

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 WEST PALM BEACH DIVISION

4 CASE NO. 20-md-02924-ROSENBERG

5 **IN RE: ZANTAC (RANITIDINE)** .
6 **PRODUCTS LIABILITY** . West Palm Beach, FL
7 **LITIGATION.** . January 21, 2021
8 .
9 .

10 STATUS CONFERENCE (through Zoom)
11 BEFORE THE HONORABLE ROBIN L. ROSENBERG
12 UNITED STATES DISTRICT JUDGE and
13 THE HONORABLE BRUCE REINHART
14 UNITED STATES MAGISTRATE JUDGE

15 FOR THE PLAINTIFFS: **ADAM PULASKI, ESQ.**
16 Pulaski Kherkher PLLC
17 2925 Richmond Avenue Suite 1725
18 Houston, TX 77098
19 713-664-4555

20 **KYLE J. McGEE, ESQ.**
21 Grant & Eisenhofer PA
22 117 Callow Place
23 New Castle, DE 19720
24 302-276-0147

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

ADAM W. KRAUSE, ESQ.
Krause & Kinsman LLC
4717 Grand Avenue
Suite 250
Kansas City, MO 64112
816-760-2700

1 FOR THE DEFENDANTS: **JOSEPH G. PETROSINELLI, ESQ.**

2 Williams & Connolly
3 725 12th Street NW
4 Washington, D.C. 20005
5 202-434-5567

6 **ANAND AGNESHWAR, ESQ.**

7 Arnold & Porter Kaye Scholer LLP
8 250 West 55th Street
9 New York, NY 10019
10 212-836-8011

11 **ANDREW T. BAYMAN, ESQ.**

12 King & Spalding LLP
13 1180 Peachtree Street Suite 1600
14 Atlanta, GA 30309
15 404-572-4600

16 **DANIEL S. PARISER, ESQ.**

17 Arnold & Porter Kaye Scholer LLP
18 601 Massachusetts Avenue NW
19 Washington, DC 20001
20 202-942-6216

21 **KATIE INSOGNA, ESQ.**

22 DLA Piper LLP
23 33 Arch Street
24 26th Floor
25 Boston, MA 02110
 617-406-6046

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

1 *THE COURT:* Good afternoon, everyone. We are here for
2 a status conference in the Zantac MDL. It is being conducted
3 by Zoom due to COVID pandemic.

4 Again, as I say each time, and I just remind everyone,
5 we are not holding any in-person proceedings, and that is why
6 the status conference is conducted in this way. There is no
7 one in the courtroom other than myself and the Court Reporter.

8 I do want to remind you if you would state your name
9 for the record so that we can ensure that your comments are
10 attributed to you by our court reporter.

11 This is the first status conference in 2021. We did
12 two weeks ago have a discovery conference, and as you may
13 recall, the Court had indicated, based on input from counsel,
14 that it would be a good idea, at least during the first phase
15 of this 2021, to try a system whereby every month we would have
16 a discovery conference where we would take up discovery
17 matters, and every month we would have a status conference
18 where we would take up all other matters, not necessarily
19 discovery matters, but other matters that were impacting the
20 MDL, at least that was the Court's intent and the Court's
21 vision.

22 However, I have included today as one of the agenda
23 items a discussion as to whether that matches leadership's
24 vision and whether there is anything that we needed to discuss
25 in that regard. I know that there were a few discovery related

1 items that one side or the other had recommended be included on
2 today's agenda, and the Court did not include it because the
3 Court thought, based on the vision the Court had had and the
4 understanding with the parties, that those matters would be
5 more appropriate for the discovery conference which would be
6 coming up in two weeks.

7 So, the fact that we were having a conference each
8 month means, as I discussed last time, that we would actually
9 be seeing each other every two weeks because we are staggering
10 them, that is for the conferences. You could be seeing the
11 Court for other reasons, including hearings, which at the
12 present time there is a discovery hearing set for next Tuesday.

13 With that being said, let's turn to our agenda, and
14 the first item on the agenda, which is one that both parties
15 had recommended be included, and I am glad to see that as it is
16 one of the very important aspects of this MDL, and that is the
17 census process and the registry. And so I am anxious to hear
18 an update from counsel as to how that is going.

19 I understand that for the Plaintiff Mr. Pulaski will
20 be presenting, and from the Defense Mr. Petrosinelli will be
21 presenting. So, if you would kindly turn your videos on.

22 Let's see. Good afternoon, Mr. Petrosinelli and Mr.
23 Pulaski. I hope you both are doing well.

24 *MR. PETROSINELLI:* Doing well, thank you, Judge. Nice
25 to see you.

1 *MR. PULASKI:* Good to see you, your Honor.

2 *THE COURT:* Nice to see you as well.

3 Let me turn it over to both of you to give the Court
4 an update on how the census process is going and how the
5 registry process is going. I would say that these updates are
6 most certainly for the Court's benefit, but in addition, it is
7 for the benefit of all of the approximately 181 people who are
8 attending this conference.

9 While certain of you are involved, I know, tirelessly
10 day in and day out on the issues, including, but not limited
11 to, registry and census, many of the participants in this
12 litigation are not involved on a day-to-day basis. I want
13 everyone to know that the reason for putting certain items on
14 the agenda is not just for the sole benefit of informing the
15 Court, but importantly, making sure that all of the
16 participants in this litigation are kept apprised and aware of
17 the pressing issues that encompass this litigation as seen by
18 the Court and also by leadership for both Defense and
19 Plaintiff.

20 With that, you may proceed with your presentation.

21 *MR. PULASKI:* Joe, do you want to start?

22 *MR. PETROSINELLI:* Sure. Good afternoon, your Honor.
23 This is Joe Petrosinelli.

24 *THE COURT:* Good afternoon.

25 *MR. PETROSINELLI:* A couple of things I thought we'd

1 bring to your attention, mainly just to give you an idea of the
2 sequence as we see, say, the first quarter of 2021.

3 We -- as your Honor may recall, the last PTO related
4 to the census was PTO 56, and that was an important PTO because
5 it established a deadline for correcting deficiencies in the
6 Census Plus forms. That deadline for the first tranche of
7 forms is January 30th, so coming up pretty soon.

8 I can assure your Honor that Mr. Pulaski, Special
9 Master Dodge, and I have been working tirelessly to sort of
10 manage that process. I think we have made a ton of progress.
11 Many, many Plaintiff firms have corrected -- upon receiving a
12 notice from LMI about the deficiencies have corrected those
13 deficiencies. We still have some way to go, and we will see
14 what develops over the next ten days.

15 Mr. Pulaski and Special Master Dodge and I have talked
16 about how we are going to approach things once that
17 January 30th deadline comes and we sort of take a breath and
18 see how many forms have come in, but we have various ideas.

