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

CASE NO. 20-md-02924-ROSENBERG

IN RE: ZANTAC (RANITIDINE) .
PRODUCTS LIABILITY . West Palm Beach, FL
LITIGATION. . May 11, 2021

STATUS CONFERENCE (through Zoom)
BEFORE THE HONORABLE BRUCE REINHART
UNITED STATES MAGISTRATE JUDGE

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

1 *THE COURT:* Good morning, everybody. This is Case
2 Number 20-2924, In Re: Zantac (Ranitidine) Multi District
3 Product Liability Litigation. We are here for a status
4 conference.

5 Let me begin by recognizing counsel for the
6 Plaintiffs.

7 While we are waiting, let me turn to the Defense. On
8 behalf of the brand Defendants, please.

9 *MS. HORN:* Good morning, your Honor, Elaine Horn from
10 Williams & Connolly on behalf of the brands.

11 *THE COURT:* Good morning, Ms. Horn. On behalf of the
12 generic Defendants.

13 *MR. HENRY:* Your Honor, Terry Henry, Apotex Corp, on
14 behalf of generics.

15 *THE COURT:* Good morning.

16 *MS. THOMPSON:* Your Honor, Sara Thompson for the Teva
17 Defendants on behalf of the generics.

18 *THE COURT:* Good morning. I see Mr. Kruger. Who are
19 you here for?

20 *MR. KRUGER:* Good morning, your Honor, Nelson
21 Laboratories.

22 *THE COURT:* Good morning. Mr. McGlamry, on behalf of
23 the Plaintiffs.

24 *MR. McGLAMRY:* Yes, your Honor, Mike McGlamry on
25 behalf of Plaintiffs. Good morning.

1 *THE COURT:* Good morning, everybody. Thank you all
2 for taking the time this morning. I know we had a brief
3 hearing last week, and for a couple of reasons, the parties
4 asked for some more time, and I agreed to give you some more
5 time to continue working with the special master to see if you
6 could reach an agreement on modifications or proposed
7 modifications to PTOs 54 and 60.

8 Before I turn to anything else, can someone update me,
9 is Mr. Sachse out of the hospital and is he doing okay? Ms.
10 Horn, do you know?

11 *MS. HORN:* Yes, Mr. Sachse was released from the
12 hospital yesterday afternoon, but he is still recuperating.

13 *THE COURT:* Yes. I hope he is not working too hard.

14 With that, Ms. Horn, since I already got you off mute
15 I will turn to you first. Can you bring me up to date from the
16 brands' perspective on where we are, whether you feel that we
17 have reached a point where the Court needs to get involved, or
18 whether the parties think there are additional discussions that
19 might be fruitful and how much time you would like for that?

20 *MS. HORN:* Thank you, your Honor. My understanding is
21 that most of the discussions that have taken place have focused
22 on the PTO 60 generic and others' issues and less so on the
23 global issues. I do believe that progress has been made to
24 some extent and that we just need some more time.

25 *THE COURT:* Maybe I should turn to Mr. Henry and Ms.

1 Thompson on behalf of the generics. It sounds like they were
2 probably closer to the center of the bull's eye on this one.

3 Mr. Henry, if you can maybe answer the same questions
4 I put to Ms. Horn.

5 *MR. HENRY:* Sure, your Honor. Ms. Horn is correct,
6 the work has been going on on PTO 60, especially with relation
7 to the generic manufacturers, their document production and how
8 the document production affects scheduling of depositions.

9 We think that we have a pathway forward, working with
10 the special master, that over the next few days, hopefully by
11 the end of this week we will have a good path forward, and then
12 within the next two weeks we will have a new agreement in
13 place.

14 *THE COURT:* Very well. Ms. Thompson, anything you
15 would like to add or supplement?

16 *MS. THOMPSON:* No, thank you, your Honor, Mr. Henry
17 has covered it.

18 *THE COURT:* Very well. I know, Mr. Henry and Ms.
19 Thompson, you are liaison on behalf of a lot of people, so I
20 understand sometimes when we are doing these kind of
21 negotiations -- I won't say it is a sticking point, but it's a
22 necessary step in the process that you have to get buy-in from
23 your constituency, if I can use that terminology.

