

are going to need all of those categories of documents across all four brands in time for our experts to review them, for us to review them. For us, if we need to take 30(b)(6) depositions based upon whatever they show, we need that time to do that before January 8th, when we have to make those identifications.

That is something that these Defendants, when we sat down and discussed PTO 30, were insistent upon. That was something that was a big deal for them, that they insisted upon us identifying the cancers in January, and we are absolutely willing to do that. It is appropriate to do that. We need to do that.

At some point, we understand that we need to solidify the cancers that will move forward in this case, but to do that we need to be able to review the internal documents and data and the productions from all four of the brand Defendants for us to be able to do that intelligently and do it well, and have our experts weigh in, because you can't give an expert a whole bunch of documents on December 23rd and say we need an answer January 2nd. They would probably fire us.

So, we have really tried to account for these types of things and be really thoughtful in our uniformity across the schedule.

THE COURT: Thank you.

Mr. Friedman, were there any final remarks? I do need

to move on to the other three brands and then the other topics on the agenda. I want to be mindful of the time.

MR. FRIEDMAN: Your Honor, just two very quick points.

One, I don't think Ms. Finken meant to infer this, but as far as BI's operations since it sold its consumer health care business to Sanofi at the beginning of 2017 -- there was a transition period where we did some pharmacovigilance work after that, it was only for a few months. Since that time, it has been exclusively a role as a contract manufacturing organization from our Mexican manufacturing facility. So, we have not done pharmacovigilance for Zantac since early 2017.

The second thing I want to say, I think Ms. Finken said something very important, which is that -- when she talked about the least common denominator or lowest common denominator. I think that that approach by definition is not the most efficient approach. When you do something using the least common denominator you are taking an inefficient approach.

So, at BI we have tried to do -- set up a discovery schedule that has us producing documents as efficiently and as early in this litigation as we can, and putting up witnesses in this litigation. We are presenting our first 30(b)(6) witness next Thursday because we produced the regulatory files and this is a 30(b)(6) on regulatory and it makes sense to do that.

So, we think that a spoke approach that is unique to

each Defendant is a more orderly and efficient way to conduct the litigation and have us meet the deadlines the Court set out for us.

THE COURT: Well, thank you very much. I appreciate the overview and the answers to the questions. It is very informative.

I am going to allow you -- Ms. Finken, you are going to stay on. Unless you want to stay on, Mr. Friedman, and tag team with Sanofi's counsel, I think at this point I will ask that counsel for Sanofi come on and join us.

MS. SHARPE: Hello.

MR. FRIEDMAN: Thank you.

THE COURT: Thank you so much.

Hi, Ms. Sharpe, how are you?

MS. SHARPE: Good afternoon, your Honor, I am doing very well. How are you?

THE COURT: It's good to see you again.

I am not going to go over the Plaintiffs' position again. I am really just going to do a high-level recap of my understanding of Sanofi's position, again very high level.

I understand Sanofi to be proposing a deadline where all pending document discovery requests are substantially completed by December 20, 2020, a little more than a week prior to the deadline proposed by the Plaintiffs, although the Court notes that Plaintiffs' proposed deadline of December 31, 2020,

would be for full completion, not substantial completion. Sanofi does not, unlike Plaintiffs, propose a deadline broken out by type of document request, and instead proposes a broad general deadline for all document requests.

So, I want to just begin with that overview with a question and then, of course, allow you to elaborate on anything that you would like to.

Plaintiffs have identified certain categories of noncustodial documents that Plaintiffs want to receive in late November. Under Sanofi's proposed schedule, no particular type of document receives special treatment.

Is it possible for Sanofi to make the November deadline for the documents Plaintiffs want to receive in November?

MS. SHARPE: Well, your Honor, I think what we have tried to do is take the categories broadly that Plaintiffs have requested and then identify the sources for those documents within Sanofi's functional areas.

So, our references to what we are producing are intended to encompass those categories of requests that are coming from Plaintiffs, but we have linked them to particular sources that we have identified that have the relevant materials. So, I don't think they are entirely different approaches.

What I will say is that in our meet and confers with

Plaintiffs, which from Sanofi's perspective have been very collaborative and we have made a lot of progress with Plaintiffs through those informal discussions, it has not always bee clear to us how Plaintiffs are prioritizing the documents they want.

It is actually helpful for us to see their proposal from that perspective so we can think about it. Because we have been served with requests that cover, you know, 15 functional areas basically through their requests for production and have not had a lot of direction about how to prioritize those, we have been trying to get our arms around everything at the same time, and our proposed rolling dates for production are largely tied to the feasibility and accessibility of documents within those functional areas.

So, for example, we proposed in the final category of production sales and transport related documents because we understand that that is going to have the most hard copy component to it, and those are going to be, especially given COVID restrictions and workplace re-entry restrictions, the most for us to compile and produce.

By the same token, we have front loaded the areas for production that we think are going to be -- that we have identified -- we have done a fair amount of investigation -- that we have identified as being the most accessible and require the fewest -- for example, application of search terms

and the like, so we can move forward and get documents to Plaintiffs on a rolling basis based on those accessibility criteria.

We are willing to continue to meet and confer with Plaintiffs if they want to sort of rejigger the sources that we have identified in our proposal based on the category approach that they have taken. So, nothing is off the table from our perspective in that regard.

We do think, based on the investigation that we have done, that we should be able to make the substantial completion date for those noncustodial sources by December and we will do it on a rolling basis so that Plaintiffs are getting that. They are already getting it and we'll continue those productions leading up to the final proposed date.

THE COURT: Did you say that you had had difficulty understanding the prioritization from the Plaintiffs, but has this exercise of exchanging the lists helped and do you now have a better sense of their priority of documents?

MS. SHARPE: I think it has helped, your Honor. Setting aside the regulatory files, which I think the parties mutually agree contain the key documents going to all causation issues, we mutually agree that those were important and Sanofi produced its full regulatory files for its Zantac NDAs in June, shortly after discovery opened.

That issue aside, the message we have in large part

received is that Plaintiffs want everything they have asked for. We understand why that would be their perspective, so I think this exercise has been helpful in identifying priority issues.

We are committed to meeting the obligations that we have made to Plaintiffs and getting them documents as soon as we can.

So, if it is possible to get documents sooner than what is set forth in the schedule, we'll certainly endeavor to do so, but we have tried to put forward a schedule that we think is reasonable and achievable. We do not want to be back before you in a few months explaining why we haven't met the deadlines that we proposed.

So, again, as I know Plaintiffs did, we put a lot of thought into it from that standpoint and I think you will see, actually, that with respect to both noncustodial dates and beginning custodial productions, our deadlines are actually a bit sooner than what has been proposed by Plaintiffs, so we feel like we are well positioned with them with that in mind.

THE COURT: Okay. Thank you.

Ms. Finken, did you want to add anything more as it now relates to Sanofi other than what you have put forth in terms of the broad parameters of Plaintiffs' position?

MS. FINKEN: Yes, your Honor. The one thing I just wanted to note, and I did speak to Ms. Sharpe about this a

little bit yesterday, the reason why some of these dates are sooner with Sanofi than they are in our schedule is that they are very narrow.

If you notice in particular, in Sanofi's schedule there is no production of pharmacovigilance departmental files in there. There are specific categories of pharmacovigilance documents that they identified, but overall the pharmacovigilance documents are not listed as departmental files that we would need for purposes of our review for the January 8th deadline of identification of cancers and for prioritizing some of the depositions on 30(b)(6)'s that we need to take.

THE COURT: Let me stop you there, because I wondered if it was just a matter of you put your charts together differently, which is sort of -- it kind of goes back to how I had originally envisioned this, and not wanting to micromanage and actually put the spreadsheet together for you and ask you to fill in the cells and columns, but I did just wonder whether you are in some respects in certain areas not sure if you are talking about the same thing or not.

Just on that one topic, Ms. Sharpe, if you could respond just so we could use that as an illustrative example of maybe they have, but it is just called something different than the way the Plaintiffs have categorized it.

MS. SHARPE: I think that is exactly right, your

Honor. Again, what we tried to do is identify the locations for the categories of documents and, for example, you will see that we have different dates for production of pharmacovigilance related materials. That would include signal analyses and underlying materials, adverse event reports and source files, minutes and materials related to safety committee meetings.

So, we are envisioning that substantial completion date to include broadly the pharmacovigilance sources and we have broken those up into sort of subcategories or subtopics for the rolling production deadlines.

THE COURT: Does that help, Ms. Finken?

MS. FINKEN: No. Well, it does and it doesn't. I just disagree with the characterization.

I see where Ms. Sharpe is looking, and she is looking at the October 16th deadline where she lists signal analyses and underlying documents, and she lists the minutes and agendas from Zantac market withdrawal meetings, which are safety related meetings, but it is a very specific type that occurred at the end of this product after the Valisure petition came out, and Sanofi was responsible for pharmacovigilance and reviewing safety of this product for several years prior to that.

This is all relevant to this discussion, it's relevant to specifically the safety signals that they were reviewing and

not reviewing during that time frame and the science in this case and the cancer identification that needs to be done for January 8th.

So, as far as the deadlines, I think some of our deadlines are on par, but their narrowing of the categories of documents specifically in their schedule is what is problematic. They are very narrowly defining the scope of what they will produce. It is not just Sanofi, this goes across the board for all four brand Defendants. They very narrowly define the scope of particular categorical types of documents.

We do not do that, we keep it broad. We understand that the scope will differ from Defendant to Defendant, but these are very specific types of documents that they are addressing that are not necessarily giving us the complete picture that we need.

THE COURT: Just to use as an example, and I am not going to do this for every cell on the chart, but was it intended to be, the way you have put it together, exhaustive, or exemplary and illustrative of the type of noncustodial documents? In other words -- I think that is a straightforward question.

MS. SHARPE: Your Honor, it is intended to reflect the investigation we have done and the sources of the relevant documents.

We have spent a fair amount of time at this point

talking with folks internally to understand where documents are located and what we would be pulling from, and with respect to pharmacovigilance in particular, that is what we have done, we have identified the relevant sources to date.

That doesn't mean to say that our investigation is done and as of today, this is all we are going to identify. I think we have a footnote that flags that we are going to continue to work to identify noncustodial sources.

I do want to make one other point that I think is particular to Sanofi and is important to understand as a starting point for Sanofi's specific discovery, which is that it stands in a fairly unique position with respect to the scope of discovery vis-a-vis the other Defendants.

In particular, your Honor, I am sure you know at this point from your review of various submissions in the case, but Sanofi came very late to the table here. We acquired NDAs for over-the-counter Zantac through a contract that we entered with Boehringer Ingelheim in mid 2016. We began to market the product at the beginning of 2017, and we withdrew the product from the market in October 2019.

So, the relevant timeframe for discovery of Sanofi is actually pretty limited. There were two and a half years when we had the product on the market, and not only that, it came at the tail end of Zantac's lifespan which, you know, was nearly 40 years. We had a very small slice of that at the end.

This means that not only is the timeframe curtailed and shortened, but the types of discovery that Sanofi has are also affected.

For example, Ms. Finken mentioned safety committee meetings that involved Zantac that predated the market withdrawal issues. Based on our investigation to date, Sanofi didn't have those meetings in its PD department. There weren't safety related issues that really arose for Zantac before the NDMA issue in September 2019. So, some of the case Sanofi is not going to have certain documents.

This is also true of clinical and preclinical trial documents which are a large focus of discovery of other Defendants. We didn't conduct preclinical or clinical trials of Zantac, so we don't have the documents. We didn't detail Zantac to doctors or health care providers, we didn't have a sales force, so we don't have those types of materials.

It's not that we are trying to withhold certain categories of documents, it is the case that we just don't have certain categories to speak of at all.

We are serving our formal discovery responses today. This is responses both to interrogatories and requests for production, and I think that if Plaintiffs have questions about what we are planning to do, it will be laid out in more detail in those responses.

But we are not intending to withhold relevant

documents and noncustodial sources, and in fact, have generally agreed with Plaintiffs to produce all the U.S. Zantac related documents for the relevant time period from noncustodial sources.

THE COURT: Okay. I will just say that the purpose of having you submit timelines was not to necessarily suggest that there necessarily, you know, would ultimately be, you know, agreement on what is produced or not produced.

I invited Plaintiffs and they did add additional categories to the Defendants' charts just because I wanted to make sure that the Plaintiffs didn't feel that they were somehow being limited.

I do think a bit of this is your maybe calling things and categorizing documents in different ways, and just by this one example of Sanofi delineating in its chart certain categories based on its investigation, I am taking it from Ms. Sharpe to mean that clearly if there was another -- a fifth bullet point that existed that they overlooked or they found later, it is not that that wouldn't be produced if relevant, or even if they took the position it shouldn't be, that it wouldn't be an area that Plaintiff could bring to the Court after the meet and confer to say this should be produced.

So, I am encouraged in the sense that, even though I understand there are differences in terms of certain fundamental aspects of the process, namely Plaintiff wanting a

uniform approach with all Defendants and Defendants making very clear they are different and not similarly situated and kind of want an individualized and tailored approach to their discovery, I actually am not really seeing a big difference so far in terms of deadlines, which this was sort of a deadline driven exercise.

It is not the end of the exercise in terms of discovery, but it seemed to me to be a place to begin since I was just getting a sense that that is what the parties needed and wanted, but I understand there are going to be a lot of discussions that will follow from this conference, maybe in the form of a discussion and a collaborative we worked it out way and maybe we can't work it out and it becomes a dispute before the Court, and that is fine.

Well, that is helpful to know. Unless there is anything further, again mindful of the time, if I could move on then to Pfizer.

Did you say everything you needed to, Ms. Sharpe, because you'll be the one leaving?

MS. SHARPE: Yes, your Honor, I think that's it. I would just add that I do agree with you, we are planning to continue to work collaboratively with Plaintiffs. We think that the deadlines are very similar and we will proceed in that fashion. So, thank you for your time.

THE COURT: Thank you.

MS. FINKEN: Your honor, can I say one thing about Sanofi before we move on to Pfizer? I will keep it very brief.

I just want to point out that the documents that are listed under their deadlines, for example the September 30th deadline, they are very specific documents. Periodic benefit risk evaluation reports, that is a very specific type of document that is submitted to regulatory agencies. SOPs are a specific type of document, standard operating procedures, within the company.

Moving down to the October 16th deadline, the signal analyses and those documents, that's a very specific type of document. The same goes for the minutes and agendas from the Zantac market withdrawal.

So, there is a whole host of category pharmacovigilance documents that are not listed here. That is why I think, from our perspective, it makes sense to have the broader categories of documents to the extent, like Ms. Sharpe said, if they don't have them, if they don't exist because they never had pharmacovigilance meetings about Zantac prior to 2019, then they would state that, and it would be, I would presume, in their formal discovery responses.