19 I think, for the Court's benefit just sort of
20 anticipating, I think we will have a PTO or two, a proposed PTO
21 or two to come to the Court perhaps as early as next week, but
22 surely in the immediate aftermath of January 30th, proposing
23 how we might deal with some of the issues that remain.

24 The top line message is that things are going as we
25 expected they would be going, meaning there are some

1 deficiencies that have been corrected, there are some that
2 haven't, and we are going to keep moving down that path and get
3 as much done as we can by January the 30th.

4 So, that is what we have been spending -- since we saw
5 your Honor in December at the December status conference, that
6 is what we have been probably spending most of our time on
7 relating to the census.

8 There is also the data analytics, obviously a hugely
9 important piece of the census and the registry, and we continue
10 to get reports from LMI that on my side I share with the
11 liaison counsel for the other Defense groups so they can
12 cascade it to their constituencies, and we sort of can
13 implement new things as the case goes on.

14 For example, as your Honor knows, the Plaintiffs'
15 leadership recently indicated the ten cancers that, at least at
16 the moment, they are going to be pursuing in the MDL, and so
17 that gives us some data to work with and look at the census to
18 see how many of each of those cancers have come into the
19 census, and how many claim forms are in the census that don't
20 involve those cancers, and we are still looking at that data,
21 but I think that will be useful information for the Court and
22 parties.

23 I think, your Honor, once we get past this January
24 30th deadline, to my mind, and I think Mr. Pulaski agrees,
25 there are some cleanup things, as I say, we will want to do and

1 submit proposed PTOs to the Court.

2 After that, though, I think where we are headed next
3 is to figure out -- I think Mr. Pulaski has called it Defendant
4 mapping, I call it Plaintiff mapping, but we both agree on the
5 point, which is, now that we have -- if you have a
6 non-deficient form we will be collecting proof of use and proof
7 of injury records so that we can see whether the boxes that the
8 claimants checked in their forms about which product they took
9 and during what period doesn't match with the records that we
10 are seeing, and come up with a process for reconciling
11 differences, and so that from both the Plaintiffs' side and the
12 Defense side, we know the, quote, unquote, right parties are
13 indicated in each form.

14 It's a really, really important process for the
15 Defendants, as you might imagine given the number of Defendants
16 in the litigation overall, but I think just as important for
17 the Plaintiffs, and so we have our medical records vendor, as
18 the Court knows, and we will work with them to sort of figure
19 out the best and most efficient and most cost effective way to
20 do that for the parties.

21 And then finally from my perspective, Mr. Pulaski will
22 have some things to add especially on this point, which is we
23 have had some technical issues. We continue to have a few
24 technical issues mainly related to the electronic nature of
25 these submissions. It is perhaps, you know, to be expected

1 given the number of claims we have, but we continue to work
2 through some of those issues.

3 It doesn't make our lives easier, but we are trying
4 the best we can to troubleshoot when things come up and Special
5 Master Dodge, obviously, has been invaluable in that effort.

6 I guess I did have one more thing to say. Your Honor
7 will be happy to know -- and I want to publicly thank our LDC
8 members who have played a huge role in this process. On the
9 Defense side -- I am sure it is true on the Plaintiff side as
10 well, but on the Defense side we have a team of LDC members who
11 have been instrumental in what I would call the nuts and bolts
12 of getting Motions to Dismiss on file, I know your Honor has
13 seen a few of those, tracking deficiencies.

14 It is an enormous task, it is a very important task,
15 and I would be remiss if I didn't tell the Court that that has
16 been a great aspect from my perspective on the Defense side of
17 having the LDC members involved in that.

18 So, I think I will stop there and let Mr. Pulaski add
19 any words, but that is my report, your Honor.

20 *THE COURT:* Thank you very much, Mr. Petrosinelli.

21 *MR. PULASKI:* Thanks, Joe.

22 Your Honor, thanks, Adam Pulaski of Pulaski Kherkher
23 for the Plaintiffs. I will address these maybe not in the
24 exact same order that Joe did, but hopefully cover the same
25 topics.

1 One is that, as Joe mentioned, we have a very large
2 number of claimants in the registry now at this point. I have
3 spent, along with some others on our side, and with Special
4 Master Dodge's help, along with the help of LMI, who is our
5 repository of choice, chosen by the Defense and the Plaintiffs,
6 working with the Plaintiffs' Bar on the deadline that is coming
7 up pursuant to PTO 56. It is -- while we are working with not
8 only LMI, but also with Cerner and Epic, and some other vendors
9 who are assisting the Plaintiffs, which was necessary because
10 of the large number of registrants in the registry, we are
11 doing everything humanly possible to try and meet and cure
12 deficiencies by the end of the month deadline.

13 As Joe mentioned at the end, and I am going to put it
14 at the forefront of my discussion, we have been having some
15 technical issues involved with data transfer either from firms
16 directly into the portal at LMI or from our vendors such as
17 Cerner transferring data into LMI, and again, Special Master
18 Dodge and Mr. Petrosinelli and I have been working on an almost
19 daily basis getting through that process to ensure that we can
20 meet all our deadlines timely.

21 My message to the Plaintiffs' Bar that are on this
22 call is, I want to make sure that everybody continues until the
23 last day of the deadline to do everything that you can to
24 diligently cure your deficiencies and get them in at this
25 point.

1 We understand completely that it is imperative to the
2 success of the registry process and the census process to
3 provide not only meaningful data, but complete data, because,
4 as Mr. Petrosinelli alluded to, the data analytics portion of
5 this, which is so important to the Defense side and the
6 Plaintiffs' side, and hopefully for the Court as well, only
7 works if the data works.

8 I think we are at a point now I can tell you that the
9 data analytics that we look at on our side gives us a very
10 clear picture of what this litigation looks like.

11 At our last conference we had 65,000 people in the
12 registry, claimants, and now we are, obviously, well beyond
13 that. I don't know an exact number today, but I can get it for
14 the Court should you like to know.

15 The data that we're looking at on our side, and I'm
16 sure on the Defense side as well, will certainly help guide us
17 through the bellwether selection process that is going to begin
18 in only a few short months and also, hopefully, at some
19 settlement negotiations sometime down the road.

20 I cannot tell you how meaningful it is to us, and I
21 have not only what we call our data analytics committee, but
22 also our bellwether committee working hand in hand to get a
23 head start and jump on the bellwether process and be prepared
24 for when we start in earnest in a couple of months. So,
25 everything is going well with that.

1 We have the Defendant mapping. As your Honor knows,
2 through PTO 50 and 52 the Defense has provided us a plethora of
3 information that has allowed us to understand what each
4 manufacturer produced, the form it was in, the dosage it was
5 in, the time, the start and stop dates. There was a little bit
6 of delay because once we gathered all this information and we
7 had to digest it, we put it into a spreadsheet, sent it back to
8 the Defendants to approve. It took awhile to get them to
9 approve everything that we had put in the chart because there
10 was so much of it.