24 Is that kind of where we are now, that you need some
25 additional time, A, to continue negotiating with the Plaintiffs

1 to get what you want, but assuming the Plaintiffs are
2 agreeable, to engage in that process of kind of finding out
3 what your constituents want, making sure you have buy-in and
4 all that? Are we to that point yet?

5 *MR. HENRY:* We are at that point, your Honor. In
6 fact, it is a little more complicated because it is not just
7 what the constituents want, it is what can they do. As you
8 know, every one of our generics is differently situated, some
9 with their documents here in the U.S. and easily available,
10 others with their documents in foreign countries that are
11 experiencing perhaps, you know, new waves of COVID that are
12 making their access to information difficult.

13 So, we have to assess each one of them and their
14 ability to respond and get the documents produced in time in
15 advance of depositions, and then, of course, make the witnesses
16 available.

17 So, it is not just what they want, it is also what can
18 they do, but we are working through that process and we think
19 we have some good information that will allow us to get there.

20 *THE COURT:* As you sit here today -- again, I won't
21 hold you to specific deadlines -- you used the term maybe two
22 weeks. Do you think that is realistic for when -- if you are
23 going to have an agreement, that is when you might have an
24 agreement, or if the Court needs to get involved, that is when
25 the Court ought to butt its nose in again?

1 *MR. HENRY:* We will know within two weeks whether the
2 Court needs to butt its nose in, that's right, your Honor. I
3 don't know if we will have an agreement in two weeks, but we
4 will know whether we need Court intervention in two weeks.

5 *THE COURT:* Very good. Last thing, then I am going to
6 turn to Mr. McGlamry and hear him.

7 I think this goes without saying and I know you have
8 done this in the past, but we also don't have to have a one
9 size fits all for all the generics, as you point out, Mr.
10 Henry. Depending on how long they had the product, what their
11 role was, whether they were the manufacturer, the storage and
12 transport, it may be that certain things can be done faster
13 than others.

14 So, I would encourage the parties, to the extent you
15 aren't already doing it, to factor that into the negotiations
16 as well, that there may be agreements that some can reach. How
17 you can incorporate that into a global PTO I understand gets a
18 little more complicated, but I would hope that's part of the
19 discussion. Thank you.

20 Let me turn to Mr. McGlamry and allow him to respond.

21 *MR. McGLAMRY:* Thank you, your Honor, Mike McGlamry on
22 behalf of Plaintiffs.

23 I don't disagree with anything that Elaine, Terry, and
24 Sara said. How I would sort of phrase this is that -- you
25 started off by talking about modifications to PTOs 54 and 60.

1 I think we have moved sort of from that to discussions about a
2 new schedule, sort of a new and improved PTO 60 with the
3 generics, about production and discovery generally, and as I
4 understand it, we may even have a meet and confer later today
5 with the special master about that, sort of in the overall
6 context of the issues, as your Honor knows, about PTO 30.

7 As part of that, and as you know and we all know as we
8 have dealt with this litigation, things happen fairly rapidly,
9 and so a lot of this, in fact all of this has happened since
10 our hearing on Thursday morning where I believe when we came in
11 Thursday morning we were talking just tweaks and edits, the
12 redlines that we had provided to the Court.

13 That has evolved, which I think is a good thing, into
14 a broader discussion about how do we accomplish what we all
15 have to accomplish on both sides; from our perspective, being
16 able to be properly prepared and take good depositions, and
17 from the Defendants' perspective, to properly prepare their
18 witnesses, get their production done in a timely way so that
19 they don't get gotcha'd, and that we are not having issues
20 about a second deposition.

21 So, as a result of those discussions, we have also
22 discussed resetting the depositions that are now scheduled over
23 the next couple of weeks so that we can get a better handle on
24 production and the schedule, and those discussions have sort of
25 been at the encouragement and with the blessing of the special

1 master which, again, I think has been helpful because,
2 otherwise, we are setting ourselves up either for a fight about
3 a second deposition or issues about should we have gotten this
4 sooner, or a waiver, or whatever other issues we have.

5 And we have had discussions even as early as before
6 the conference started while we were all on Zoom about Terry's
7 discussions with the generics to accomplish that, and so we are
8 working with them to make that make sense.