All that means from our perspective with our deadlines is, if it doesn't exist, there is nothing for them to turn over by the deadline that we have, but we kept the functional department categories broad because we understand the scope

could differ for each Defendant.

This particular schedule is very, very specific in actual type of documents. These are not categories, they are very specific types of pharmacovigilance documents, but they don't account for a whole host of other pharmacovigilance documents that would fall under that umbrella and I just wanted to make that point.

THE COURT: Okay. I think I understand, just to summarize my understanding, just in this one example the Defense has undertaken an investigation, this is what they found that, at least at this stage, they deem relevant to that category of documents, and that is all they think, not that they don't think other things are relevant, they just don't have them so they have listed them.

Plaintiffs are nervous, maybe understandably so, because it looks like it might be limiting and maybe there are other relevant documents and it's not listed and so you look at it as a limiting, whereas the Defendants tried to be explanatory, but again, I -- so I think that is where I understand there to be unease, if you will.

MS. FINKEN: Yes, I think that is one way of putting it, and I also think, obviously, if you have it as a broad functional department, as pharmacovigilance documents are due by a certain date, to the extent that they have them, they would produce them. To the extent that they don't have them,

they would state they don't have them and we would move on.

But we would have some very specific guidance there so that we can put that issue to bed and we can move on to the next topic.

THE COURT: In that regard, just hypothetically then, Ms. Sharpe, would there necessarily be an objection from the Defense, from Sanofi to have it more broadly categorized as pharmacovigilance documents with the deadline, whatever that deadline the Court ultimately imposes, and then if there is a dispute as to the scope of what that means, then we'll go through the meet and confer and bring it to the Court process to the end of the day?

MS. SHARPE: Yes, I don't see an issue with that. Again, our goal here wasn't to hide the ball. We took a different approach from Plaintiffs, we didn't see the submission beforehand, these went in pretty much at the same time.

So, we are happy to work with them to make sure we are on the same page in terms of how we are thinking about things and referring to things, so happy to do that, your Honor.

THE COURT: Okay, terrific. Thank you so much.

MS. SHARPE: Thank you.

THE COURT: Okay. Now we have Pfizer counsel, Ms. Horn.

MS. HORN: Yes.

THE COURT: Good afternoon, Ms. Horn, and thank you for your patience.

So, with respect to Pfizer, I have understood Pfizer's schedule to have full completion guaranteed by January 31.

Did I read that correctly?

MS. HORN: Let me double check.

Yes, as to -- yes. That is correct.

THE COURT: Okay. Just anticipating perhaps a comment that -- well, one that Ms. Finken has already made, but would make maybe as to the January 31st deadline, based on PTO 30, January 8th is the Plaintiff's deadline for disclosure of types of cancers for which they'll provide expert reports to proceed to the general causation Daubert hearing in the MDL.

Now, it also goes on to say, Plaintiffs may amend these disclosures upon a showing of good cause. The parties shall meet and confer about the format of these disclosures.

So, is there any ability to address any concerns that the Plaintiffs could have about wanting to make sure they have what they need by January 8th, even though it doesn't sound like January 8th and January 31st are that far apart? It's not, a few weeks.

But if January 8th is their deadline for disclosure, what would you say to address those concerns, and how would Pfizer undertake to ensure that they have all of the necessary documents in discovery to make their disclosures on

January 8th?

MS. HORN: Based on the description that Ms. Finken gave when she was discussing that particular milestone, most of the documents that would contribute to that would be the noncustodial documents, and as you will see from our chart, we are planning on having our noncustodial production completed by the end of October.

So, to the extent that they have everything from what we deem to be the noncustodial set of documents by the end of October -- if there are some gaps or what have you we can address those, but the bulk of what they would need for that particular deadline will already be produced.

THE COURT: So, noncustodial by the end of October, so you say the bulk. What about those that don't fall into the bulk, I guess?

MS. HORN: Those would be documents that are idiosyncratic to individual witnesses because we have basically -- just to tag on to Sanofi's metaphor, our client was -- left the table a long time ago. So, most of the documents that would be broad based documents are archived and hard copied. The ones that are not are custodial files that are linked to individual people.

To the extent that some individual witness has documents that may relate to a category that the Plaintiffs have identified, those would be produced later.

THE COURT: So, after October, but before January 31st?

MS. HORN: Potentially. What we will do is produce the custodial documents on a rolling basis, so starting basically within a few weeks.

We won't know what the categories of those custodial files line up with until they are actually reviewed and produced.

THE COURT: Okay.

MS. FINKEN: Your Honor, may I just say one thing? And this is the flaw in this approach that was just highlighted from my perspective from what Ms. Horn said.

That is that the Defendants right now are identifying custodians unilaterally, that they are collecting documents based upon search terms that are not agreed upon and reviewing those with the intent to produce them. We don't know what departments they are in, we don't know who these custodians are, and we have had no input into that process whatsoever.

That is typically not how this process operates. I have been doing this a long time in pharmaceutical cases and this is not the norm. Generally, we agree upon search terms, Plaintiffs put in requests for custodial files that we want to review, and Defendants apply those search terms, they review those documents, and they produce the custodial files that we request.

In this particular case, for some reason the Defendants are unilaterally deciding custodians that they want to produce, they are reviewing those documents and they are producing them. We don't know who they are, we don't know what departments they are in. We have no insight into this process whatsoever. It is not the norm. They are dictating the discovery and witnesses that we are receiving the documents for.

It was a perfect example just now, what Ms. Horn said, which is she doesn't know where those custodians fall in terms of functional departments.

So, to the extent that we have custodial files that we would request based on information and deadlines we need to meet, which is how we formed our schedule, for example the January 8th deadline, we have initial custodial file requests for October 1st, and our intent would be to request the custodial files in a triage fashion, the ones that we believe we need by certain timeframes to meet the other deadlines in this case, to provide to our experts, to do what we need to do to get to the end result at the end of the day.

That just highlights the point of how backwards the process is in this particular case on what the Defendants are doing with this approach of unilaterally identifying custodians and not disclosing them. It could be some of them we agree upon, we just don't know because we don't know who they are.

Not disclosing them, running just their own search terms against them, ultimately, once we agree upon search terms, which we are required to do under PTO 29 -- PTO 29 sets forth the process that we are to meet and confer and agree upon search terms. They are going to have to rerun the agreed-upon search terms, once we get there, across these custodial files, rereview them, and then produce supplemental productions on those custodians. It is just not efficient.

THE COURT: On custodial documents, looking at the Pfizer -- the latest comparison chart that came in, Pfizer has its proposed schedule of start date October 16, substantial completion, January 29, and end date, January 31.

Plaintiff has start date of December 31, so that is after the defense, tranche two, March 1, after the defense, tranche three, April 5th, after the defense, and May 30, tranche five -- you know, May 30, tranche four, which is after the defense, and September 30, 2021, tranche five.

Isn't it better to get all of the custodial documents by January 31, 2021 than September 30, 2021? And then after you have received all of those documents -- let's assume hypothetically that was the schedule in place -- you were to learn of new witnesses and new discovery that you wanted to conduct, you now have all of this on January 31st, not on April 30th -- September 30th, and then you continue to request, ask, depose -- there is no limitation on what you can do after

January 31st.

So, I just want to make sure I understand --

MS. FINKEN: No, I --

THE COURT: -- that you are not -- you know, it is not what you have customarily seen in terms of how it is done where Defense takes the lead in, I guess, identifying certain custodial documents and witnesses.

But regardless of how things have been done or not done, in this case with this schedule, just taking that one line off of the joint chart, if everything is done by January 31st, doesn't that give the Plaintiffs a lot more time than you have contemplated under your own schedule to do additional discovery and discern all of the things you say you may need to discern regarding additional custodial discovery, with no limitation?

Just because Pfizer says they will get it done by January 31, doesn't mean they are actually done. If you bring something to the Court's attention -- first you bring it to their attention presumably and they would either agree and say, oh, gosh, we overlooked this, or you're right, or they'll say, no, no, that doesn't fall within that, and then it becomes the dispute that works its way through the process.

MS. FINKEN: Obviously, the more information we can have earlier, the better, your Honor.

I think that where our dispute with Pfizer lies on

this custodial document is that they are limiting it to five custodians that we can identify in November, it looks like -- no, I'm sorry, my columns are not lined up. In October we identify five custodians according to their schedule and those are the five custodians that they would produce.

But five custodians doesn't even cover all of the functional categories that we need in terms of different areas in the time span that these cases have been on the market and the different types of departments that we would need to address.

So, while the deadlines are on target, it's for a very, very limited production that we are talking about here in terms of custodial file --

THE COURT: Why five? Are you getting the five from where, Ms. Finken, from the written submission of Pfizer's?

MS. FINKEN: I am looking at -- I have a chart that has all of the -- from the actual schedule that they submitted.

I don't have their actual schedule in front of me, but it looks like from my chart, assuming it's correct and that it was put together appropriately, that October 16th, it says produce adverse event reports and produce documents for five identified custodians.

I don't know if those are custodians actually that we identify or they are custodians that Pfizer has identified.

THE COURT: Are you looking at the chart or the memo?

Is it the last version of the amended chart and is it in a footnote somewhere? I just want to look at what you are looking at for the five so I can then ask Ms. Horn. But before I ask her, I want to make sure I am seeing it as well.

MS. FINKEN: I am going to have to pull the actual submission out because I'm looking at my chart that has everything on it.

THE COURT: Maybe Ms. Horn knows, so she will solve the mystery for us.

MS. HORN: We were not limiting Plaintiffs to five. We came up with the five because those are five employees who still work at Pfizer who know something about Zantac, so that was relatively easy.

There are other people, former employees that Plaintiffs identified that they would like custodial files produced. We can discuss that, but we were never limiting them to five.

THE COURT: Your chart that ultimately became the joint chart between the parties at the Court's request, when you give an October 16th, January 29th, and January 31st, you are not putting limitations on that type of rollout.

MS. HORN: No, and I believe there were separate correspondence to Plaintiffs that spelled that out more clearly.

We wanted to go ahead and start since we knew we had

these five people, assumed that was the obvious place to start. We did have a list of search terms that we had worked on with the Plaintiffs, most of which came from the Plaintiffs, so in that sense, from our view, it is an agreed list.

They have since come up with additional search terms they would like to incorporate, but there is no obstacle to doing that. If there are additional terms that get added we can run those and if there are documents, we'll produce them.

THE COURT: Okay. Does that address the concern, Ms. Finken, about maybe there was just a misunderstanding about the limitation of the five?

MS. FINKEN: I think that as far as their schedule goes, with the caveat that we would strongly disagree to a limitation on the number that low, I think that that is workable, but it also is in line with the deadlines that we already have in the uniform schedule for the most part.

THE COURT: All right. Ms. Horn, was there anything more you wanted to add on behalf of Pfizer?

MS. HORN: I think we have covered what we need to cover.

THE COURT: All right. Thanks so much, I appreciate it.

We'll ask counsel for GSK to come on and state your appearance for the record.

MR. SACHSE: Good afternoon, Judge Rosenberg and Judge

Reinhart, good to see both of you again. This is Will Sachse on behalf of GSK.

THE COURT: Good afternoon, Mr. Sachse, good to see you again. Ms. Finken is still with us.

As I understand GSK's position, that you focus on what your client deems "the five core subject areas at issue in this litigation, regulatory, safety, science, supply and marketing."

You state that your schedule is intended to prioritize those issues so the parties can meet the August 2, 2021 fact discovery deadline and issues related to general causation on that deadline being reflected in PTO number 30.

Whereas GSK proposes dates for substantial completion for document production, as I think I've noted before, Plaintiffs' proposed dates are for full and complete production. As mentioned before, Plaintiffs propose full completion of document production from noncustodial sources by December 31, 2020, and from custodial sources by September 30, 2021.

By contrast, GSK represents that it started producing regulatory and safety documents, both custodial and noncustodial, and proposes to achieve substantial completion by December 15, 2020. GSK proposes to begin producing science and supply documents, both custodial and noncustodial, by November 1, 2020, and to achieve substantial completion by February 1, 2021.

Finally, GSK proposes to begin producing marketing documents, bit custodial and noncustodial, by November 1, 2020, and to achieve substantial completion by April 15, 2021.

So, a question for Ms. Finken, understanding the backdrop of everything you have already said, and it is not lost on the Court, so it's just on top of that, given GSK's approach to its chart for timelines, is the list of the five core areas that GSK has identified, regulatory, safety, science, supply, and marketing, comprehensive from your perspective or would you change that list?

MS. FINKEN: It is very hard to say because I don't know where they got that list from and what they are categorizing under those different categories of information, so it is difficult for me to answer that question.

But, you know, I don't know if they got it from headings from requests for production or not and what they are categorizing under those terms. So, it is difficult for me to answer that question, your Honor, to be honest.

THE COURT: All right. Maybe I'll ask Mr. Sachse, then, to help Ms. Finken and the Court understand, because now this is an example of something more broad than specific as we had in some of the earlier charts, so if you could illuminate us on that.

MR. SACHSE: Sure, and to demystify the process, pull back the curtain as it were, yeah, we did just look at both the

30(b)(6) notices and the requests for production and, broadly speaking, that is how the Plaintiffs were grouping their requests and so we just sort of tracked that.

The one sort of minor tweak, they -- I think it is fair to say they grouped regulatory and what we would call safety in one category of pharmacovigilance and we have kind of disaggregated that because we do see them as distinct in some way. For example, the documents and the witnesses that might relate to pharmacovigilance might not necessarily relate to regulatory, but that is really the genesis of the categories.

THE COURT: Okay. So, had you all had a chance to meet and confer to talk about that during this whole process of getting the timelines into the Court? Has there been a meet and confer on it?

MR. SACHSE: We did not meet and confer about the timelines per se. We had previously begun discussions about scope of the discovery and, candidly, I don't think they have gotten very far.

We did serve yesterday our responses to the RFPs and to the interrogatories and objections, and I view that as really a helpful framing for the discussions that we think are critical over the next few weeks to try to either reach agreement on scope and be realistic and pragmatic about what can get done here, or if not, tee things up for the Court's involvement.

THE COURT: Okay. Well, it sounds like a meet and confer probably would have helped to the extent that, at a minimum, it would have allowed Ms. Finken to understand what these five general categories were because, again, it is hard to tell if you are actually disagreeing with timelines if you don't understand what you mean by even how you label something in a chart. That, at a minimum, should and could be something that would be the subject of discussion.

As you say, Mr. Sachse, at the end of the day, if you don't agree, that is fine, too, and there is a process for how we deal with disagreements.