11 So, LMI, again who is our repository, sent a Defendant
12 mapping spreadsheet out to each firm. They set up a separate
13 portal in their system that only covers Defendant mapping for
14 us to track and use, which I think is working very well. There
15 were some changes made by the Defense to our spreadsheet, so we
16 updated the spreadsheet and just sent it back to LMI and to the
17 Plaintiffs' Bar as a whole. So, there are some changes being
18 made and we are working through those changes to make sure that
19 the portal is still accurate, and we are getting through that
20 as quickly as we can.

21 I will tell you that the only other thing, really, as
22 Mr. Petrosinelli mentioned, we are looking to introduce and
23 deliver to you a suggested PTO that hopefully we will have
24 agreed to by next week. This is a massive undertaking, not
25 only because of the size of the number of registrants in the

1 registry, but the number of Defendants and number of products
2 that are involved, and the length and size of the CPFs.

3 So, while we have worked through this process for
4 eight or nine months, Joe and I and Special Master Dodge have
5 found some areas that we think we can streamline and make more
6 efficient for the Court, for the Plaintiffs and for the
7 Defense, and while we understand we have deadlines that we need
8 to keep and issues and PTOs that we must abide by, we feel that
9 these are matters that would only benefit this process that is
10 new, and it will not only help our litigation, but hopefully
11 other litigations in the future.

12 So, that is everything I have with respect to the
13 registry and census, and I am certainly happy to answer any
14 questions if you have any, or I am sure Joe is as well.

15 *THE COURT:* All right. Thank you so much, Mr.
16 Petrosinelli and Mr. Pulaski.

17 I do have some remarks that I want to make both for
18 your own benefit, but as importantly, the benefit of everyone
19 who is listening as the census and registry process is just a
20 vitally important part of this litigation.

21 The Defense mapping is critical to the registry, and I
22 am so pleased to know through the PTOs and the hard work that
23 that is going well, albeit not without some hurdles that you
24 have had to confront along the way.

25 I am delighted to hear that the LDC members are

1 intricately involved. I would like to hear that they are
2 involved generally, but particularly in this area that is still
3 relatively new to the MDL world, and so for them to get an
4 opportunity from the ground level up to be able to not only
5 become familiar with, but actually work on this aspect of the
6 litigation, I think just affords them wonderful opportunities
7 and a knowledge base that I know will serve them in the future.

8 And while I may not see and know each and every one of
9 you who are working on the MDL, just know that your work is
10 appreciated, and I have always felt that when people do a very
11 good job in their task, even when they don't know that somebody
12 is watching or knowing exactly what they are doing, that is the
13 greatest testament to a work ethic.

14 I just want to assure you that your work is being
15 recognized and will continue to be recognized, and continuing
16 in the way that you have been performing is not only important
17 to this MDL, but I believe important to your growth as a lawyer
18 and as a contributing member to the firm and organization with
19 which you all may be and are affiliated.

20 The other remarks I wanted to make were that I want to
21 commend both Mr. Petrosinelli and Mr. Pulaski for all of the
22 time that I know you and the special master have put into
23 working on all of these issues. I understand that this in many
24 ways is an unprecedented process in that you have had to think
25 quickly and adapt quickly to challenges that -- some of which

1 you anticipated, some of which you have not been able to
2 anticipate.

3 I think it is a tribute to your work that the registry
4 is as popular as it is. It seems to go up by the tens of
5 thousands each time we meet and it speaks to the success of the
6 component parts that you have put into the registry. You have
7 also been faced, as everyone else has in all other aspects of
8 the litigation, of course, with the pandemic which doesn't make
9 anything easy, and none of that could have been foreseen when
10 we embarked upon this process many, many months ago.

11 I do continue to be impressed by the creative
12 solutions that you come up with and your common desire to
13 effectuate justice and your willingness to work through the
14 difficult issues and not give up on it, because I think at any
15 given moment it could be easy to give up and abandon the
16 process.

17 I know from the beginning that the deficiency process
18 has been one that has been fraught with certain issues, and may
19 be more contentious than some of the other registry issues.
20 Now that we have seen that play out, however, I think from what
21 I have come to understand at least from the filed case process,
22 that the deficiency process has worked very well.

23 I have seen the process of deficiencies being cured
24 and therefore cases not being dismissed where Plaintiffs have
25 done the right thing and cured the deficiencies, and I have

1 also issued orders where it is clear that the deficiencies have
2 not been cured, the order to show cause has been issued, and
3 there has not been a response or a response that provided good
4 cause to the Court and there have been dismissals.

5 Again, all of this is in the context of the larger
6 purpose of what I see the census and registry accomplishing,
7 which is, among other things, the sharing of information and a
8 winnowing of claims and of parties both from the Plaintiff and
9 the Defense.

10 Given how large and complex this case is, the fact
11 that this can be going on both in the filed cases and in the
12 unfiled claims continues, to me, to be a very, very important
13 part of narrowing parties, claims, and this benefits, in the
14 Court's view, both sides, the Plaintiffs and the Defense.

15 To the Defendants, I do understand the importance of
16 working through this in the same way that we have worked
17 through filed cases, in other words, working through the claims
18 and the registry. However, given the volume of the claims
19 compared to at least the filed cases, and there is a great
20 disparity in the number, of course, I do expect that it will
21 take LMI longer to do their reporting, and in turn, for
22 coordinating counsel to do the review and to have the five-day
23 notices issued.

24 And with all of the work, I know that there is a
25 forthcoming PTO, so I look forward to seeing that. I do

1 encourage you, as I think you have done in some of the PTOs,
2 and the Court has adopted that recommendation, to consider
3 whether you clarify the special master's authorization to
4 create tranches of the rolling five-day notices so they are all
5 not coming at you at once given, again, the volume of claims
6 that Mr. Pulaski reports at each status conference.

7 It seems to the Court that this would be very helpful
8 to all of the parties, but whether you adopt that approach or
9 any other approach, I ask that all of you be patient, this is
10 all counsel, particularly in this instance on the Defense side.
11 There are many, many Defendants in this case. Be patient with
12 coordinating counsel, be patient with LMI, be patient with the
13 special master.

14 I have been made aware that they are working pretty
15 much around the clock on these matters and will continue to do
16 so in an expeditious manner, but that it will inevitably take a
17 little bit longer than some of you may feel. There are
18 technical and practical complexities involved in the process
19 and then there is just the sheer volume of claims, so it does
20 take time, but it is being worked on, and it is important. It
21 is important to the Court, it is important to leadership, and
22 the end result is one that will benefit all of the parties.

23 To the Plaintiffs, I understand that there have also
24 been a variety of challenges that you have worked through with
25 these deficiencies, and that is why PTO 56 gave you a longer

1 period for this tranche of deficiencies. And I know that some
2 of you may have been uniquely impacted by the technical issues,
3 and it may be those of you who have larger dockets and may have
4 felt the impact of some of the technical difficulties more than
5 others.