9 And as far as I am concerned, the other thing -- and I
10 know Elaine started out with PTO 54 sort of being, as I think
11 of it, as sort of the odd man out, I think she may have said on
12 the back burner. I agree with that. I would also suggest that
13 there are probably some other issues associated with PTO 54
14 that are not generic only related, that we should have
15 discussions with -- between ourselves and Elaine and her crowd
16 and the special master and then come back to the Court on PTO
17 54.

18 Thank you, your Honor.

19 I can't hear you, you are muted, your Honor.

20 *THE COURT:* Thank you, Mr. McGlamry. The problem with
21 working from home is the phone was ringing and I didn't want
22 you to have to hear the other phone.

23 *MR. McGLAMRY:* Usually my dogs are barking.

24 *THE COURT:* Understood. Or the baby is going to be
25 crying soon. Be careful.

1 MR. McGLAMRY: Yes.

2 THE COURT: It sounds to me like the parties seem like
3 they are making progress, and as the Court has said many times,
4 for the parties to work out their problems and not have the
5 Court impose something on you is always preferable.

6 Here is my inclination. I do want to stay involved, I
7 want to keep my finger on you all, but give you the breathing
8 room you need to do what you need to do. So, my inclination is
9 to just set another status conference maybe two weeks from
10 today. Between now and then, if you have reached agreement and
11 you submit a joint proposal to the Court, we can take that
12 status hearing off the calendar.

13 If we get to that point, and maybe Mr. Henry's crystal
14 ball is a little dimmer than he thinks and you are still making
15 progress, but you need a little more time, I will certainly be
16 open to giving you that time, or if you have reached that point
17 and you truly have come to a dead end, then we will schedule a
18 PTO 32 hearing and we'll deal with this issue.

19 Any objection to that, Mr. McGlamry, setting another
20 status down the road? I assume you all have plenty to do in
21 the intervening two weeks even if you cancel those depositions.

22 MR. McGLAMRY: Oh, yes, your Honor, and that is fine.
23 I appreciate you sort of staying engaged in it. I think that
24 will be helpful and that should give us time to resolve this or
25 not.

1 *THE COURT:* Very well. Mr. Henry, any objection to
2 that procedure?

3 *MR. HENRY:* No objection, your Honor. Appreciate the
4 time.

5 *THE COURT:* Very well. Ms. Thompson, any objection?

6 *MS. THOMPSON:* No objection, your Honor. I will be
7 doing that from an undisclosed location on vacation.

8 *THE COURT:* You have colleagues and associates you can
9 always send if you have to, especially if it is just to tell me
10 you need more time. I don't want to disrupt your vacation.

11 *MS. THOMPSON:* I'm fine. Thank you, your Honor.

12 *THE COURT:* Very well. Ms. Horn, any objection?

13 *MS. HORN:* No, your Honor.

14 *THE COURT:* Hopefully by then Mr. Sachse will be
15 healthy enough and you can lateral the ball back to him and he
16 can bear with it.

17 I said two weeks, but it doesn't have to be exactly
18 two weeks from today. I am looking at my calendar now.

19 Mr. McGlamry, on the 26th is when I am going to have
20 oral argument on the Sanofi issue. It occurs to me, since we
21 have lots of folks who like to Zoom in for these hearings
22 anyway, does it make sense for me to schedule this right before
23 that hearing? That way, everybody can just phone in once, we
24 can do what we need to do, and then the folks who want to stay
25 and hear Mr. Agneshwar and Mr. Gilbert do battle can stick

1 around and those who want to leave, can leave.

2 *MR. McGLAMRY:* That is fine with us, your Honor.

3 *THE COURT:* Ms. Thompson, does that work for you?

4 *MS. THOMPSON:* That works for me, thank you, your
5 Honor.

6 *THE COURT:* Mr. Henry?

7 *MR. HENRY:* Yes, that is fine, your Honor.

8 *THE COURT:* We will set this hearing for 9:30 on
9 Wednesday, May 26th. I can't imagine it will take more than a
10 half an hour, but we will set aside a half an hour and we'll
11 just roll from this right into -- maybe you can let Mr.
12 Agneshwar and Mr. Gilbert know that they should probably be on
13 call to start a little early.

14 *MR. McGLAMRY:* I will do so, your Honor.

15 *THE COURT:* Thank you very much. Mr. McGlamry,
16 anything else we need to talk about this morning?

17 *MR. McGLAMRY:* No, sir, your Honor, thank you very
18 much and appreciate your time.