I was really trying to find areas where there are overlap and agreement, so that we could isolate the areas, at least from a timeline standpoint, where there was disagreement and have you explain to me why your timeline is more appropriate than the other side's timeline, so I can put the broad parameters of the timelines together, and then within those timelines I expect there will be disputes along the road. That is why the Court is here at this stage in the litigation.

Just to follow up on the categories, Mr. Sachse, Plaintiff's proposal contemplates production of noncustodial documents more quickly than custodial documents.

Are you able to prioritize the collection of noncustodial documents across the five core areas?

MR. SACHSE: Your Honor, we have been prioritizing

that and we have produced a great volume already and are continuing to produce on a rolling basis, and at this point, I should say it is all noncustodial because we have not been able to reach agreement on search terms, we have not yet talked about custodians, who the right custodians might be.

Just on that point, I just want to make clear that we are absolutely committed to this being a conversation and not an imposition with respect to who the custodians are.

So, really, we have been focusing on noncustodial, but we do think to meet the very, very aggressive deadlines we need to move to custodial and kind of double track.

THE COURT: Okay. Ms. Finken, would you like to respond?

MS. FINKEN: Yes. So, that is exactly -- Mr. Sachse just made the point that we are trying to make with our schedule, and that is that we have anticipated the areas of potential disagreement that need to be resolved to get to this part of the process, for example search terms, which is what he just indicated we have not come to an agreement on.

Our schedule has those mile markers in place that gives us a hard deadline, that we have to come to an agreement or get Court resolution on it so that we can move the ball forward.

We can go back and forth about search terms for weeks, but at the end of the day, that just pushes the time frame back

on every other stepping stone we need to get to the final result and our schedule contemplates all that.

So, that is one point. He is right about that, we need to come to an agreement on those issues to get to the points where we request custodial files and they start producing them.

The second point I just want to make about the schedule that GSK proposes is that it is not feasible under PTO 30. For example, as I say previously, we have to identify the cancers in January. The GSK schedule provides that the science noncustodial productions will begin on November 1st and conclude on February 1st, and the science depositions do not even begin until February 15.

These types of documents, these depositions, they are absolutely one hundred percent necessary for our experts to review prior to our identification of cancers in January, and that is just one example.

I just want to point out to your Honor, and I won't beat a dead horse because I keep saying it, we really tried to sit down and look at this schedule under the umbrella of PTO 30, and what needs to be done, and knowing what we need to get where, and putting it in place with the stepping stones that we need to get to the next step.

Like Mr. Sachse said, search terms, we need to have a resolution on that so we can then move to requesting custodial

files and production of custodial files, because it is inefficient for Defendants to pull custodial files, review them, and then have to rereview them later once we come to an agreement on search terms which, under PTO 29, it requires that the parties meet and confer and come to an agreement on the search term list.

It's not something that is unilaterally done. That's in the PTO, it is something that we have to go through that process and we do it in every case and it is a process. It involves a lot of testing of terms and getting analytics and really making sure that we get it right for the appropriate scope and that we're getting the appropriate documents and precision that we need for purposes of custodial file production.

So, I just wanted to point that out about the due diligence that -- I personally spent many hours really doing some due diligence here. When I say that, I mean that I spent the time carefully reviewing the documents produced to date by each brand Defendant, evaluating the specific claims and defenses in the master complaints, the personal injury and class, to overall frame the discussion, and then evaluating the categories of evidence that we haven't received in the areas where we are missing critical information not only for our experts, but for motion practice and damages.

Then taking all of that and putting it in -- as your

Honor suggested, working backwards from the end date in PTO 30 with all that different steps that we need to meet along the way.

So, we really tried to be thoughtful in that process and really take into consideration all of the deadlines and the moving parts and requirements under the PTOs that are in place, taking into mind all of the information that we need to meet those deadlines and really be thoughtful about how to make that work uniformly across the brands, recognizing that there are some issues here that will require uniform resolution by the Court potentially.

THE COURT: Let me ask two questions just following up. Let me get back to the document I was looking at.

Just on the science, for example, Mr. Sachse, Ms. Finken used that as an example, Plaintiff needs the science to disclose the January 8th types of cancer. Can that be moved up, the production of the science documents? Could that be given prioritization?

MR. SACHSE: I am sorry, I didn't mean to interrupt.

Let me answer that really with three responses, and they are all responsive in my view.

The first is that I actually wrote down the categories of information that Ms. Finken said she would need, and what she said was the Plaintiffs are looking for the adverse event reports, the regulatory submissions, the recent testing of a

product, and the preclinical and clinical studies.

Our schedule contemplates that they are going to have that material by December 15th, with one little asterisk, which is the preclinical and clinical, and I think this is an important asterisk.

So, the Plaintiffs already have the preclinical and clinical studies that GSK submitted in support of their applications for Zantac and then for new indications over time, over the 40-year life span of this product, so the Plaintiffs already have that information.

The Plaintiffs have requested, and this is a quote, "all documents relating to all of the studies," and that is something that, frankly, I think we need to meet and confer about because we are talking about documents going back 40 years, many of which are in hard copy, and that is going to be a very difficult production to meet if the Plaintiffs are, in fact, insisting on all documents relating to all studies, regardless of whether they have relevance to this litigation.

That is really the first point, is that I think that for purposes of the Plaintiffs' experts' information that they might need to determine what cancers are in this case from our documents, they are going to have those documents in advance of January 8th.

The second point, and it is a related point, is that really the information that the experts are going to rely on is

largely going to be epidemiology, it's going to be external sources, it's going to be published studies, and they are going to look at them and knit them together and try to come up with evidence that shows some kind of relationship between the product and a particular cancer.

That is in their hands, that is publicly available. They already have -- as we saw in their science presentation at the outset, they have already done a lot of that leg work. I don't think -- I am not trying to minimize the information that's in the company's files, but I do think for purposes of this identification on January 8th, it is important to keep that in mind.

Then third, and maybe this is most important and I should have started with it, but the way Ms. Finken has been presenting this January 8th deadline is as if it were a hard cap, hard deadline on science productions, they all have to be done and witnesses have to be deposed before then, and that is not consistent with our understanding, I think the Defendants' understanding of the schedule.

That's not consistent with the schedule as it's written because clearly general causation discovery continues from January up through August, and it is our view that that was never -- it was never contemplated that the Plaintiffs needed to have every scrap of paper related to every science issue by January 8th in order to make that disclosure.

As your Honor pointed out, with good cause -- let's say they find additional documents and they say, well, now we want to amend our cancers, with good cause the schedule allows them to do that.

So, I do think that this January 8th has maybe taken on an importance that -- it has turned into a bit of a red herring as this is the end date for all science discovery that I don't think is contemplated in the schedule or by the Defendants.

THE COURT: Any final response, Ms. Finken?

MS. FINKEN: Yes, I just would like to address that, because our schedule does not contemplate that that would be the final science discovery that is done in the case.

What we are looking for, and we specifically spell out the categories by November 25th, that we need in order to have our experts take on a review -- and this January 8th deadline is a deadline that the Defendants insisted upon. They wanted that deadline, they wanted us to identify the cancers, which we are willing to do, but we need productions in order to do that.

We need the internal documents, we need their testing, and when Mr. Sachse says that we are taking the position we want every scrap of paper from every single clinical or preclinical study, that is simply not true.

He and I had a conversation about that last week. Our schedule leaves room for us to meet and confer to determine the

scope of these categories and documents. We need these types of categories and documents in order to do our job that we agreed to under PTO 30.

Do we want every single scrap of every clinical study that has ever been done when it is not necessarily something that would be relevant, you know, to what we are trying to do? Not necessarily.

We need to sit down and have a discussion about that, but that is what we contemplated when we did our overall uniform schedule. We know what categories of documents we need when to get this done, to get this done not just by January 8th, but to get this done by expert report deadlines next year and the close of discovery at the end of next year, which is a very, very tight deadline.

This is a complex case, as your Honor is aware, with a product that contains a known carcinogen. That specific carcinogen, NDMA, is implicated in multiple cancer types in multiple organs in all species.

In addition to that, we have conduct of a Defendant that spans almost 50 years with complex scientific issues and different theories of liability here that you don't typically see in your run-of-the-mill pharma cases, and that includes the manufacturing, storage, and handling, that the NDMA levels increase over time when exposed to heat and humidity.

This is a complex case and the discovery it entails

would typically, if we are going to be candid, take two to two and a half years, but we agreed as part of an overall negotiation with Defendants to a very aggressive discovery deadline of 18 months.

In exchange for that, we agreed that we would be able to take full non-bifurcated discovery during that 18-month timeframe and that the Defendants would cooperate and produce documents and witnesses in a timely manner so we can meet those goals.

The January 8th deadline was a deadline that the Defendants wanted. They specifically wanted us to identify cancers by January -- originally they had it earlier than January, but they wanted it by January. They know that for us to do that we need their documents.

We need their preclinical documents, we need their clinical documents, and we need their pharmacovigilance documents, as well as all of the studies and testing that they did in terms of the chemistry and stability and that aspect of the case.

So, this is something that has been known, it's been known for a long time. Theses are documents that are turned over in every single case. These cases were originally filed against these Defendants over a year ago. September 13, 2019 is the first filing, so it has been contemplated.

Just to kind of put this into perspective for you,

your Honor, at this point -- and I got updated numbers this morning -- between all four brand Defendants what has been produced so far are regulatory submissions, standard operating procedures, some agreements between the parties and some organizational charts.

So, between the four brands they have collectively produced 97,000 documents, which amounts to a little over two pages. And just to put this into perspective with other MDLs and give your Honor some statistics, in the Xarelto MDL Judge Fallon ordered Defendants to produce 5 million pages per month. That case involved one injury and one defendant.

In the opioid litigation there is five times that amount that has been produced.

In the PPI litigation there have been 5 million documents produced from four brand Defendants amounting to over 90 million pages of documents, and this is one I can speak to very intelligently because I have been heavily involved in discovery in that case.

It's similar to here, albeit less complex, it spans 30 years, it involves prescription and OTC and multiple Defendants, and the difference here from that case is that the documents that I consider the low hanging fruit, such as the pharmacovigilance files, the SOPs, the clinical trial documents, were readily produced in that case and that hasn't been the case here.

There have been objections by certain Defendants in terms of producing certain types of foundational documents that are produced in other pharma cases.

From our perspective, this schedule that we did uniformly across the brand Defendants makes sense. It makes sense for several reasons; one, because it puts in categorical functional department type documents that we need by certain dates to be able to get to the next step.

And scope within that categorical type of document, for example pharmacovigilance, will vary from Defendant to Defendant. We have factored that into this discussion, we have factored in the disputes that we anticipate that will be common across the four so that we can tee those up uniformly because that makes sense and it is efficient.

And just keeping all of us on pace for the next 16 months now that we have left in this discovery, it just makes sense and it is efficient to be uniform across all four brands.

So, with that, I just want to thank your Honor for engaging in this discussion with us, and for purposes of our perspective, we believe that the uniform schedule makes sense.

We also think that what would really help us -- you had asked us at the conference in July to let you know what you could do to help us stay on track on this case and that was based on PTO 30.

I can tell you today what we need to keep us on track

is we need the schedule that we are proposing that accounts for all the stepping stones that we need in place to get to the finish line.

The other thing that we really need is regularly scheduled conferences before the Court to keep your Honor aware of the status and where we are on the timeline, not just to get formal input, but to get soft guidance from your Honor on issues that may be a roadblock to our productivity.

For example, this conference itself has spurred activity, and it has spurred responses to questions and document production just by being set, and we thank you for that because it -- having a conference set helps both sides crystalize the real issues on what we need to bring before the Court.

And it certainly allows for both sides -- it's not exclusive to Defendants, it's Plaintiffs, too -- to maybe let go of some extreme positions that somebody might have and really come to the table to work things out, but also really tee up the issues that we know we need the Court to resolve and give us guidance on.

The other piece of this that we really need here, I believe, is some regularity in the conferences before your Honor just to get some guidance and input from you on where we are in the process and keep you up to date on what is going on.

THE COURT: Okay.

MR. SACHSE: Your Honor, if I may, I just want to respond briefly to a couple of points.

First of all, Ms. Finken gave kind of a very cursory overview of what we have done so far, we collectively, and I think it bears mentioning that I think we have done a great deal, particularly in light of the pandemic, in light of the fact that formal discovery began June 15.

Notwithstanding that, we produced -- I believe Ms. Finken said something like there's 90,000 documents that have been produced in this case. We, GSK, have produced 2 million pages of documents. So, it is not like they have dribs and drabs, scraps of paper. They have substantial, substantial productions already and we are committing to continue rolling out those documents substantially going forward.

The other thing that sort of caught my ear, as it were, was that I think it crystalizes the problem because Ms. Finken in her remarks said we need "all the testing documents," all the stability testing documents. For a company like GSK who has had this product on the market for 40 years that is a monumental task.

That is -- sort of quoting Ms. Finken again, she said we don't have time for scorched earth policy. To my ear, that is scorched earth policy, saying we need every test going back 40 years.

So, I think there is room for and need for a meet and confer clearly between GSK and the Plaintiffs, and I think for everybody. I think Special Master Dodge has done a tremendous job hanging in there and even when seems like we are not making a lot of headway, keeping at it, keeping the parties at it. And the recent dispute we had that we were able to resolve without Judge Reinhart's help I think is a testament to Special Master Dodge's work and to the parties' ability to work things out.

I have faith that we can continue to work cooperatively, we can resolve search terms soon. I think we can resolve scope. If not, we'll reach out and work with Special Master Dodge on all of that.

I think that the reality is and the concern I have really fundamentally here is, when I look at Plaintiffs' one size fits all discovery schedule, and just looking at it through the GSK glasses as it were, it is something that seems destined to create more problems than solutions.

I think we are trucking ahead at light speed towards a lot of discovery disputes in short order because some of these deadlines I think are just -- again, if the Plaintiffs' conception of the universe of documents and the scope of the request is correct, these are going to be unattainable and that is my concern.

That is why I think we do have to have a meeting of

the minds and see where we can get with Special Master Dodge's help over the next couple of weeks.

THE COURT: Okay. Well, I appreciate it.

Before I move on to the next topic, which I am going to do now, which is the class Plaintiff discovery, I will conclude with saying that my intention, based on everything I have heard today and reviewed, is that, based on what I have heard and reviewed, I will be in a position to issue an order that will set out deadlines, which is what my goal was and remains as it relates to the discovery between the Plaintiffs and the brand Defendants.

But what I have come to realize through the submissions and reinforced today is that there nevertheless are some crosscutting threshold issues that should be resolved sooner rather than later.