6 I do want to encourage Plaintiffs and Plaintiffs'
7 counsel to, particularly those with large dockets, but even
8 those who have smaller dockets, to continue to work with Mr.
9 Pulaski and the special master, and particularly with the
10 upcoming deadline, you know, picking up the phone tomorrow and
11 early next week so that there can be a discussion about where
12 you are in the process, and assistance can be provided to you
13 where needed to facilitate curing the deficiencies.

14 I do want to remind the Plaintiffs' Bar that we do
15 have in the PTO a good cause provision. So, if a client has
16 had an extraordinary circumstance with cancer and perhaps
17 experiencing COVID and just simply unable to help in completing
18 the forms, then, this would seem to me to be the kind of
19 exceptional circumstance that coordinating counsel and
20 Plaintiffs' counsel would work together with the special master
21 to provide an extension, but I suspect that -- I hope those are
22 more of the exceptional cases and that the majority of the
23 cases are not experiencing any difficulties as it relates to
24 illnesses and things of that nature.

25 In that regard, Plaintiffs' counsel must be diligent

1 in completing the deficiencies in the CPF because I will not be
2 issuing any global deficiency extension, but will be following
3 the deadline that is set forth in the PTO.

4 We are about a week from the deadline, so it is
5 important that we are having this status conference now, and
6 for the Plaintiffs' counsel that are on this call and for Mr.
7 Pulaski, who I know is a zealous advocate for all Plaintiffs'
8 counsel and values the importance of communication, and is
9 always putting forth the position that he feels is in the best
10 interest of the Plaintiffs, but recognizing that he needs to
11 work with the Defense -- and he and Mr. Petrosinelli have
12 really had a wonderful working relationship where they respect
13 and regard each other's views, but know that there is a larger
14 process in play that needs to be accomplished in order for the
15 registry to be a successful component of this litigation.

16 So, for those Plaintiffs' counsel, I strongly
17 encourage you to, if you have not already, or if you have, but
18 you have not gotten all of the answers that you need to cure
19 all of the deficiencies, to get on the phone with your clients
20 and begin going through your files to provide the answers to as
21 many questions as possible. If you have six deficiencies now
22 and you are able to cure five of them, that is better than not
23 curing any of the six. Continue to take a hard look at what
24 can you do to correct those deficiencies.

25 Ultimately, it is your responsibility and while you

1 may leave certain obligations to your client, at the end of the
2 day, if the deficiency isn't cured there may be repercussions
3 that will adversely impact your client, so you do need to be
4 diligent in these matters.

5 The registry was not created to see anybody fail. It
6 was not designed to have everybody enter it only to be
7 deficient in their forms and then have to exit the registry.
8 Nobody would have put in the time and the cost in this process
9 if they thought that was really what was going to be the end
10 result. It was never intended as a gotcha. Every effort,
11 through the PTOs and through counsel, have been put forth in
12 giving every reasonable opportunity to ensure that people can
13 meaningfully participate, but you all have to do your part of
14 the work that is involved.

15 To Mr. Pulaski and Mr. Petrosinelli, you two have
16 really done a terrific job, as I said, in balancing the
17 competing concerns and trying to find just outcomes and paths
18 through all of these issues. I have no doubt that you will
19 continue to do so working with Special Master Dodge and I just
20 encourage you to keep up the good work. I really do appreciate
21 it.

22 I know it is frustrating, I know it is long, I know it
23 is arduous, and you have not necessarily seen the big outcomes.
24 You have seen maybe little results, but not sort of the real
25 meaningful results, and this is one of those examples where

1 hard work does pay off and patience will see its way through to
2 the results that we are all hoping for with the registry.

3 So, I have no further comments or questions unless
4 there was anything that I said that you wanted to respond to.

5 MR. PETROSINELLI: Not for me, your Honor. Thank you
6 for your comments, and we will keep working through the
7 process.

8 MR. PULASKI: Yes, Judge, I appreciate the kind words,
9 and all I can say in response is that, I know you are aware, I
10 know Mr. Petrosinelli is aware, the Plaintiffs' Bar has been
11 spending a very large amount of time, in addition to money,
12 trying to make sure that everything is entered properly in the
13 registry, all claims are entered in the registry timely, and we
14 will continue to do so. Thank you.

15 THE COURT: Thank you both so much.

16 MR. PETROSINELLI: Good to see you, your Honor, thank
17 you.

18 THE COURT: Good to see you as well.

19 The next matter on the agenda is that of the State and
20 Federal liaison designations. I understand that for Plaintiff
21 we have Mr. Pulaski, and for Defense we have Mr. Agneshwar.

22 If you want to come on to the screen, Mr. Agneshwar.
23 How are you doing?

24 MR. AGNESHWAR: I am doing fine. How are you, your
25 Honor?

1 THE COURT: Good, great. Mr. Pulaski, good to see you
2 again.

3 I understand this also, if I am not mistaken, was a
4 jointly suggested topic that be put on the agenda. We talked
5 about State and Federal liaison before, and you have been so
6 good each time as I get an update as we prepare for these
7 status conferences, although the report doesn't necessarily
8 make its way into the opening remarks, but you do update the
9 Court on the level of activity that is going on in State Court,
10 and it is very helpful to the Court in knowing that.

11 And I take it that you both, both Defense and
12 Plaintiff, have arrived at a point where you believe
13 designations for liaison for the Defense side and Plaintiffs'
14 side to help coordinate, and the communication that goes on
15 between Federal and State litigation is important, but I would
16 like to hear from you about that, and to the extent that you
17 have persons in mind, I would like to know that as well.

18 In some instances we have a number of liaisons that
19 have been already appointed in this case, and some have come by
20 way of agreement, and so a notice of agreement has been filed.
21 Perhaps this is something you want to do on your own and you
22 just want to apprise the Court of the designation, and in other
23 instances, there has not necessarily been an agreed upon
24 process and we have sought through one of the PTOs, I think 16,
25 applications.

1 So, I look forward to hearing from you how you intend
2 the process to work.

3 MR. PULASKI: Thank you, your Honor.

4 So, just to give you a brief background, Mr. Agneshwar
5 and I spoke early this morning to make sure that we are all on
6 the same page, and I will let him speak on behalf of the
7 Defense.

8 As far as the Plaintiffs are concerned -- and I have
9 asked Dave Matthews to pop on real quick if that is okay with
10 you, your Honor. He is an attorney that has been working with
11 the MDL outside of the PSC, he has been assisting us with
12 science committee issues and other issues, and has been
13 practicing for a very long time. I wanted to introduce him as
14 the person that we are going to designate and working with me
15 on the State/Federal liaison coordination side of things.