19 *THE COURT:* As always, good to talk to all of you.
20 Ms. Horn, anything else?

21 *MS. HORN:* No, your Honor. Thank you.

22 *THE COURT:* Mr. Henry?

23 *MR. HENRY:* Nothing more, your Honor, thank you very
24 much.

25 *THE COURT:* Finally, Ms. Thompson?

<p>MR. HENRY: [7] 3/12 5/4 6/4 6/25 11/2 12/6 12/22</p> <p>MR. KRUGER: [1] 3/19</p> <p>MR. McGLAMRY: [8] 3/23 7/20 9/22 9/25 10/21 12/1 12/13 12/16</p> <p>MS. HORN: [5] 3/8 4/10 4/19 11/12 12/20</p> <p>MS. THOMPSON: [6] 3/15 5/15 11/5 11/10 12/3 12/25</p> <p>THE COURT: [28]</p>	<p>able [1] 8/16</p> <p>about [11] 7/25 8/1 8/3 8/5 8/6 8/14 8/20 9/2 9/3 9/6 12/16</p> <p>above [1] 13/11</p> <p>access [1] 6/12</p> <p>accomplish [3] 8/14 8/15 9/7</p> <p>add [1] 5/15</p> <p>additional [2] 4/18 5/25</p> <p>advance [1] 6/15</p> <p>affects [1] 5/8</p> <p>afternoon [1] 4/12</p> <p>again [4] 6/20 6/25 9/1 13/6</p> <p>Agneshwar [2] 11/25 12/12</p> <p>Agneshwar and [1] 11/25</p> <p>agree [1] 9/12</p> <p>agreeable [1] 6/2</p> <p>agreed [1] 4/4</p> <p>agreement [6] 4/6 5/12 6/23 6/24 7/3 10/10</p> <p>agreements [1] 7/16</p> <p>all [12] 4/1 6/4 7/9 7/9 8/7 8/9 8/14 9/6 10/7 10/20 12/19 13/3</p> <p>allow [2] 6/19 7/20</p> <p>already [2] 4/14 7/15</p> <p>also [4] 6/17 7/8 8/21 9/12</p> <p>always [3] 10/5 11/9 12/19</p> <p>am [4] 7/5 9/9 11/18 11/19</p> <p>another [2] 10/9 10/19</p> <p>answer [1] 5/3</p> <p>any [4] 10/19 11/1 11/5 11/12</p> <p>anything [5] 4/8 5/14 7/23 12/16 12/20</p> <p>anyway [1] 11/22</p> <p>Apotex [1] 3/13</p> <p>appreciate [4] 10/23 11/3 12/18 13/4</p> <p>appreciates [1] 13/2</p> <p>are [27]</p> <p>aren't [1] 7/15</p> <p>argument [1] 11/20</p> <p>around [1] 12/1</p> <p>as [18]</p> <p>aside [1] 12/10</p> <p>asked [1] 4/4</p> <p>assess [1] 6/13</p> <p>associated [1] 9/13</p> <p>associates [1] 11/8</p> <p>assume [1] 10/20</p> <p>assuming [1] 6/1</p> <p>Atlanta [2] 1/13 1/20</p> <p>available [2] 6/9 6/16</p>	<p>been [4] 4/23 5/6 8/25 9/1</p> <p>before [4] 1/9 4/8 9/5 11/22</p> <p>begin [1] 3/5</p> <p>behalf [10] 3/8 3/10 3/11 3/14 3/17 3/22 3/25 5/1 5/19 7/22</p> <p>being [2] 8/15 9/10</p> <p>believe [2] 4/23 8/10</p> <p>better [1] 8/23</p> <p>between [2] 9/15 10/10</p> <p>Blank [1] 1/22</p> <p>blessing [1] 8/25</p> <p>both [1] 8/15</p> <p>brand [1] 3/8</p> <p>brands [1] 3/10</p> <p>brands' [1] 4/16</p> <p>breathing [1] 10/7</p> <p>brief [1] 4/2</p> <p>bring [1] 4/15</p> <p>broader [1] 8/14</p> <p>BRUCE [1] 1/9</p> <p>bull's [1] 5/2</p> <p>burner [1] 9/12</p> <p>butt [2] 6/25 7/2</p> <p>buy [2] 5/22 6/3</p> <p>buy-in [2] 5/22 6/3</p>
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