I have heard on more than one presentation issues with scope and I've heard on more than one presentation issues with search terms. It seems to me that when the Court gets the deadlines in place, next we turn to scope.

So, I am envisioning a hearing next week, I will give you the details, probably around Thursday, October 1st, or so, with perhaps a submission this Friday. Again, I will give you the details of what some of those issues are that the Court, whether it be Judge Reinhart or myself, can address and resolve by way of rulings on threshold issues with respect to scope.

We will take deadlines as a result of this hearing, we will do -- or this conference, next we will do scope, and then turn to search terms and then it would be an interim process beyond that.

Be assured that your concerns and issues and need for Court intervention, Court guidance is here. You should continue to work together. I think that the process always reveals that when you do work together, at a minimum, you understand each other better and you are not talking across each other, but at least talking with each other, and you can still disagree and that is fine.

Then you have the meet and confer, and everybody has acknowledged from the inception of this case that Special Master Dodge has incredible insight and abilities and someone who is intelligent and one thousand percent devoted to the case and to each of you and to helping you reach resolution where resolution can be reached. Where it cannot, then you come to the Court.

It is not intended as an impediment or a hinderance, but it is actually required under the local rules anyway to meet and confer, you just have the benefit of having a very talented person to help you do it. So, you are very lucky.

That process should be adhered to, but nevertheless, I understand that regardless of tireless efforts, there are still going to be disputes as to scope, it is just the way it is.

So, we are going to have a hearing next week on scope. I will fill in the details following, but I just want you to know that that is what I am taking from the first part of today's presentation, and it was the largest part of the presentation for the conference today.

For those of you who are hanging in there, thank you, but it really is what was the impetus for today's conference. I am glad we have successfully navigated it and it is certainly with the help of all counsel who have prepared tirelessly for the presentation, for your submissions, and your very clear oral presentations here today. So, thank you so much.

With that, let me turn to discovery for class Plaintiffs. If I could have counsel put their videos on for that part of the presentation.

MR. GILBERT: Good afternoon, Judge.

THE COURT: Good afternoon. Mr. Gilbert for the Plaintiffs and Mr. Cheffo for the Defendants.

MR. CHEFFO: Yes, your Honor. Good afternoon.

THE COURT: Good to see both of you again.

MR. GILBERT: Good to see you.

THE COURT: Could I hear from the parties on the update with respect to class Plaintiff discovery.

MR. GILBERT: Mr. Cheffo, he'll take it away. This is an issue that they put on the agenda, so I'll let him go first.

MR. CHEFFO: Thanks, Bobby.

Your Honor, we are going to be respectful of the time that you have allotted, or we have asked for and you have allotted. I think we can do this in just a few minutes.

We want to thank you for the opportunity just to provide an update. We read your order and timing, so this is not a motion to compel. I know you didn't want that. And Mr. Gilbert and I and Mr. Bayman, frankly, have worked on these issues for some period of time.

So, the first, I really just want to give a update.

What happened was, similar to the voluntary disclosures, we at some point a number of months ago worked out a list of what we thought would be kind of accessible and voluntary and worked with Mr. Gilbert and his team and came to an agreement as to what information would be produced, and we agreed that that would be done in 60 days, which would have brought us to around September 6th. In fairness, Mr. Gilbert said that they may need another 30 days for certain of the information.

That is kind of where we are in the timeframe.

I think going forward, we had a discussion just the other day, just before the holiday, and Mr. Gilbert indicated that, similar to this process, he is going to tomorrow give us a schedule. Again, he will obviously get a chance if I am getting any of this wrong, but hopefully I am not.

We talked about it, with their proposal to roll out

discovery, and there are essentially three phases I think we all agree, a time for them to respond to our formal discovery, then a time for them to begin production of certain documents, then a completion date, and then broadly depositions.

Today is not the day to discuss those issues, but just to preview for your Honor and Judge Reinhart that we are hopeful that within the next week or so we will either have agreement on that schedule which will facilitate things and hopefully avoid the additional disputes on timing, and if not, we can talk to the Court about what you think is appropriate.

What I thought I would just also do, so now that the Plaintiffs have indicated to us, as I understand it, and Mr. Gilbert will tell us if we are wrong, they have completed their -- they believe they have completed their voluntary disclosures. We see it a little differently as to certain of the other areas.

I will just kind of frame what those issues are. Again, I don't think today is the day to resolve them, but I want to make sure the Court understands that we are going to continue to talk about them, and if not, we'll obviously have to bring them to the Court's attention.

But so, most of the things that the Plaintiffs agreed initially to produce are things like pharmacy records, documents related to the purchase of Zantac, lists of retailers or pharmacies where Plaintiffs purchased their Zantac or

Ranitidine, along with estimated dates, the brand, product name and dosage.

As you certainly know from the work that we have all been doing, with this number of claims and years and Defendants we thought that would be helpful to frame some of the issues and get people oriented.

For the medical monitoring Plaintiffs there was also an agreement to provide a list of medical providers who prescribed or recommended Zantac or Ranitidine, which the Plaintiffs have produced to us. There is a question also about producing some medical records that are attendant to those. We don't believe we received those, but those are things we will talk to Mr. Gilbert or the Court, if necessary, about over the next week or so.

We also don't believe we received a list of pharmacies or retailers which included the brands or dose or product name. I think there is agreement on that, that we haven't received it. There may be disagreement about what to do about it. That may be something we will talk about.

I also think -- obviously, not every issue is the same, but I was listening, I am sure as many of the other lawyers on the phone, talking about the production ranges and how much was produced. Just to perhaps put things in perspective, there are 238 class reps. Total what they have produced so far is 782 pages.

Of the 238, notwithstanding the voluntary production, 125 of them, which is more than half, have produced no documents yet. So, that's one of the reasons we think when we hear that production is complete, or the voluntary production even, we kind of have a question about that.

Of the 113 who actually did produce some documents, two-thirds of those only produced essentially a picture of a pill bottle or a packaging, and again, the problem with that is most of the pictures are illegible or they only contain a picture that just will say Zantac or Ranitidine with the dosage, but you can't tell anything about the manufacturer or the date typically. That's not to say there may be some that have done it, but by and large, the information is not there.

And then there is an issue of redactions that obviously we can talk about, and less than a tenth of the Plaintiffs have produced documents that predate 2010.

That is kind of where we are. As I said, we will continue to work, and if we can't resolve these issues, we'll raise them with the Court.

On the TPP side, as the Court may recall, there is the individual Plaintiffs and then there are three putative class reps. They are the ACA, IBEW, Indiana Laborers, and the Plumbers and Pipe Fitters Local.

The total document -- or total pages produced for those three is 2679 pages, 1450, 1060 and 155 respectively for

each of those. We think -- again, no one is suggesting that it is exactly coordinate in terms of documents that are Defendants versus Plaintiffs, but in these types of cases, particularly when we talk about third party payors, these are very document intensive cases and, frankly, even for some of the Plaintiffs.

So, we think we have some work to do on those. We are happy that we are able to at least have some framework and move the ball forward with respect to some of these, but we have many of the same issues in the sense that the timelines apply to us and we need to get this information.

Now, mercifully, I am not going to tell you that we need all of this to help counter the January 8th cancer diagnosis or anything that is insurmountable to moving forward in the case, but it does help us as we move forward with trying to identify areas that we need to focus on ourselves and with our experts and things like that.

I am going to stop there, your Honor, unless you have a question or two, or Judge Reinhart, that I can try and answer, but hopefully within the time allotted I gave the Court at least an overview, and Mr. Gilbert will tell me if I got it wrong.

THE COURT: Okay. Let's have Mr. Gilbert give an update. Did he get it wrong or did he get it right?

MR. GILBERT: Mr. Cheffo did such a good job, I am going to be even briefer than he was.

I only want to correct -- not correct, but make sure it is clear for the Court one thing that he reported that we are engaged in.

Mr. Cheffo reported that we are engaged in our trying to come to agreement on a schedule going forward for discovery in the class cases and what he inadvertently neglected to mention was that is a schedule as to the class Plaintiffs, in other words, the discovery schedule as to class Plaintiffs, the formal written discovery, responses to that, resolving objections to some of that discovery, completing substantially or finally completing production of the documents by those class Plaintiffs and then the depositions of those class Plaintiffs.

What Mr. Cheffo, Mr. Bayman and I have been discussing was not a schedule that relates to the Defendants -- discovery of the Defendants in the class cases because that was covered during the early presentations this afternoon.

So, short of -- with the exception of that slight tweak to what my colleague said, I think that we are good. As Mr. Cheffo reported, we have some agreements about what has been produced in the informal discovery process to date. We are still discussing some areas of disagreement. If necessary, those areas of disagreement can be brought to the Court. I am hopeful it won't be necessary to do that.

As far as the formal discovery of the class Plaintiffs

is concerned, Mr. Cheffo is correct, I am going to give them a proposed schedule late tomorrow of what we see the proposed schedule of the class Plaintiffs looking like, and they have agreed to give us a quick response, within a day or two, so we can try to come to agreement and have something to submit to the Court within the next ten days that would reflect either agreement by both sides or areas of disagreement.

THE COURT: This would be as to a timeline, sort of a similar protocol we were talking about for the earlier part of today?

MR. GILBERT: Exactly. In fact, it was your Honor's timeline request that spurred the discussion that Mr. Cheffo, Mr. Bayman and I had last week.

THE COURT: I appreciate that. Thank you.

That is a great update and I expect there may be areas of disagreement and that is fine. The Court will resolve those, but the more you collaborate and reach agreement, as you know, I always think that that is better.

There have been a lot of lessons learned from the timeline exercise we have gone through, so you can see the clearer it is and the more you communicate, and the more you make sure you are lining up your categories correctly -- you can disagree on the dates, but it is always helpful if the Court knows you are talking apples to apples and oranges to oranges so that I'm not mixing apples and oranges when I'm

setting deadlines if I ultimately have to be the arbiter of certain disputes as to the deadlines.

And I think we have also learned from today that, again, what you call something isn't meant necessarily as a limitation and it just could be a misunderstanding of how one side has classified a set of documents.

So, I am fine with you disagreeing with certain areas at the end, but the more you can do to make the chart that you might submit to the Court for the Court's final determination clear as to what you want the Court to rule on, the better it will be, and I won't have to turn it back to you with short notice to redo it or anything like that, but it sounds like you are working very well together.

Unless there is anything more you think the Court can do to help you, I will just stay out of it for now until you tell me you need me.

Is that fair, a fair assessment of how we're doing on your discovery?

MR. GILBERT: Fair from us.

MR. CHEFFO: I think that's fair. We appreciate your Honor giving us a chance to give an update.

THE COURT: I appreciate you giving the update. Good to see both of you.

Let me move on then to State-Federal coordination, and if I could ask counsel to turn on your videos and state your

appearance on this topic.

MR. AGNESHWAR: Thank you, your Honor. This is Anand Agneshwar from Arnold & Porter representing Sanofi. This is just a brief report and it is going to be given to the Court by a member of our LDC from Arnold & Porter, that's Tommy Huynh from our San Francisco office.

Without further ado, I will turn it over to Tommy.

THE COURT: Okay. Good afternoon to Mr. Huynh and Mr. Agneshwar. And we will have Mr. Pulaski state his appearance. I will state his appearance for him for the record.

We want to make sure that everyone is acknowledged on the record. Ms. Stipes, of course, is making a transcript of all of this.

With that, then, are we going to hear from Mr. Huynh first?

MR. HUYNH: Yes, you are, your Honor.

THE COURT: Good to meet you. I don't think we have met before.

MR. HUYNH: We haven't. I will start off with a very brief introduction about myself then.

I am a fifth year associate at Arnold & Porter in the San Francisco office and I am part of the Zantac team representing Sanofi.

In this litigation, I have been working on legal strategy, discovery, and fact involvement issues and today I

will be providing the Court with an overview of the State Court litigation across the country.

As an initial matter and for comparison, there are more than 600 cases in Federal Court with over one thousand personal injury Plaintiffs.

The number of Plaintiffs recently increased by about 400 because two cases with approximately 200 Plaintiffs each were filed in Federal courts in Kentucky and Tennessee on September 11, and tagged to the MDL just last week. This influx of Plaintiffs is not necessarily surprising due to the one year Statute of Limitations deadline.

On the State Court litigation front there are currently at least 74 cases with approximately 393 personal injury Plaintiffs across several states. This includes Tennessee, Connecticut, New York, Illinois, and California.

The most noteworthy development on the State Court front is new cases filed in California. As the Court knows, the Baum Hedlund firm and/or the Mara Law Group already have 42 cases with 42 personal injury Plaintiffs that were originally filed in California State Court against the brand Defendants and the California retailers, but are now in the MDL after removal.

Baum Hedlund and/or the Mara Law Group have now filed at least seven new cases in four different California counties with at least 326 personal injury Plaintiffs.

In contrast to the earlier 42 California cases, these new California suits have been filed against the California retailers only. None of the brand Defendants are named and none of the Plaintiffs' citizenships are alleged.

At this point, none of the State Court cases are moving ahead of the MDL. We want to keep the MDL at the forefront, so it is our goal to remove as many State Court cases as we can to Federal Court so that they can tag and litigate it as part of this MDL.

For those State Court cases that we cannot remove, it is then our goal to try to coordinate with Plaintiffs' counsel so that the discovery timetable and case schedule in those cases track that of the MDL.

We are not at a point where we need any action from this Court, but if and when we get to a point where we need, for example, a formal procedure for coordination we will let the Court know about that.

With that, thank you for your time, your Honor.

THE COURT: Thank you. It was very informative and comprehensive, I appreciate it very much.

MR. HUYNH: Thank you.

THE COURT: Did you want to add anything, Mr. Pulaski?

MR. PULASKI: I did, if I may. It's Adam Pulaski with Pulaski Kherkher on behalf of Plaintiffs, your Honor.

One, let me first address the one year Statute of

Limitations deadline that was brought up by the Defense, just to make a point that Plaintiffs don't believe that this date the Defendant is referring to is an actual trigger date for the one you are in for the Statute of Limitations.

In the event that it is, that may be why you saw some of the increased filings if you look at the number of cases that are in the registry at this point, which is almost 40,000, and you are looking at the handful of cases in State Court, they are less than a tenth of a percent of the cases, probably less than that that are actually filed in State Courts as opposed to any MDL at this point.

Secondly, addressing removal that was brought up by the Defendants in this case, we do believe that there are cases where it may not be proper in many instances for the Defense to try to remove some of these cases, especially those that have been filed against retailer only Defendants in Texas, in Tennessee, and in California, but, you know, we will address that when the time comes, when the Defense tries to remove some of these cases if they do.