16 This week we had several phone calls already with
17 litigants in Illinois and Tennessee, California, New Mexico,
18 Texas, and I believe in New York, so we have begun the process
19 unofficially, and officially I just wanted to let you know that
20 Dave Matthews is the person that we felt would best fit this
21 role on behalf of all Plaintiffs in this litigation to be the
22 liaison for State and Federal on our side.

23 THE COURT: Good afternoon, Mr. Matthews, it is nice
24 to see you.

25 MR. MATTHEWS: Thank you, your Honor. Good afternoon.

1 *THE COURT:* Just a couple of questions and then I will
2 hear from Mr. Agneshwar as to the Defense side of the
3 State/Federal coordination.

4 Mr. Pulaski, is this something that you envision you
5 would submit a notice of agreement and would you envision a PTO
6 being entered, as the Court has done with other liaison
7 positions, or not necessarily, and was it simply a matter that
8 you wanted to bring to the Court's attention?

9 *MR. PULASKI:* Correct. At this point, I don't think
10 that it is necessary unless the Court believes that it is so.
11 I just wanted to apprise the Court of the fact that we did all
12 feel -- it was unanimous among the coleads that Dave was the
13 right person for the job, and that we wanted you to be aware
14 and we would like Dave to, obviously, be able to present
15 information to you at status conferences.

16 If we need to go a more formal route, we are happy to
17 do so, but for now, we were very comfortable just letting you
18 know that we had selected Dave to handle this on our behalf and
19 it's up to you.

20 *THE COURT:* Okay, terrific. I appreciate that.

21 Mr. Matthews, was there anything that you wanted to
22 let the Court know at this point in your new role? I don't
23 know how long you have had it, but congratulations.

24 *MR. MATTHEWS:* I would only say this, Judge, I have
25 reached out to each and every claim that I think I know about

1 currently, and will be able to communicate to the Court once I
2 get my arms around this just a little bit better. I have a lot
3 of experience in State Courts across the country, I filed in
4 many State Courts over 35 years in this arena.

5 I can than only say this, that I will do my very best
6 to get my arms around this as fast as I can and will be able to
7 respond to you in any shape or form that you request.

8 *THE COURT:* I appreciate that, and I appreciate you
9 bringing the wealth of knowledge and experience that you have
10 both in State and Federal. As a former State Court Judge, I do
11 understand the State Court system, at least in our circuit, and
12 appreciate the hard work that State Court Judges face. They
13 don't have nearly the resources that we are fortunate to have
14 as Federal Judges, and so, having someone such as yourself on
15 behalf of the Plaintiffs serve a coordinating role, a role that
16 will facilitate communication, I think will be very, very
17 important, knowing how heavy the dockets are in State Court.

18 So, just being informed at the status conferences
19 about what is happening in the State Court litigation will be
20 helpful to the Court, but also if there is anything that you
21 think we can do in this litigation, or I can do as the
22 presiding Judge in this case to make it an overall effective
23 and efficient process not only for the litigants and claimants
24 in our case, but for other litigants litigating in other
25 venues, I would be most interested and appreciative of hearing

1 of that.

2 MR. MATTHEWS: Understood, and I will plan on being on
3 all of the CMCs from this point forward.

4 THE COURT: Okay. Well, you came in just in time
5 because we are having a lot of them, so mark your calendar.

6 How about from the Defense?

7 MR. AGNESHWAR: Thank you, your Honor, Anand
8 Agneshwar, I represent Sanofi, but I am speaking on behalf of
9 all the Defendants.

10 I agree with Mr. Pulaski and Mr. Matthews that there
11 does not need to be a formal order. We really wanted to
12 apprise you of what we are doing. I am playing the part for
13 the Defendants, although I intend to rely heavily on LDC
14 members and other lawyers at the firms to provide the Court
15 updates as we move forward, as we have done in the past.

16 This area has been an opportunity for us to get LDC
17 members to report on the activities. Many of our more junior
18 lawyers are very involved with keeping track of what is going
19 on in the various jurisdictions.

20 Candidly, the less I have to talk about it and present
21 issues to your Honor, the better, because as long as things are
22 coordinated -- I understand there is going to be State Court
23 litigation. As much as we'd like everything to be in the MDL,
24 we know that is not going to happen, but our interest is in
25 coordination, in communication, in making sure that, you know,

1 when there is opportunities for depositions, for hearings that
2 might affect others, that we're coordinated and to bring things
3 to this Court's attention and to the State Court Judges'
4 attention, and it is really when -- I think most judges are
5 ones who want to coordinate. There is a lot of learning from
6 this Court.

7 What we are finding so far is that judges are
8 interested in what is going on in the MDL and are interested in
9 the updates and want to stay coordinated. It is when we have
10 issues with depositions or other things that I think the
11 liaisons can get together and see if we can break through it
12 and come up with a solution, and at that point, seek the
13 Court's intervention.

14 Fortunately, there is nothing to report just now, so
15 we don't have a report on the activity in State Court even at
16 this time. I suspect in the coming CMCs we will need to dig a
17 little deeper. But for right now, it is just telling you that
18 we have these structures in place and intend to keep track of
19 everything and get back to the Court on an as-needed basis.

20 *THE COURT:* Wonderful. I appreciate that, Mr.
21 Agneshwar, and appreciate that although you are formally
22 serving in the role, that you have made it clear, and you
23 always do at each of the conferences, that you rely heavily on
24 the LDC members, and this is yet another very, very critically
25 important point.

1 Sometimes the LDC members may think, gee, it is not at
2 the forefront of the litigation, maybe my work is not being
3 seen or heard about, but let me just tell you that even though
4 I may not see your face at this particular moment, I understand
5 the importance of what you are doing, and just as I said about
6 the work of the LDC members on the registry and the census,
7 just do your work well.

8 There are tremendous benefits from just doing a good
9 job. Whether you think the role is small or large, whether you
10 are seen or not seen, it does pay off, and in any event, this
11 is a vitally important role.

12 The parties have a right, if there is a legal basis,
13 to litigate in one forum versus another. While I do understand
14 that coordination and consolidation for some, and perhaps many,
15 is desirable, but then again, at the end of the day, people do
16 have a choice as to where they litigate and if the law provides
17 for such, that's where they can.

18 It doesn't mean that even if there are separate
19 litigations going on, Federal and State, and you know, the
20 State is different parts of the country, that there can't at
21 least be efforts to communicate and to coordinate, because at
22 the end of the day, if there to be efficient use of resources,
23 of your time, of your money, that helps everybody, of the
24 judicial resources.

25 I go back to what I started earlier with Mr. Mathis, I

1 know how busy State Courts are and State Court judges are, and
2 quite frankly, the Federal Courts as well, and the pandemic has
3 not helped because it has backlogged a lot of things, so we are
4 laboring under our own difficulties.

5 All of that is to say that when you communicate and
6 coordinate, it does not mean you are usurping or taking away
7 someone else's authority or rights; it just means you are
8 trying to be smart and practical and efficient about how you
9 manage litigation.

10 I try to do that as a judge, and clearly counsel in
11 this litigation are trying to do that as leaders of the
12 litigation, so I appreciate it, and thank you for the update on
13 this agenda item.

14 MR. PULASKI: Thank you, Judge.

15 MR. AGNESHWAR: Thank you, your Honor.

16 THE COURT: All right. The next issue on the agenda
17 is the New Mexico motion for leave. When I say that I mean the
18 State of New Mexico filed an unopposed motion for leave to file
19 a motion to remand pursuant to amended pretrial order 24, and
20 that's at Docket Entry 2567.

21 Let's first begin by having counsel who I understand
22 are Kyle McGee and Daniel Pariser.

23 MR. PARISER: Exactly right, your Honor.

24 THE COURT: I got it?

25 MR. PARISER: You got it.

1 *THE COURT:* We have Mr. Pariser and Mr. McGee. Nice
2 to see you, new faces.

3 *MR. McGEE:* Nice to see you as well.

4 *MR. PARISER:* Good afternoon, your Honor, it is a
5 pleasure to appear in front of you virtually.

6 *THE COURT:* Thank you.

7 I tried to make it clear that I was not taking this up
8 on the merits. In other words, this wouldn't typically be how
9 the Court would take a matter up on the merits. I am very
10 particular and methodical about that. I wait for something to
11 be fully briefed which, by the way, this is, so not only has
12 the motion come in, but the response has come in, and then we
13 had the reply which came in, and I have read them.

14 I thought we might as well take advantage of the fact
15 that we had a status conference and this motion ripened at the
16 time that we were having this status conference, giving you an
17 opportunity to introduce yourselves to me and vice versa.

18 Sometimes I find these matters lend themselves to kind
19 of just a practical discussion. So, in my non MDL cases, I
20 love having status conferences on matters that seem so
21 difficult sometimes to understand on the paper, not the merits
22 of it, but just the practical implications of something. If
23 you could just talk to the lawyers you would have a better feel
24 for what the right thing to do is, in other words, what is the
25 most sensible thing to do.

1 This seemed to be a good occasion to have you address
2 the issue. I will just say I always kind of like to size up
3 what I understand the issue to be, and then have you clarify or
4 correct anything that I have misstated.

5 In essence, my understanding is that we have the New
6 Mexico case that has already been transferred through the JPML
7 to this litigation and now we have counsel for the State of New
8 Mexico, with no opposition, except maybe a conditional
9 opposition, wanting to file a motion for leave to file a motion
10 for remand, and you followed the procedures, and I thank you
11 for that, amended pretrial order 42, so you got the agreement
12 of Plaintiffs' leadership to do so.

13 The only hangup I guess I am understanding -- not
14 hangup, sort of like when do we have this briefed out.

15 First of all, I noted that in the motion it was
16 indicated at paragraph two that the District Court from which
17 this case came, so the transferor Court, didn't resolve the
18 motion to remand prior to the State's case being transferred
19 here, but that it is fully briefed.

20 One question I had was by "fully briefed," do you mean
21 motion, response, reply, and would you envision that the same
22 motion, response, and reply would be filed in this Court? In
23 which case, does that mean your briefing is all done and you
24 are just waiting for permission to file it, or has anything
25 changed such that maybe a different motion might be filed here

1 or a different response or a different reply?

2 Then, I guess I wanted to more fully understand the
3 City of Baltimore relationship. I understand the City of
4 Baltimore is not here yet and it is opposing, at least as of
5 now, the transfer, the conditional transfer, and to the best of
6 your knowledge, you think that that would be taken up at the
7 next JPML meeting which, to the best of your knowledge, is at
8 the end of March.

9 At that point, we will see what happens, but if it
10 goes the same way that the State of New Mexico went, it would
11 be transferred here and I guess counsel for State of New Mexico
12 is also counsel for City of Baltimore, so you can represent to
13 the Court what I glean from the papers which -- I think I glean
14 from the papers that a similar motion would be filed, but it
15 might be a little different because we are talking about State
16 law in Maryland versus State law in New Mexico.

17 So, that is my understanding of the issues. You can
18 fill in the blanks and let's try to figure out the best way to
19 handle this procedurally, not getting into the merits.

20 *MR. McGEE:* Right. Thank you, your Honor. If it is
21 okay with you, I will launch.

22 A couple of things to clarify. It is true that the
23 motion to remand that the State of New Mexico filed in the
24 District of New Mexico Court is fully briefed, and by that we
25 mean the motion was filed, the opposition filed, and the reply

1 was filed, and there was a notice of completion of briefing,
2 which is a procedural item that was filed in the District of
3 New Mexico. The Court had the ability to take that issue up,
4 and did not, so the JPML transferred the case.

5 So, in our view, it would be, you know, completely
6 economical and sensible to take that briefing and have your
7 Honor consider it at her earliest opportunity.

8 And I don't have any reason to think that that would
9 not be acceptable to Defendants. It is not a question I have
10 raised with them, but given that we adhered to a traditional
11 briefing schedule and briefed that issue in real time, I don't
12 see why we couldn't take those papers and have them considered
13 by your Honor.

14 With respect to the Baltimore representation, I think
15 it is important to clarify that there are a number of different
16 issues in play there, some of which we flagged in our brief, in
17 the reply brief. One of them that wasn't flagged, though, is
18 that I am counsel to both of these Governmental Plaintiffs,
19 that is true, but I am not the only counsel. I have co-counsel
20 in both cases.

21 My client is -- unlike a traditional private
22 Plaintiff, my client is the lead counsel in those cases. The
23 New Mexico Attorney General makes decisions in that case. The
24 City Solicitor and City Law Department make decisions in the
25 Baltimore case. I answer to them.

1 I think it is important that your Honor understands
2 that while I am counsel to both of those Governmental entities,
3 in terms of decision making, I answer to higher authorities in
4 both instances, as is customary in Government public/private
5 relationships.

6 And so, in addition to that, an important nuance, the
7 reply brief that we put in did also acknowledge that there are
8 different issues of State law. There is a diversity issue
9 raised in the Baltimore motion which is not present in the New
10 Mexico motion, so there are some differences that I think are
11 potentially consequential and meaningful, in addition to the
12 fact that the Baltimore case, of course, is not before your
13 Honor, and is subject to a pending motion to remand in the
14 District of Maryland.

15 For all of those reasons, we don't really see the
16 commonality or overlap that Defense counsel purports to see.
17 We don't think it is really appropriate to make decisions about
18 what happens in New Mexico's case, which is before your Honor,
19 based on speculation and hypotheticals about what may happen in
20 March regarding the Baltimore matter.

21 We have a motion that is fully briefed, let's move
22 forward with that. That is our view.

23 *THE COURT:* Okay. Well, I appreciate that and I will
24 hear from Mr. Pariser.