And then finally, with respect to what the Defense said, we agree we are not really at a point now where we need Court intervention or coordination in this case as most of the cases in Tennessee and Illinois are in the process of dealing with Motions to Dismiss that will be going on that the Court will either ask for hearings or just rule on the papers over

the next, I would guess, four to eight weeks.

The other litigation in Texas, California, Connecticut, New York, Illinois is in very early stage.

Like it was discussed, there are only about five or six new actions in California, two in Texas, one in Connecticut, three in Illinois, a handful in Tennessee, and it is a minute portion of the docket.

As far as where we are at with this, and just so the Court will understand what we are doing on our side, I am in constant communication with all the attorneys that have filed cases in this litigation in State Court, and I will keep the Court apprised if we find out that there are any new cases that will be filed in any other venues or -- any other jurisdictions or in the same venues as they are.

I will obviously keep in touch with Anand and Tommy and discuss that it with them. We had a nice conversation last night prior to this hearing to update each other on what we knew and told each other and agreed to stay in communication with each other on any new filings that we heard of and apprise the other.

At this point, I think the Court has the full picture of the limited amount of State cases that are being filed, but the Court also is aware that State Court cases are being filed in multiple jurisdictions, and while the MDL should remain the focal point of this litigation, it is our anticipation that

that will remain the case.

We do believe at some point in the future, but not right now, State Court will start moving forward with discovery and everything else and at that time we will address it.

THE COURT: Okay. All right.

Well, if there is nothing further to present on State-Federal coordination, I thank you for the updates.

Nice to meet you, Mr. Huynh.

MR. HUYNH: It was nice to meet you, too, your Honor.

THE COURT: So, we will move now to dismissal of Defendants' short form complaints and we'll have counsel state their appearance for the record.

MR. PULASKI: Again, Adam Pulaski on behalf of the Plaintiffs, your Honor.

MR. YOO: Good afternoon, your Honor, Thomas Yoo on behalf of the generics.

THE COURT: Good afternoon, Mr. Yoo. I understand you had some difficulties with the technology, so I just wanted to let you know, if at any time you need to turn your video off or resort to a phone, just let me know, so you are not worried about the technology at the same time as you are about updating the Court on this topic.

So, with the short form complaint process and the dismissal, I just wanted to say first for the benefit of everybody, not necessarily the two of you, but anyone who needs

a reminder, because there is a lot going on in this case and a lot of PTOs, that the procedures for filing the filing and amendment of short form complaints are set forth in amended PTO 31 and PTO 39, which appear at Docket Entries 1496 and 1497, and also on the Court's MDL website.

As a reminder, short form complaints and amended short form complaints are to be filed in member, that is the individual cases only, and should not be filed on the master MDL docket. Several short form complaints have incorrectly been filed on the master MDL docket in the past few weeks and this unnecessarily adds to the already expansive MDL docket.

A Plaintiff who wishes to dismiss a Defendant or claim that is anything less than the entire case should do so by amending his or her short form complaint, not by filing a notice of dismissal or a stipulation of dismissal.

A Plaintiff who wishes to dismiss his or her entire case can do so by filing a notice of voluntary dismissal or stipulation of voluntary dismissal in the member case only and should not file the notice or stipulation on the master MDL docket.

A template notice of dismissal and stipulation are attached to pretrial order 39, and by the Court's count, it has received approximately 40 notices of voluntary dismissal from member cases and has entered orders deconsolidating those cases from the MDL appearing at Docket Entries 1506 and 1646.

So, with that little background from my end just as a friendly reminder, let me turn it over to counsel to make your presentation.

MR. PULASKI: Sure. So, as we've discussed on a number of these conferences, I have given my word to the Court and to the Defendants that we would work diligently in coordination with the various Defendant groups to discuss with them and obtain information from them regarding whether or not they either belong in the master complaints or whether or not they belong, in certain individual instances, in short form complaints.

We have spoken with, I would say, over 20 of the Defendants probably, between 20 and 30, ranging from retailers to distributors to generic manufacturers, regarding instances where they believe they either should not be involved in the case at all because they truly never commercialized the product, or because they believe they shouldn't be involved in the case because they are just too de minimus and should be removed from the master complaint.

And while they may be appropriately named in short form complaints, it would be few and far between, and so we have discussed that.

As your Honor just noted, there have been a number of instances so far where we have dropped people from the master complaints and we have also reached out to Plaintiffs'

attorneys to assist them in determining which Defendants should be dismissed out of the complaints based on the PTOs and information given to us by the Court in the proper manner in which to do that.

So, in that regard, we are now in the process of discussing with all the Defendants, including the liaisons for the generics and the retailers and the distributors and the brands, the process that we will go by in the future for dismissing out of individual short form complaints Defendants who may at this point -- based on information that we are being given, may not be appropriately named in a short form complaint and reaching out to the Plaintiffs Bar in an effort to have those Defendants removed out of certain complaints based on the facts.

And then perhaps there are some Defendants that it just may be that they should never be named in a short form complaint because they never commercialized the product.

So, I will tell you that we have been talking with all the Defendants, we have talked to them Thursday and Friday and again yesterday and again this morning in an effort to come to an agreement as to timelines for that process, and while we aren't there, we are working towards getting to a point where we will be there.

I just wanted to kind of lay out the format for you so that you had a general understanding, and then Mr. Yoo will

explain to you the differences they may have on their side such that we can get to where we need to be so we can actually start this process.

Really, first, what we would like to do is only do this every once in awhile and not have to do it daily or have multiple dismissals in an individual complaint.

So, we have a timeline set up that by the 1st of each month any Defendant that gave us an affidavit, or gives us an affidavit with their production information during that month, that by the 15th of that month, it will give us two weeks to digest and review all the information from the various Defendants, from the retailers, the manufacturers, the distributors and the packagers, we will then have two weeks to digest it all.

Then put it together in a very well laid out email to the Plaintiffs' Bar, which we already have drafted. It has been sitting in my draft out box ready to be sent out to the Plaintiffs' Bar. We already have a spreadsheet for the first group.

We haven't sent it yet because we haven't agreed to this timeline, but it is ready to go and it lists over ten Defendants that should either never be named in a short form complaint, or limits the times when a Defendant should be named in a short form complaint based upon when they sold the product, where they sold the product, what product they sold,

and other information.

So, the timeline, basically, is the Defendants would have by the first of each month to get us the information, and for those that gave us their information by the first of the month, we would have until the 15th to distribute all that information to the Plaintiffs' Bar.

And again, this would include de minimus Defendants who may be named in certain complaints, but should not be named in others, and it would include those that have never commercialized the product that really we believe, based on affidavits, should never be included in a short form complaint.

Once we provide that information, based on all of these geographical limits and time limitations and types of products sold, over-the-counter versus prescription, we would then give 30 days to the individual Plaintiffs' counsel to digest all of that information because it could be information on five Defendants, it could be information on ten Defendants, it could be information on 15 or 20 Defendants, and that will give individual Plaintiffs' lawyers time to review the information themselves, to digest it, to do their own due diligence.

We are relying on affidavits from Defendants which I trust, but every lawyer needs to do their own due diligence. They will need to reach out to their individual clients to discuss the facts of their case, to make sure that on these ten

or 15 or 20 different Defendants that they are properly dismissing Defendants.

Some of these cases will already have a Statute of Limitations run, so dismissal of a Defendant out of a case is a big deal, and we think that 30 days is a completely reasonable process for an individual law firm to review all the information on all the Defendants that we're giving them, reach out to their clients. They may be on vacation, the lawyer may be on vacation, a client may be sick or may not be able to get to their phone, and 30 days is a reasonable amount of time to do that.

Once we ask the Defendants respect that 30 days, because it does take time to digest all of this and it is a big decision to dismiss someone out of a lawsuit, once that occurs, then we say that if after the 23rd day -- or after the 21st day, after three weeks a Defendant believes that they should not be party to a lawsuit, even though the 30 days isn't up, they should reach out to the Plaintiffs' firm to meet and confer about discussing dismissal of their client's case.

If after the 30 days that -- if after two weeks of meet and confer they cannot reach an agreement and a Defendant still believes that they should not be party to the case, and the Plaintiff's lawyer thinks that they should be a party to a case, I have offered my assistance to meet and confer with Defense counsel and with Plaintiff's individual counsel to

discuss the matter, and if after that we can't reach resolution, they can bring it to the attention of the Court.

But I truly don't believe we will ever get to where we need to bring this to the attention of the Court. We only have four hundred plus cases on file at this point.

The email that we have laid out to the Plaintiffs' Bar and the spreadsheet that is attached to that email specifically lays out who is a proper party, when and where and how, and types of -- whether it is prescription or over the counter and what years it was sold and it will be very easy for Plaintiffs' attorneys to figure out who should be a proper party to a case once they have the time to digest the information and reach out to their clients.

And I don't think that any Plaintiff's attorney in the country wants to name someone in a lawsuit that has never commercialized a product, doesn't hold successor liability because of an ANDA they purchased, and we have all that in an affidavit.

I will tell you that the Defense and Mr. Yoo will be able to explain this better, thinks that we should limit our time to respond to ten days instead of 30 days.

While I appreciate the fact that they want to get this over with, I have been extremely diligent over the last two and three months discussing all these matters with the Defendants.

I can tell you that, in my opinion, we need at least

30 days to digest all the information on 10, or 15 or 20 Defendants' information each month and reach out to our clients to make a proper determination as to whether or not to dismiss a client out of a case and then make that move.

THE COURT: Could I ask you a question. You put the affidavit together, correct?

MR. PULASKI: No, the Defendants are putting each of their affidavits together based on a list of questions that we are providing to them that we need in order to make a decision.

THE COURT: That is what I meant to say. You have created the list of the type of information that you believe, as lead Plaintiffs counsel, a Plaintiff's attorney would need to know to sufficiently satisfy the attorney such that it would satisfy you, for example. You put that list together.

So, if an affidavit comes in swearing to the information you have asked, would that satisfy you that that Defendant should be dismissed from your lawsuit?

MR. PULASKI: That would satisfy me, but I have also had the privilege and the ability to actually speak to all of these Defendants, whereas some of these Plaintiffs' law firms are relying on my suggestion that they do this.

While I believe that my suggestion that they do this, along with the fact that I am laying out what is included in their affidavit in a spreadsheet for them, basically handing them the keys to the kingdom, I believe that the Plaintiffs'

Bar will rely on the information that I am giving them, but it is just that they will have to discuss 15 or 20 of these with all their clients.

THE COURT: No. No. I just want to understand the process. Are you anticipating there is going to be about 15 or 20 a month?

MR. PULASKI: I am hopeful -- we just got the PTO from the generics, I got it this weekend. I am going to redline and get it back to them tonight. Hopefully we will have that finished this week and present it to you to be entered.

If we can do this -- hopefully we can get them all in one month, but I think they have until some date in October to get it to us. So, I would say over the next three months we should be completely finished with this process.

THE COURT: Okay. So, over the next three months. Again, is ten to 15 an average of what you would expect --

MR. PULASKI: That is just my guess because I have this first email, like I said, ready to go, and there are between ten and 15 on that email, in the spreadsheet, and the only reason I haven't sent that out yet is because it is very specific in asking them to do certain things by certain timelines.

Like I said, Mr. Yoo and I and the rest of the liaisons haven't agreed to that timeline, so I don't want to mislead any Plaintiff's lawyer. As soon as we get

clarification to that, I hit send and we are done.

THE COURT: So, when you get the affidavits they presumably -- in your experience thus far have they been pretty easy to read? Do they follow the information in a format that matches up neatly with what you have said you needed to satisfy you?

MR. PULASKI: Yes, your Honor. Typically, what will happen is they will send me a draft of the affidavit to review before it is signed and we'll go over it together. If it seems like they have given us all the information that we need, they get it signed, send it back, and we are good to go.

THE COURT: This is just a question. So if you are working with somebody, because I am sure you have help in doing this since you are wearing many hats, as I can tell you do anyway, but you are on at least three topics on this call today, including a huge topic, which is census and registry.

Assuming you have a team helping you, whether it is PSC members, LDC members, or some members from your firm, is there a way in which, when the affidavits come in on the first of the month, since they all will look pretty much the same with the same information that you have asked for, that it could not be turned around by an email by pressing the send button shorter than 15 days later?

MR. PULASKI: If we follow the procedure where we are reviewing the affidavits in draft form before they are sent to

us, then, yes, I can reduce that timeline to seven days instead of 14 days. It hasn't happened in every occasion and we have had to send the affidavits back and have them resigned and redone.

Sure, that would be great. The sooner we can do it, the better, your Honor.

THE COURT: So, if the Defendants know, if it is to their advantage to get out of the case sooner rather than later -- and what I am going to hear from Mr. Yoo, as you have only previewed for me, I can't read his mind, but you said Mr. Yoo is going to tell me he wants it however many days.

Anticipating, logically, the Defendants want out as soon as possible if they have given the affidavit, the Defendants should know and hear, those who are listening on the call today, the conference, is that the sooner you get your draft affidavit in, the sooner Mr. Pulaski and his team can review it, and if there are any changes that need to be made, you will get it back to them right away.

So, when the final affidavit comes in you can and should be able to press the send button within seven days to your team of -- the Plaintiffs' Bar, as you say, who could have anywhere from maybe one of those 15 Defendants or maybe all ten or 15, depending on that attorney's case load.

My next question then is, is there any reason why, after that seven days, when the email is in the Plaintiff's

attorney's hand, the defense attorney can't then reach out to the Plaintiff's attorney, not necessarily wait 30 days -- I would imagine the defense attorney would want to wait a couple of days after the seven days to give the Plaintiff's attorney in the Plaintiffs' Bar an opportunity to review the email that you have sent.

Although, I suppose, Mr. Pulaski, if you haven't sent any email at all yet, it might be the case you could send a general email to everyone saying this is what is going to be happening on an ongoing basis. Maybe you have already done that. So, when it comes they are waiting, they are expecting, it is nothing new.

They should even know what is going to be in the affidavit, I would think, or if not, you will tell me that they don't. But soon enough they will learn, so there are really no surprises here.

The defense attorneys, it would seem to me, should be able to reach out to the Plaintiffs' attorneys sooner that the 30 days, could they not, and begin that dialogue. You mentioned they should wait until maybe day 21 or so, or after three weeks.

I am just working off of what you told me so as to look for ways to make it a more expedited process, all with the complete understanding that every attorney has to do his or her thorough due diligence to ensure that if he or she is going to

dismiss or drop a Defendant, that it is based on a good faith review of what the attorney needs to review.

So, do those seem like reasonable suggestions to maybe incorporate into the draft PTO that you are working on?