25 I will say just, you know, I do have an inkling about

1 when you are counsel for a Governmental entity, I have worked
2 in Government both at the Federal level, but also at the city
3 levels. I was in the City of West Palm Beach Attorney's
4 Office, so I do have an appreciation for the dynamic of counsel
5 representing Governmental entities and authority that is needed
6 from those Governmental entities as it relates to what outside
7 counsel does.

8 So, what say you, Mr. Pariser?

9 MR. PARISER: Thank you, your Honor. Daniel Pariser,
10 I represent Sanofi, but speaking on this issue on behalf of all
11 Defendants in the New Mexico case. Thank you for getting my
12 name right twice in a row, so I appreciate that.

13 First, to answer your question about whether new
14 briefing is in order, I agree to a certain extent with counsel
15 for the Plaintiff in general, the issues that were previously
16 briefed before the New Mexico Court are going to be the same
17 issues. I don't imagine major differences, but the Federal law
18 that will govern the removal standards at issue here is
19 Eleventh Circuit law, and that will differ.

20 So, typically in MDLs, when this procedural posture
21 is -- exists, the practice is to rebrief the issue so that we
22 can be sure that we are addressing the Eleventh Circuit
23 precedent that governs your Honor's decision. I don't
24 anticipate that will be a major reworking of the briefing
25 papers, but typically does require some degree of further

1 briefing.

2 So, putting that question to the side, just to address
3 the point about commonality, I think your Honor actually put it
4 exactly right, because there are different State laws at issue
5 here, there is a little difference in the issues being briefed,
6 but there is an overriding commonality with respect to one of
7 the central removal theories that the Defendants urge in this
8 case.

9 I am mindful of your Honor's direction not to get into
10 the merits of that issue, but just at a very high level, the
11 question is whether or not the highly regulated nature of the
12 pharmaceutical industry is such that Plaintiffs have to prove
13 as an affirmative element of their State law claims
14 non-compliance with FDA regulations, and while State law does
15 bear on that question to a certain degree, Federal precedent is
16 going to be cited.

17 There is going to be a question of whether or not that
18 issue is substantial within the meaning of the Grable case and
19 other Federal precedent to justify Federal question
20 jurisdiction, and I think from my perspective, what is not as
21 important are the differences, because there are some, but
22 whether efficiencies would be realized if the Court were to
23 wait and address the common issues together.

24 Really our intention in bringing this matter to the
25 Court's attention was just to apprise the Court of those common

1 issues and the prospect that there might be some efficiency and
2 economy gains in doing so.

3 To address your Honor's point about the practicalities
4 of this situation, the one thing that I want to flag here is
5 that with respect to the timing, the -- how quickly this Court
6 could rule on the City of Baltimore motion really is an issue
7 that is entirely within the Plaintiffs' control.

8 As your Honor indicated, right now the City of
9 Baltimore is opposing transfer of that case to the MDL, and
10 that is why, with that posture, the case wouldn't be
11 transferred until probably the end of March. If the City of
12 Baltimore were to withdraw that opposition, then the case would
13 be in front of your Honor essentially in no time.

14 The posture here is such that the judicial panel on
15 multi-district litigation has already rejected the New Mexico
16 Plaintiffs' argument that the case was not suitable for
17 transfer to the MDL. For all intents and purposes, the
18 arguments about suitability of transfer are identical between
19 the New Mexico case and the City of Baltimore case.

20 So, at least based on my experience, it is really
21 unfathomable to me that the panel would not ultimately transfer
22 the City of Baltimore case.

23 So, at least from the Defense perspective, speaking in
24 practical terms, the most efficient and expeditious way to
25 resolve this issue would be for the City of Baltimore to

1 recognize the inevitability of transfer, consent to transfer,
2 and then your Honor could promptly and expeditiously address
3 both motions and gain some efficiencies in the process.

4 *THE COURT:* Okay. Thank you very much for your
5 perspective.

6 Let me ask a couple of questions.

7 So, while Plaintiffs may feel that the briefing is the
8 same, I think it is fair to say that if one party or the other
9 doesn't believe that the briefing is the same -- so, for
10 example, Mr. Pariser gave at least one example, that he would
11 need to look at Eleventh Circuit law in re-evaluating his
12 response -- certainly I believe it is incumbent upon the Court
13 to afford that opportunity to both sides, and I would hope that
14 neither side would disagree with that.

15 If the Court were to consider, whether it is at this
16 juncture or at a later juncture, let's just talk about what you
17 anticipate the briefing schedule looking like.

18 So, if the Court were to permit -- again, let's not
19 talk about when the Court permits it, but at some point a
20 motion for leave for the Plaintiff to file -- the State of New
21 Mexico to file a motion to remand, how soon after such an order
22 would you be prepared to file your motion?

23 *MR. MCGEE:* We are prepared to file the motion as soon
24 as your Honor allows us to, and we have already updated it to
25 reflect Eleventh Circuit law if that is the direction that your

1 Honor wishes to go.

2 *THE COURT:* Okay. Well, it is not the direction the
3 Court wishes to go, it is your motion. You would file a motion
4 in whatever form you felt was appropriate given it would be
5 heard before me. But you are saying it is ready to go?

6 *MR. McGEE:* Yes.

7 *THE COURT:* Would Defense anticipate then just the
8 standard time under the local rules for a response?

9 *MR. PARISER:* While I hesitate to speak for whoever
10 might be doing the drafting, which may not be me, I think that
11 the time period under the local rules seems like an appropriate
12 time.

13 *THE COURT:* So, that gives you time either to refile
14 what you have already done in New Mexico or to tweak it, as you
15 say, but for all intents and purposes it would be within the
16 time contemplated by the local rules.

17 And then, presumably the reply period would also come
18 within the local rules by the Plaintiff?

19 *MR. McGEE:* Yes, your Honor.

20 *THE COURT:* So, it looks like it would be fully
21 briefed out sometime in early February if the Court were to
22 grant it, let's say, tomorrow. You'd get it filed on Monday
23 and you are looking at sometime mid to end of February it would
24 be fully briefed out, as opposed to if the City of Baltimore is
25 not successful in its opposition to the transfer, and that

1 didn't get transferred until the end of March, you would then
2 be looking at the end of April. So you are looking at a
3 two-month difference of time.

4 On the issue of overlapping, but not identical issues,
5 why wouldn't it be the case, from the Defense standpoint, if we
6 had it briefed out and the Court were to rule on it, wouldn't
7 the Court's ruling be helpful to the parties, so if and when --
8 if, and then if so, when City of Baltimore makes it here, you
9 might have the benefit of a Court ruling that would help you
10 narrow the issues, if there are still issues to present, in a
11 motion for remand and there really wouldn't be duplicative work
12 because the overlapping issues would presumably have been
13 addressed by the Court in its initial order, and then you would
14 just conform your briefing accordingly.