MR. PULASKI: Yes, your Honor. To address that, one, it would be a very easy process for us to limit it to seven days instead of 14 days for us to initially send the information out to the Plaintiffs' Bar if we all previewed the affidavit before it was sent in.

Two, we have already notified the Plaintiffs' Bar that we are going to be sending them this timeline chart of Defendant's information and what we call their product identification and years that they sold and everything else so they can make a determination of who is a proper party.

And three, I am happy for the Defense to contact the Plaintiff's Bar earlier than 21 days, although I would say let's give them at least 14 days, because if there are 15 Defendants that they have to look and they have 25 different lawsuits filed, it is going to take them a little bit of time.

They may be working on other projects, not that anybody works on anything but Zantac. But I'd like to not set is up for failure and make sure that we can actually adhere to what we are going to agree to.

Finally, the last thing I want to say is, there are some issues other than these timelines that we are discussing

that the defense liaisons wanted me to add additional burdens to the Plaintiffs' Bar in their short form complaints that I couldn't and wouldn't agree to that Mr. Yoo will explain to you.

But based on my promises to the Defense, which I don't think they can ever argue that I have not lived up to what I have told them in any way, shape, or form, that I am telling them now that I am going to get this done with respect to this issue as well.

And to add additional burdens to the Plaintiffs' Bar to put affirmative messages in their short form complaints that certain individual Defendants are properly named and explain why they are properly named I just couldn't agree to.

Mr. Yoo will bring up his position and let you know his thoughts on that and then you will understand, but I wanted you to know there was another issue besides the timeline, but the timeline was the most important thing.

THE COURT: I harken back to a couple of things.

One, I reread the transcript from our first status conference, and particularly the dialogue that we had, Mr. Pulaski, on this very topic, and you were very clear that you wanted to get all of this done, and you are consistent with that today, although maybe I pressed you a little bit. Your words were, make the determination to dismiss a Defendant from the case within a very reasonable timeframe.

And then I responded with, you know, you would be keeping the Defendants apprised and you would be doing it hastily enough and that a procedure was needed. So, I guess that is where you are right now in putting that procedure together.

At the core of this MDL, among many essential aspects of it, but what I think both sides have recognized and certainly the Court has and appreciates, is that early vetting works to everybody's advantage, so, vetting of Plaintiffs' claims, vetting of properly named Defendants.

The sooner the parties focus on the key issues with the right parties, the sooner, you know, the real work can be done to focus and sharpen the issues for the Court's ultimate ruling on the various motions that will be coming, have already begun to come, and will continue to come the Court's way.

And I know much of what everyone has talked about in this case which makes it unique is, for example, the registry and the ability to do the early vetting and to winnow out claims that shouldn't be there. So, I look at it as all part of it. It is not the registry per se, but it is a vetting process.

So, I credit you, Mr. Pulaski, with devoting the time and energy to it. I know how important it is to you, it's important to the Court, and it's important, in my view, to the success of this MDL, and really any MDL.

This one happens to have a lot of Defendants, that is what makes it, among other ways, unusual. Yes, if there are certain Defendants who shouldn't be in the case and the Plaintiffs have the opportunity to do the due diligence, they should come out of the case so the Plaintiffs devote their attention to those Defendants who they believe should be in the case and the motion practice can be focused, targeted, and it just makes it a much more manageable case.

The Court does take this very seriously and appreciates what you are doing and it is one of the reasons why I wanted to go back and look at the previous transcript to see what our discussion about this was because, as you remember, we had a lot of new Defendants last time.

So, that was one of the messages you gave to all of those new Defendants, and I reiterated it as well, that there is this process in place and this is what you need to do and Mr. Pulaski is available and he will be responsive to your overtures, to let him know what he needs to know to properly advise his Plaintiffs' Bar.

With that, let me turn it over to Mr. Yoo to offer any comments as well.

MR. YOO: Thank you, your Honor. Indeed, this is an issue that has been raised by our side for months now, the problem of overnaming of Defendants, naming of Defendants who don't fit the alleged use, and we have been working diligently

with Mr. Pulaski and the Special Master to wait for the right time to propose a streamlined procedure where these issues can be resolved not on an individualized basis, but a streamlined process that deals with this regularly, efficiently, and hopefully informally.

So, I think up to that point, we are on the same page with Mr. Pulaski. Where we have divergent views at this point, your Honor, is how efficiently the resolution process should be.

I think Mr. Pulaski's description of what would be involved is unduly complicated. At this point, I don't see it as that involved.

Keep in mind, your Honor, at this point we have got Census Plus forms that are due. The generic Defendants have produced information pursuant to the core discovery agreement. As Mr. Pulaski mentioned, different Defendants have also supplied Plaintiff leadership with affidavits on certain facts that Mr. Pulaski asked to be disclosed in that format.

Additionally, we have worked with the Special Master and Mr. Pulaski to come up with a list, and that is the PTO Mr. Pulaski mentioned, where we would provide additional product ID information. That is not something we volunteered to do, but we were asked to do that to further supply the registry with information that would then be used to do this clean up of the Defendants that have been named by the different Plaintiffs.

So, I think the time is ripe now for us to come up with an efficient procedure. I know we are in the Zantac litigation and it is a GI drug, but I heard a lot of talk by Mr. Pulaski about digesting information. I think there is too much digesting going on. We are, at the end of the day, talking about some very basic information from the Plaintiffs' perspective of what they used and when they used it.

I think those pieces of information are what is going to drive the clean up of the Census Plus -- excuse me, the short form complaints.

So, our proposal to Mr. Pulaski is very straightforward. It is that by the first of every month the Defendants supply Mr. Pulaski with a list of short form complaint deficiencies.

It is not something that requires us to supply an affidavit every month. The affidavits are already in Mr. Pulaski's possession, or for the benefit of the other Plaintiffs' counsel, it could even be put on LMI, coupled with the product ID information that each generic Defendant is being asked to provide, details about their ANDA, dates of commercialization, any geographic limitations, things of that nature, and that will all be available for all Plaintiffs' counsel to access.

With that backdrop, if Mr. Pulaski provides that list that we will provide to him by the first of every month to the

Plaintiff's counsel, we ask that by the 10th of the month Plaintiffs' counsel either agree to amend the short form complaint or articulate for the Defendants their reason for refusing to do so.

In the latter instance, the Defendants would then request an opportunity to meet and confer with those Plaintiffs and request that the Special Master be involved as needed, and that by day 30, by the end of the month we should either have resolution on all of those issues, or if there are any issues that remain, we would have an opportunity to request the Court's assistance.

We don't need to decide today what that process would look like, but we would come back and discuss with your Honor, with the recommendation of the Special Master, how we could get Court intervention in those instances where the Defendants feel that based on undisputed evidence they should be let out of a case, just as Plaintiff leadership has let us out of a case on the master complaint.

If they refuse to do that despite the efforts in the meet and confer and despite the efforts of the Special Master, then we would have an opportunity to package that somehow in an efficient manner and have an opportunity to discuss that with the Court or the Magistrate, but we can discuss the details of that at another time. But we think this whole process should be dealt with on a 30-day timeframe.

Finally, I would mention that this should be self executing in the sense that maybe we have more work to do the first month or two, but it is not something that should repeat itself every month because the Plaintiffs' counsel out there should, as time goes, be more familiar with the information that is available on LMI and I would expect that we would have fewer of these issues as we move forward.

I just don't think it is something that requires 45 or 60 days to digest and meet and confer, and under Mr. Pulaski's proposal, at the end of that process it really leaves us with no remedy at all. It is just for us at that point to then seek some further meeting and conferring, and I don't think that is the efficiency that we need and I think we can move a lot quicker.

THE COURT: I just want to make sure I understand. Is the disagreement about the timeframe mainly? Because you, Mr. Yoo, are talking about short form deficiencies, so you are using that terminology, and Mr. Pulaski is using sort of an affidavit.

Is the affidavit encompassing the short form deficiencies or are we talking about two different things? Affidavit regarding wrong Defendant, this is why, short form deficiencies being something other than wrong Defendant.

MR. YOO: Your Honor, the affidavit that Mr. Pulaski is referring to is an affidavit that some of the Defendants

have provided. I believe Mr. Pulaski has asked them to provide an affidavit in certain instances and they typically involve Defendants who, for example, never commercialized their ANDA, so they have a very clear reason why they don't belong in this lawsuit, and so they would provide an affidavit to that effect, or a Defendant who didn't enter the market until 2019, so they literally sold for only three months.

They are so de minimus that Plaintiffs' leadership, I believe, agrees in that type of situation that they don't belong. Those affidavits have been provided or are in the pipeline.

As for the rest of us where the issue isn't --

THE COURT: On that, you don't have a disagreement with Mr. Pulaski's proposal?

MR. YOO: Only to the extent there is any misunderstanding about how those affidavits would be supplied. It is not something that we would be supplying every month.

If a particular Defendant provides that affidavit it is out there, it is available for every Plaintiff's lawyer to see.

My point is that there isn't this additional burden of securing new affidavits on these issues every month. That is more of a one-time thing limited to certain Defendants who have these very clear reasons why they don't belong in the lawsuit.

THE COURT: Right. Well, you agree with that, Mr.

Pulaski, right? You don't envision --

MR. PULASKI: I agree to the extent that if someone never commercialized their product, that they may not belong in the lawsuit. If they're de minimus, they may belong in certain lawsuits, but not others. Do I agree with it, that I don't need to get the information more than once? Yes, I agree with that.

Once I have the affidavit, unless something new pops up that the Defendants didn't realize, like, oh, we had seven other ANDAs we didn't tell you about because we didn't notice it, well, then they are going to have to update us.

THE COURT: Right. But if the information doesn't change, they don't need to provide it.

MR. PULASKI: Correct.

MR. YOO: The other information that all the generics are providing is additional product ID information about when they started selling the product, when they stopped selling the product, if there are certain geographic limitations to their commercialization, that information.

That, again, is a one-time provision where the registry would be populated with that information and available to the Plaintiffs' lawyers.

So, they would be able to look at this compilation and see that if their client, for example, stopped using Ranitidine in 2002, they shouldn't be suing the Defendants who didn't

start selling it until some point after 2002.

My point is, again, that is not something that we are going to have to police on a monthly basis. Once that information is familiar to the Plaintiffs' lawyers I think it will take care of itself and we will see fewer and fewer short form complaint deficiencies based on that type of error.

THE COURT: Okay. So, that is kind of a parallel process that you are talking about? On the one hand you have the affidavits, on the other hand you are sort of talking about this spreadsheet of information regarding short form deficiencies that you envision providing to Mr. Pulaski on a monthly basis, not to be repeated, it is one time, it is out there unless there is some information to supplement it?

MR. YOO: So, the product ID information would be provided on a one-time basis and we have a proposed pretrial order that we have discussed with the Special Master and Mr. Pulaski now has that and we are waiting for his comments.

That pretrial order lists the product ID questions that the generic Defendants would be answering. Once that information is provided, it will be available to all Plaintiffs' counsel.

Now, in terms of deficiencies, our proposal is, on a monthly basis, on the first day of every month we would simply provide a list of cases and deficiencies to Mr. Pulaski, for example, the Jones case, and we would say these three

Defendants named in the Jones case short form complaint are misnamed because of the information that we have already provided. These Defendants didn't commercialize during the alleged time period in that particular case.

Mr. Pulaski would provide that information to the Plaintiff's counsel who filed that short form complaint and that Plaintiff's counsel would have ten days to say I agree with that, I will dismiss those three Defendants, or here is my reason why I refuse to do so.

In the latter instance, we would have until the rest of the month to meet and confer with that Plaintiff's counsel, with the involvement of the Special Master, and I think that will resolve most issues, but if at the end of the 30 days that Plaintiff's counsel still says we are not going to dismiss those Defendants and there is a remaining disagreement, we have an opportunity to bring the issue to the Court.

THE COURT: Mr. Pulaski, did you want to respond to that? I don't think you really addressed that as much as you were talking about the affidavit.

MR. PULASKI: No, I didn't and I didn't understand that that was the Defendants' position, but let me address three or four things that Mr. Yoo discussed.

One, to be honest, Judge, there is no way that any individual Plaintiff's firm can dismiss anything within ten days. I am not going to turn around and give a list sent out

to the Plaintiffs' Bar immediately the day I get it without reviewing it and making sure that I believe it is accurate before I send it out. I am never going to do it. It is not appropriate and I wouldn't expect anybody to do that.

So, I need time on my side with my team to review the five, or ten, or 15 different pieces of information, even if I already have the affidavits, just to make sure I am doing the right thing in sending that out.

Secondly, with those cases that are de minimus, what Mr. Yoo says is there are some easy, you know, ANI that we discussed sold the product for three months in 2019, and it's an easy fix. If anybody developed cancer before June of 2019, then they shouldn't be named in the case.

There are others that are requesting to be dismissed in multiple cases where they sold the product for 15 years, but just because they only sold $300 million over the year, they believe they shouldn't be named in anything. To me, while I don't agree with that, I still need to provide the information to the Plaintiffs' Bar and it does need to be digested and it does need to be looked at.

In addition to that, we have people that say, okay, I only sold the product and it was a prescription only, and I only sold it for three months, or three years, and the likelihood of your client ever using that is de minimus because there were 30 other products and they took it over a 20-year

period.

We need medical records to look at the NDC codes to make sure that the product our client took matches up with the product that was sold by that Defendant. We don't have that information yet. We'll discuss that in the registry piece of this conversation. Hopefully we will get there soon.

But I can tell you it is a little bit more complicated than Mr. Yoo states, but again, my position is to work with Mr. Yoo to try and get this done as quickly as possible.

If he wants to provide me with a deficiency list and go through all 400 plus filed cases and figure out which Defendants should be let out of each case and give me a notice on all 400 cases and do the work for the Plaintiffs' attorneys, more than happy for him to do that. It will make things go a lot easier.

I don't want to only rely on that because I want to build this chart not only for the cases that have already been filed, but for cases that are to be filed in the future, so that we are not naming improper -- or Defendants that shouldn't be properly named or aren't properly named in a case if someone would have this chart to take a look at and use in the future.

So, it is not only for cases that have already been filed that we need to limit and dismiss Defendants out of those cases; it is to be used in the future for judicial efficiency in streamlining this entire process.

So, I appreciate Mr. Yoo's offer to send us a deficiency list, I will gladly accept it. I will gladly pass it on to the Plaintiffs' Bar, and if that makes things go easier, that is fantastic.

THE COURT: Is that intended to be part of the PTO as well, this short form deficiency process? Is it intended to be part of the same PTO you are working on with respect to the affidavits and dismissals of Defendants?

MR. YOO: Currently it isn't, your Honor, but it can be.

THE COURT: It was just a question. I know we have to move on.

I will just tell you that I appreciate the update and I will just say my instinct is that Mr. Pulaski can find ways to shave down the time a bit, and you have acknowledged it as such on your end with the affidavit, even going from 15 days to seven days, and then 14 days instead of 30 days.

Just as I have pushed Mr. Pulaski a little bit, and that was my instinct, balancing the need to be thorough but also keep the process moving, my instinct with you, Mr. Yoo, is that ten days for the kind of information you are suggesting would be provided to Mr. Pulaski to be provided to the Plaintiffs' Bar, ten days sounds short to me to be able to do the reasonable due diligence.

With that being said, I think you both appear to be in

the zone of the proper dialogue and discussion, so I would encourage continued discussion, the use of the Special Master, as you, yourself, said, Mr. Yoo, to sort of refine this process both from the deficiency standpoint and the affidavit Defendant who shouldn't be in because it didn't commercialize the product, and somewhere in there I think we can accomplish what both sides want.

I said it before, if both sides want it, you just need to be efficient, but reasonable with one another. It sounds like you are perfectly capable and in fact are doing that, and I would encourage Special Master Dodge to be involved in the process and think what you are doing is very important.

Thank you for that update.

MR. YOO: Thank you, your Honor.

MR. PULASKI: Thank you.

THE COURT: If we could turn to the census, registry update now and have counsel who is presenting on that. State your appearance for the record.

MR. PETROSINELLI: Your Honor, good afternoon, Joe Petrosinelli from Williams & Connolly here. I am going to speak to this on behalf of the Defendants, although Ms. Johnston, the retailers liaison, I think will have a minute or two to add.

THE COURT: Okay. Good afternoon.

MR. PULASKI: Me again. Can I just say that? Mr.

Pulaski for the Plaintiffs.

THE COURT: Did Ms. Johnston want to put her video on?

Good afternoon, Ms. Johnston.

Ms. Johnston always goes toward the end. I feel badly because you have had internet issues, so we will talk quickly to make sure you are able to present before we move on to the LDC update so we don't have any internet issues that don't permit you to say everything you want to say.

With that, let me turn it over to however the three of you want to present and update the Court on the census, registry update, another very important component of this litigation.

MR. PETROSINELLI: Your Honor, this is Joe Petrosinelli. I think this could be brief unless the Court has questions.

I will give the Court an update in two pieces. With the census, of course we have the filed Plaintiffs and then we have the registry claimant.

On the filed Plaintiffs side, as the Court will recall, the Census Plus forms for the first tranche of cases were due in late July. Those got submitted. We had deficiency notices go out per the PTO that the Court put out about that subject in August and we are still working through those.

I think there is nothing to particularly tell the Court about that now other than the process is working as it

should with respect to the filed Plaintiffs.

With respect to the registry claimants, as the Court knows, your Honor entered a PTO that extended the deadline for this first large tranche of claimants to submit their Census Plus forms to September 30th, so we are about nine days away.

I think your Honor has probably heard from the Special Master that that process is moving along and there is a substantial number of Census Plus forms that have been submitted, although I imagine there will be more submitted in the next nine days.

So, there is really nothing more to say about that other than it is going as we hoped it would go once the Court gave that extension to address the technical issue we had with the third party vendor.

I think that the Court should expect to see two proposed PTOs, census implementation PTOs, in the next ten days, let's say, to be timed so that they are in place on or around September 30th.

Mr. Yoo mentioned this just now, one would be a PTO about the product ID type info that the generic Defendants would provide to the Plaintiffs in terms of content, format, timing, and the like. There is a draft that we are working on that is pretty far along and I think that will get submitted to your Honor fairly soon.

The second PTO I think in this near term would be a

PTO that talks about the types of information that the retailer Defendants would need from the Plaintiffs and that the retailer Defendants then would provide with respect to loyalty card information and things like that that will allow us to hopefully hone in on which products Plaintiffs may have taken.

This would be for just the near term, and in our thought, your Honor, was this would be for the filed Plaintiffs, almost to use that as sort of a test run before we tackle the large number of unfiled claimants. And so, that would be -- the second order I think would be coming soon. I will have Ms. Johnston in a moment give your Honor a little bit more flavor of that.

Just looking forward, your Honor, the next kind of wave of orders as we take this in a step-by-step fashion for the census would be orders -- once we have all of the CPS in for the registry claimants, orders relating to the deficiency process for those claimants, orders relating to further product ID information that may be needed from other Defendants, orders related to access to the census and the registry database and how we are going to arrange that and the timing of that.

So, those are the sorts of things I think are not next in the queue, but I think that is sort of an October kind of sequencing I think that the Court will see just looking forward.

So that is the -- I am trying to be as brief as I can

be given how late we are in the day, and I am sick of seeing Mr. Pulaski, he is always on the screen.

I think that that is where we are headed with the census and the registry, your Honor, but I wanted Ms. Johnston just to give you a minute or two on how she has been working with the LMI census vendor to streamline and create a process that will hopefully help everyone.

THE COURT: Okay. Thank you. Ms. Johnston.

MS. JOHNSTON: Thank you, your Honor. I think I can also keep this relatively brief as Mr. Petrosinelli has covered much of what I wanted to update the Court on.

As your Honor knows, and we spoke about at the last conference, we have been working with Special Master Dodge and LMI to put in place a process so that there is a single portal for all of the census registry claimants to submit their necessary identifying information for requests for loyalty cards and for prescription data so that there are appropriate instructions to each of the claimants and their counsel about what is necessary and how that varies by retailer.

And so that that information goes into LMI's hands and that is disseminated to the various retailers who are going to be going out and collecting that information.

So, what we have talked to Special Master Dodge about doing, and as a reference, we are going to put together a PTO for the Court's review and for Mr. Pulaski's review that

outlines that process and where all of that information is going to be housed so that there is always an easy reference point to come back to that.

But over the last, I would say, six or so weeks we have had weekly meetings with LMI to talk through how the way that the platform is going to function, and as of last week, they were putting the finishing touches on sort of a beta version of what this will look like so that Plaintiffs can then use it to start to submit their information.

In the background of that, what we have discussed doing, and I think what makes sense in light of the volume of Census Plus forms that are coming in and some of the challenges that the parties have faced in getting those census forms submitted and mined for data, what we plan to do is to test out, as Mr. Petrosinelli just referenced, test out that first group of filed cases, roughly 400 or so, see how the process is functioning, confirm that it works, confirm that it is going to make sense moving forward.

And we would propose to do that on a slightly more expedited basis than we would for the larger group of unfiled claimants. So, that way, hopefully sometime in early December we will have that 400 or so filed case data back and determine whether there are any issues with how information is being traded off.

THE COURT: Okay. All right. Thank you.

MS. JOHNSTON: Thank you very much.

THE COURT: Did you want to say something, Mr. Pulaski?

MR. PULASKI: Unfortunately, just a few things. I am going to make it quick, just so Mr. Petrosinelli can see me a little bit more up here.

One, I agree with Mr. Petrosinelli on the PTOs, I think we need to get to the access of information from LMI database a little bit sooner rather than later if we can. I will discuss that with Mr. Petrosinelli when we get off.

As far as the retailer PTO, the loyalty card info and everything else, I will work with Ms. Johnston to get that done as soon as we can as well.

And the census implementation PTOs for the generic retailers and also for the deficiency process for the registry claimants, which we haven't done yet -- we have done it for the filed claimants, but not the registry claimants. We can work on getting that done as soon as possible as well because we're coming to the deadline.

For the first group, as Mr. Petrosinelli suggested, we do have a deadline coming up in nine days. To date, without giving specific numbers of everything, we are close to 40,000 cases in the registry right now. We may be over it at this point, I don't know, I haven't gotten an update since Thursday or Friday, but that is going well.

And I will work with Ms. Johnston on this beta test or filed case test for the loyalty program records and perhaps prescription records.

And then, finally, what we haven't discussed yet is the Lexitas portion of this registry process, which is the actual medical records ordering benefit package for those in the registry that both the Plaintiffs and Defense are working on together.

And I expect that the liaisons for all brands, generics, retailers, distributors and I will be in discussions this week about the beginning stages of ordering those records through Lexitas for primary care physicians and oncology records, and things of that nature. That should start somewhere within a week or two after this deadline in nine days.

Other than that, I think Mr. Petrosinelli and Ms. Johnston filled you in on everything you need to know registry related and everything else as well.

THE COURT: Okay. Terrific. Thank you all three for the update and for the hard work. I know how much time it takes and attention to detail working with the third party vendors. There is a lot to it, but it is a really important piece of this litigation, so I truly value the work that you are doing and thank you for the updates.

MR. PETROSINELLI: Thank you, your Honor.

MS. JOHNSTON: Thank you.

MR. PULASKI: Thank you, Judge.

THE COURT: Now, last, but far from least, we get to our LDC update and I am very excited about that. If I could ask counsel to turn their videos on who are presenting on this topic, to introduce yourselves as you are coming on.

And I know that we have -- on the Plaintiffs we have Ms. Scott who -- are you going to first do the introduction and then Ms. Rydstrom for the Defendants, and then we'll have all of the LDC members introduce themselves? Guide me through this phase.

MS. SCOTT: That works for us, your Honor, if that's okay with you.

THE COURT: Sure.

MS. SCOTT: Good afternoon, my name is Carmen Scott, and I'm one of the co-chairs of the Plaintiffs Leadership Development Committee. Thanks for the opportunity this afternoon to present and let the Court know what is going on with the Plaintiffs Leadership Development Committee.

Let me also say, on behalf of Melanie Millstop, my co-chair, thank you to the Court for allowing us to serve as cochairs for this wonderful group. It's been a great experience for all of us.

We know the Court wanted to create a diverse group for mentorship through the Plaintiffs Leadership Development

Committee and the Court has done just that. That is certainly the case that we have a diverse group even within a very diverse PSC.

We have among our LDC members on the Plaintiffs' side individuals who are new to mass torts, but who have had a long career in litigation otherwise.

We have folks on our LDC committee who have practiced in mass torts for years and are leading their law firms, and we also have lawyers who had careers before becoming lawyers and who offer different and wonderful things to the Plaintiffs Steering Committee.

The bottom line is that each LDC member on our side has a background that benefits not just the LDC, but the PSC as a whole. It has been wonderful to work within that group.

The Court, of course, recognized that each of the LDC members had these qualifications when you interviewed us, or interviewed them and placed them in these positions in the formation of the MDL, but what the Court perhaps didn't realize is that you were really creating a think tank of lawyers that has now fully integrated into every aspect of this case.

As for the mentorship piece of the LDC on the Plaintiffs' side, that has also been great. We meet weekly and I can say for myself, and I think I speak for others, that the mentorship really does flow both ways. We constantly learn from one another in the course of our meetings as we

collaborate and work together on various issues and also through regular communication.

We, as leaders of the LDC, working with leadership, make sure that LDC members are integrated fully into the PSC and working on every facet of the case as we go forward.

With the creation of the LDC the Court, I believe, has succeeded in what we believe was intended, and that is taking already very accomplished lawyers and putting them in a position of PSC leadership that they had not been given an opportunity to have before.

You asked early on in the hearing today whether we had any suggestions. My only suggestion would be that the Court continue with this process in other MDLs and certainly encourage the adoption of a Leadership Development Committee for other MDLs in the future.

THE COURT: Thank you so much, Ms. Scott.

Let's see, Ms. Rydstrom.

MS. RYDSTROM: Good afternoon, your Honor, it's Jessica Rydstrom from Williams & Connolly and I represent Pfizer, but today I have the enormous pleasure of getting the chance to get out of the way so that the Court can hear from these fabulous LDC members.

I would echo everything that Ms. Scott said. We, too, have a diverse group on the Defense side in terms of ranging of, I would say levels of experience, but given how far above

their weight everyone is always punching on this case, I would say years of experience ranging from junior associates to senior associates to counsel which I believe are the three LDC folks who are here on this call.

They may not have had a chance to formally introduce themselves to the Court, but they are, of course, all very well known within the broader Defense group and also among the Plaintiffs side more generally, and that is because, I believe exactly as the Court intended, they are so integrally involved in all aspects of the case.

And just in looking at what some of our LDC members have done in preparation for this conference, they are taking the lead role in negotiations and meet and confers with the Plaintiffs with respect to discovery.

They are -- as you heard from Mr. Huynh earlier, they are involved in the State Court briefing and strategy with respect to the State Court cases. They are formulating legal strategy not just on behalf of their individual clients, but within the broader Defense group as a whole.

And they are, of course, the essential points of contact for our clients that are making sure that all the trains are running on time in this very, very busy litigation.

I think looking forward, I would highlight for the Court that we think that the census process will be an opportunity for the LDC to really take a starring role and I

would highlight that as being an area where we certainly anticipate the LDC members, Ms. Cohan among them, to play a really important and independent role in discussing with Plaintiffs any potential deficiencies and then determining how we move forward on the early vetting process that is contemplated by the Court.

So, I am grateful for the opportunity to highlight these folks and the outstanding talent that we have among the more junior folks on the Defense LDC side.

Thank you, your Honor.

THE COURT: Thank you so much, Ms. Rydstrom.

With that, did you all come up with an order as to how you wanted to introduce yourselves? I know, of course, Ms. Showalter as a former law clerk, and would love to hear from each of you as to what your experience has been so far. I know we are limited in time -- it is only 4:20.

Yes, just tell me a little bit about anything you want to share with me, your background or what you are working on in the case, and also what the experience has been like as an LDC member, and if you have any suggestions of things that we can do or continue to do that would enhance the experience you are having as an LDC member on this case.

That includes anything that the Court can do to make it as meaningful an experience as it can be. It sounds like you are all very busy, so it's not that you need more work, but

if the Court can compliment or supplement that which it sounds is already in place in terms of the mentorship, I think it is a very key aspect of the LDC.

I think mentorship needs to be very intentional, I've come to learn. It doesn't just happen because a more senior person might be working alongside a less senior or less experienced person. There needs to be something very intentional about persons who serve as mentors, and so this was an intentional act on the part of the Court for all of the reasons that I believe mentorship is so very important, and clearly you have so much to contribute, so it is not just a one-way street at all.

With that, let me turn it over to those of you who have been waiting so patiently all afternoon to speak.

MR. COHAN: Hi, your Honor, my name is Lindsay Cohan, I am at Dechert representing GSK, but of course I have the privilege of serving on the Leadership Development Committee. Thank you so much for the opportunity first and foremost.

As Ms. Rydstrom touched on, there have been a lot of opportunities thus far in the litigation for LDC members both within our own firms and also working alongside the joint defense group.

For example, I am regularly working with Mr. Cheffo, Ms. Lyon, Mr. Sachse on legal issues and discovery disputes specific to GSK, but in addition to that, I am working closely

with Mr. Petrosinelli from Williams & Connolly in the census process, so that has been a really great way to bring together some of the LDC members across firms and to do some cross mentorship as well.

I also wanted to say that it has been a real honor to watch Special Master Dodge work and have the privilege of seeing Magistrate Judge Reinhart last week in our first discovery conference, and it is always exciting to get to participate in those even if you are just listening in, but to learn.

I think discovery in particular is an area where LDC members are already very engaged, attending meet and confers, and very involved in the substance behind the scenes.

I think as the discovery framework is set up going forward, that is clearly a place where we will have more of an opportunity to play a more significant role in working toward resolution of those disputes, and if necessary, to come to the Court with those disputes.

Finally, I just wanted to say that I'm probably one of the more senior folks, counsel at Dechert, I have been around for awhile, but I have worked on other MDLs before, but this is the first MDL I have had the opportunity to be involved in from day one and I really have gotten to appreciate how much influence you can have on the process and the substance of the case by being involved in issues such as case management orders

and pretrial orders from very early on, and how developing the relationships across the aisle really set the tone for the litigation.

I thank the Court for the opportunity by creating a Leadership Development Committee so early on in the process because I think in that way we were able to participate in a manner that made sure that our participation would continue as the case moves forward. So, thank you.

THE COURT: Thank you so much. Those are wonderful remarks and I appreciate them.

MS. SHOWALTER: Hi. I'll take the baton from Ms. Cohan. This is Annie Showalter for Pfizer with the law firm of Williams & Connolly. It is a pleasure to appear before you, Judge.

THE COURT: Nice to see you.

MS. SHOWALTER: Nice to see you, too.

In contrast to Ms. Cohan's relative experience and seniority, I am the more junior member of the Leadership Development Committee appearing before you here today, and consistent with that, this is my first experience with multi-district litigation and I have already been so heartened by the number of opportunities that I have been provided to grow my skills as an attorney.

I felt so well supported in that both by my law firm and by the Court. I am very grateful that you have instituted

the Leadership Development Committee.

Very early on, I think just a few weeks ago, I received a Leadership Development Committee assignment and I worked on the Plaintiff side with Mr. Gilbert and Mr. Lear and on the Defense side Mr. Petrosinelli to help draft a pretrial order dealing with the voluntary dismissal of cases. That was fascinating. It was a great opportunity to collaborate with opposing counsel, to think through the interplay of the relevant Federal rules, and also about how to create a user friendly order. That was a great experience.

As far as what the Court can do to continue making the LDC meaningful, I think involving members in things like pretrial order drafting is a great opportunity. I certainly had a wonderful experience.

I would also like to echo what Ms. Cohan said about the many opportunities that are being provided through discovery. My primary role in this case has been working with Ms. Horn, who you heard from earlier, on the many dimensions of discovery in this Zantac MDL.

As part of that process, I have had many opportunities to liaise with our client and with counsel for co-defendants, including the other LDC members on this Zoom, as well as Plaintiffs' counsel. I have participated actively in many meet and confers with Ms. Finken and Mr. McGlamry and Ms. Luhana. It has been a pleasure to work with each of them.

I think the discovery will only continue to provide great opportunities for young lawyers. Personally, I am really looking forward to getting in there on some depositions.

THE COURT: Excellent. Okay. Thank you so much, Ms. Showalter. I am so happy to hear that you have been so involved and are learning so much and growing your skills at such an early stage in your professional career. That is just wonderful.

MS. SHOWALTER: Yes, it is wonderful. Thank you, your Honor.

MS. ZOUSMER: Good afternoon, your Honor. My name is Julia Zousmer. I am last today on the LDC defense side, which is something I am very used to with my last name. I am a senior associate in the Chicago office of King & Spalding and I represent Boehringer Ingelheim in this litigation.

I want to start by just saying thank you to the Court for this opportunity to introduce myself and generally for your support of younger lawyers and your commitment to their development.

I feel very fortunate to work at King & Spalding on a team with Andy Bayman and Rob Friedman, who are also steadfastly committed to my development and have given me the great opportunities that I have had to really play a leadership role in this case.

Like Ms. Cohan, I found very valuable the involvement

that I have had from the start. I think that not only did I learn a ton during those strategy discussions that have laid the framework, but that it also helps me do better with every part of the case that we are involved with today. I understand how it was all formed and the basis of everything, which is a real privilege.

Most recently, I have been spending a lot of my time working on the preparation of BI's first 30(b)(6) deponent for the October 1st deposition, and State and Federal coordination issues and defending BI in the State Court cases in Tennessee, New Mexico and Connecticut.

Part of this, which I love, involves the constant communication with the other LDC members, not only with them, but actually also with the level of Defense leadership above them, and in these strange times our frequent Zoom meetings have given a sense of normalcy to me who really misses the office environment and really enjoys working with people.

So, I have really enjoyed working on this case so far and I thank you again for your time. I know we are at the end of a long agenda, so with that, I will turn it back to you.

THE COURT: Thank you. This was a very important part of the agenda. The fact that it is at the end and that it's late has no bearing on the emphasis that I put on this part of the agenda.

On most calls that we have I ask how you are doing,

what you are doing, and it was our collective belief that, you know, having you appear on the Zoom screen to connect with the Court and each other was meaningful.

I will just pause for a moment to say that I know there are many other LDC members who are part of the team, Plaintiff and Defense respectively, who are not appearing today, but we decided that we would stagger it so in each status conference we would try to ensure that some of you could make a physical -- virtual physical appearance.

And so we will get to everybody and this was the group that was, I guess, selected for today's conference, but everybody will have an opportunity.

Mr. Gilbert wants to be a member of the LDC.

MR. GILBERT: I am still trying to become a member of the LDC, Judge.

I was just interrupting, if I may, to say that there is one other member of the LDC that was included on your agenda that was submitted by Mr. Petrosinelli last evening, and that is a member of the Plaintiffs LDC, Je Yon Jung, who is here.

THE COURT: Yes, I was definitely going to get to Ms. Jung next. I just was using that little opening to make sure the others knew that we would have other opportunities. Absolutely, I am waiting to hear from Ms. Jung.

MR. GILBERT: I apologize for interrupting.

THE COURT: No worries at all.

MS. JUNG: Thank you. Good afternoon, your Honor. Je Yon Jung on behalf of the Plaintiffs Leadership Development Committee. I know I am standing between probably a much needed break and food and coffee.

I have the honor of representing the other four members and myself of the Plaintiffs Leadership Development Committee, and first of all, on behalf of that committee, I'd like to thank you for your vision and your leadership by appointing the first ever LDC on an MDL, and we do certainly hope that that continues and it will not be the last.

As your Honor knows, our Plaintiffs LDC group is comprised of five members with diverse career paths and personal backgrounds, and 63 years of combined legal experience. Over the last nearly five months since our appointment and your selection of us we have been fully integrated into the Plaintiffs steering committee as equal and active members.

Amongst our five members, we have comprehensive representation and membership on every single one of the PSC's committees. We have made substantive procedural and strategic contributions, be it from meet and confers to brief writing to strategic decisions about discovery.

In short, we have not been relegated to subordinate positions as members of the PSC, which has been an amazing experience. I know I speak on behalf of all the members that

it has been truly amazing.

The one thing when I polled the other four members is that every single one felt that we had been fully included and embraced as a full member, have not been given the worst assignments, and we have taken equal part of all the assignments and participation in the duties and responsibilities that we have.

The coleads and the committee chairs and our LDC co-chairs are fully engaged and provide mentorship on a regular basis, if not weekly, if not daily. The coleads and the chairs are consistently checking in with us and providing -- we, as LDC members, are also providing our unique input and experiences and they're welcomed and invited, and that has been the case since the five months we have been here.

I speak on behalf of the Plaintiffs LDC to thank the PSC members for embracing the concept that your Honor has implemented here and the members of the LDC so completely and fully.

The only suggestion I think, as said earlier, was to continue -- and you always put references to the LDC in your orders and you make sure that it is in the forefront of everybody's minds, and that has been refreshing and it's helpful and if that continued, and we just know that everyone here on the Plaintiffs' side has fully embraced it.

So, thank you, your Honor.

THE COURT: You are very welcome. Thank you, Ms. Jung. I appreciate it.

I just want to acknowledge the leadership in this case because, while I suppose I can take some credit, along with Special Master Dodge, who was integral in discussing this concept with me and putting me in a position of thinking outside the box, if you will, and creatively, things don't happen just by a title and a label and a committee, right. It has to be meaningful for it to really work.

Just a couple of points. One, I do hope it continues in other MDLs. I do think that a lot of people are looking at the Zantac MDL for all sorts of reasons. It is one of the most recent MDLs, it has been conducted exclusively virtually. There are just so many unique aspects of this case, the use of the census, the registry.

You, yourselves, know that the media picked up on the creation of the LDC. That was not something that I promoted. It was a newsworthy event and I think that speaks to the public importance, if you will, that has been recognized with something of this nature.

So, I think those things alone speak to, hopefully, the likelihood that something of this nature, albeit in the form that subsequent judges choose to utilize it, will be a model. So, do a good job because they will want to know how they do.

And part of what inspired me as well was when I was looking to appoint leadership, I really did a lot of work to make sure we had a good leadership team, and I called a lot of judges. The judges can speak about the lawyers whom they see frequently and they don't always know the work that a lot of the lawyers are doing behind the scenes. It is unfortunate because they are then not able to necessarily speak about who they are and that may dictate whether the next judge will appoint somebody in leadership.

I felt it was really important that you had face time with the Court and the Court had face time with you in and of itself, but certainly if you choose to want to pursue leadership positions in subsequent MDLs, I learned that this was one way that leaders get appointed, is that they learn from other judges what kind of work and what kind of leader you have been. That was really important to me.

But to the point of -- so, I hope it continues with other judges, and certainly if I am given another MDL, I will absolutely continue it, but let me get through this one first.

Secondly, yes, it takes meaningful effort on everyone's part to make it a meaningful position. So, I credit the leadership of the Defense and Plaintiffs' teams for making it a meaningful experience, for including you, making you feel a part of it, not relegating just the unpleasant work, although there is enough unpleasant work to go around for everyone no

matter how junior or senior you are. The same goes for judges.

So it is part of the process, and you can learn a lot from the unpleasant work, and how you handle yourself with the unpleasant work says a lot about your character and your work ethic. So, when you think that it's unpleasant and someone may not be looking, still give it your very best because it does matter.

I think it is really great that you are involved from the beginning and hopefully you will be involved through the end. It is hard sometimes to step in in the middle of litigation. I know that when judges inherit cases from other judges, it happens all the time because they go senior and whittle down their case load, or they move on, or a new judge comes on, and so the older judges, now of which I am considered because we have had four judges who have come on after me and we're getting another one, we give up several of our cases as part of the new cases that go on the wheel.

Don't worry, I am not giving up this case. I wouldn't have any friends in the district if I did that.

So, you know, when we inherit these new cases it is hard, it is like, wait a minute, where did this come from, why was this done? It's not that it was done improperly, or that you necessarily would have done it differently, you just didn't know the thinking that went into why certain things were done the way they were done.

To be able to be involved in a case from the very beginning, to see the strategy, to see the case management, to see the attention to detail that is needed every step of the way -- it's not to say that we all don't make mistakes. I, by far, don't do things perfectly all the time and I'll just apologize if I haven't done something correctly in the past and won't in the future.

I always try to get my legal rulings right. If they're wrong, it is just because I missed something and we're all human, and there is an Appellate Court to tell me otherwise, but I always try to get it right on the law.

Then the case management, I do my best. I can only size up what I can size up. You all are on the ground level, you know, and you may wonder sometimes, why is she doing that? It may be that I am really disconnected with what should be done.

I think there are enough of you out there and there is good communication and good collaboration that hopefully only a few things will fall through the cracks. That is why the collegiality and the collaboration is so important, because if you all don't work together it makes it hard then to communicate to the Court and then the Court is more likely to get it wrong or be out of step with you.

So, it just works better when we all work together, even if there are disputes. There is a forum for the disputes

to be resolved, first for the meet and confer. And thank you all for your heavy involvement in that meet and confer process.

Look, if it needs to get to the Court, it is not a failure on anyone's part, it is just the way it is. There is a lot at stake in this case, I get it, and that is what we are here for.

I'm sure Judge Reinhart has something to say. I have not been probably solicitous enough of getting his input, but I know he feels so strongly about mentorship and has his own order. If you could kindly -- you are on mute right now. If you would also join in any parting words to our LDC before I say good-bye to them and then we'll begin to close down the conference for the day.

JUDGE REINHART: So, now I stand between everybody and their coffee and their comfort break. Okay.

I want to thank everyone for all the work you are putting into this case. I concur with everything Judge Rosenberg said and I hopefully will see some of you at discovery hearings. I hope that your mentors will allow you to come and argue and I promise to be gentle with you.

So, thank you all for everything that you are doing.

THE COURT: Okay. I just want to make sure, if there was any confusion about any points, this is unrelated to the LDC, but PTO 30 is alive and well. I don't know if there is any confusion about PTO 30 protocol not being followed.

I will get details out relating to the discovery matter that we will have next week relating to looking at some issues dealing with scope of discovery.

Let me drill down a little bit. You know I usually like to think about what I say and what I do before I say and do it. So, if I have said something that someone doesn't understand, I will seek to clarify it. PTO 30, as with all PTOs, are alive and well.

I glean from today's conference on the discovery end that there is some work to be done with scope of discovery. It doesn't mean I am going to take on the entire issue of all discovery matters. Let me think through and digest everything that has been communicated today so that I can clearly articulate to you what we can try to accomplish next week at a date that we will make sure everyone is available for.

I always talk to the Special Master first to make sure she connects with all of you so you are available. We will get that clarified and put in an order so you will know what we are doing next week.

With that -- unless, Judge Reinhart, was there anything further that you wanted to say?

JUDGE REINHART: No. Thank you very much.

THE COURT: So, with that, then, thank you so much. Orders will follow to memorialize the timelines for the brand Plaintiff discovery, that is something that I have a goal of

getting out shortly, and an order relating to what we will do next week on any further discovery matters relating to some of the issues that touched on the scope of discovery and we will go from there.

So, everybody be well. I think our team is going to stay on, so we are going to wait until all of you are able to leave the conference at this point, so you will just leave the meeting and we look forward to seeing you next week.

It may be telephonic and not Zoom. I will work out those details as well. In any event, we'll be in touch next week.

(Thereupon, the hearing was concluded.)

* * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above matter.

Date: September 24, 2020

/s/ Pauline A. Stipes, Official Federal Reporter

Signature of Court Reporter