15 Wouldn't that be another efficient way to go about it?

16 *MR. PARISER:* Your Honor, again this is Daniel
17 Pariser. I think we are actually really less concerned about
18 efficiency from our perspective, but just wanted to bring these
19 commonalities to the Court's attention in case the Court
20 believed that there's efficiencies.

21 Speaking for myself, I think seeing the full body of
22 case law and how it is applied and plays out in both of the
23 similar cases at the same time, again from my perspective,
24 would be helpful for the Court, and help the Court see the big
25 picture and address these issues holistically, but obviously

1 that is entirely within the Court's discretion and is based on
2 how the Court perceives it.

3 We wanted to make sure the Court understood there were
4 significant commonalities here, and from our perspective, it
5 would be appropriate to address them at one time.

6 We hoped we could get the Baltimore case here more
7 quickly and address it all at one shot. If we can't, I still
8 think the length of time that we are talking about is a fairly
9 modest time period.

10 *THE COURT:* Okay. I guess two more questions.

11 Do you anticipate that the briefing -- was the
12 briefing all done within the page limit proscribed by the New
13 Mexico local rules, which I imagine are probably similar to the
14 Southern District of Florida? In other words, were they
15 reasonable page numbers? Not like what we just saw in our
16 Motions to Dismiss, not that they were unreasonable, but they
17 obviously needed more pages to do what they needed to do in
18 their Motions to Dismiss.

19 Did you keep yours within your page limits?

20 *MR. MCGEE:* Yes, your Honor.

21 *MR. PARISER:* We will be mindful of briefing the issue
22 concisely, your Honor.

23 *THE COURT:* It wasn't -- I was just thinking in terms
24 of when the Court might be able to tackle the motion, so I was
25 just trying to get a little insight into it.

1 Let me just be very clear, the Motions to Dismiss were
2 all very well done and concise, but concise in a lot of pages
3 just because there was a lot to say, and the orders were long,
4 too. So they may say I could have been more concise as well.

5 The second question is, I want to ask from the
6 Plaintiffs' perspective, what prejudice, if any, is there in
7 waiting what we agree may be two months, if it plays out the
8 way it might play out, in having the Court have the benefit of
9 not only hearing what you have to say about your motion for
10 remand, but maybe what your esteemed co-counsel from the City
11 of Baltimore may also say and Mr. Pariser's co-counsel -- maybe
12 not co-counsel, but Defense counsel in the City of Baltimore,
13 you know, is -- maybe there is some value in hearing -- getting
14 the best of what everyone has to present at once.

15 What, if any, prejudice is there to the Plaintiff in
16 waiting maybe, at most, two months to have it briefed out -- to
17 begin the briefing, I should say.

18 *MR. MCGEE:* I actually wanted to, if I may, direct
19 your attention back to a comment that I made in an email that I
20 attached to the reply where we had an email exchange between
21 Mr. Petrosinelli and myself.

22 We actually offered that we could have a stipulation
23 of sorts, you know, in the event that there is a ruling on the
24 State's remand motion and it addresses these issues of a
25 Federal question arising through Grable and its progeny case

1 law, that could be held applicable for other Government
2 entities.

3 So, that was sort of the way I was thinking that we
4 could maximize efficiency without losing time, and that was not
5 acceptable for reasons that remain unarticulated, I think. So,
6 I think that still makes a lot of sense, that your Honor is
7 given a chance to rule on these Federal question jurisdiction
8 arguments. That will, in fact, have some commonality for other
9 Government Plaintiffs, not only Baltimore.

10 Ultimately, where you end up on this is that, what
11 happens if another Governmental entity files a case, then are
12 we waiting another two months? Where does this end?

13 From our perspective, we filed our case in June of
14 2020, in the State of New Mexico and we have had very little
15 progress to date because the case was removed, and then we were
16 briefing CTO, we briefed remands.

17 And so, procedurally we feel like we have been in
18 limbo now since that time, and waiting more is -- I understand
19 it is not the worst form of prejudice in the world, but that is
20 the nature of the prejudice that we are looking at and I am
21 worried that there is no limiting principle. If another city
22 or state files a case, are we going to be reevaluating the
23 timing? I am not sure there is a principled way around that.

24 *THE COURT:* Okay. I think I understand.

25 Was there anything more that either side wanted to

1 add? This has been very helpful to understand the context of
2 the briefing.

3 *MR. PARISER:* Your Honor, this is Daniel Pariser.
4 Very, very briefly, I want to address the sort of parade of
5 horribles comment.

6 Your Honor can address that situation if and when it
7 comes up, but I don't foresee that being a significant issue
8 here, I think the Court should make the best decision based on
9 the Court's own views of what is the most efficient way to
10 manage the Court's docket.

11 *THE COURT:* All right. It was a pleasure to meet both
12 of you. The Court will turn its attention anew to this matter
13 now that it has had the benefit of your practical input.

14 *MR. MCGEE:* Thank you, your Honor.

15 *MR. PARISER:* Thank you, your Honor.

16 *THE COURT:* All right. Take care. Be well.

17 The next topic is the topic of monthly status and
18 discovery conferences, and I believe we have Mr. Gilbert for
19 the Plaintiff, Mr. Bayman for the Defense.

20 This was a topic that I put on -- you kind of did, but
21 then I made it a different kind of agenda item. Let's first
22 have counsel introduce themselves.

23 *MR. GILBERT:* Good afternoon, your Honor. May it
24 please the Court, Robert Gilbert, Plaintiffs' colead counsel.
25 Always good to see your Honor.

1 *THE COURT:* Good afternoon. Good to see you, too, Mr.
2 Gilbert.

3 *MR. BAYMAN:* Good afternoon, your Honor, Andrew
4 Bayman, counsel for Boehringer Ingelheim, appearing on behalf
5 of all Defendants. You are about to hear from two old faces,
6 your Honor, in more ways than one.

7 *THE COURT:* In my comment I was going to say something
8 that -- since it was good to see new faces, that it was not
9 good to also see old faces, meaning not old in any way other
10 than we have been seeing each other for the better part of a
11 year. We are almost going on our year anniversary, actually.

12 So, I didn't want anyone to feel put out, any message
13 to get misconstrued, or read more into what the Court did than
14 sort of what is at face value that I want to explain, and that
15 is that when I saw the two proposed agendas, I think it was
16 Plaintiffs' counsel had requested that certain status updates
17 on discovery be provided to the Court.

18 Make no mistake, I am all ears when it comes to
19 hearing about anything and everything related to this case. I
20 can't hear enough because there is so much going on and I
21 benefit when I am informed, for sure. I like being informed in
22 any event.

23 However, we began the year, coming off of 2020, with
24 kind of a new process that we were going to try, with the
25 understanding that loosely we were going to see how it went for

1 about three months, not hard and fast, but you know, to see if
2 there were ways in which the Court could improve its
3 management, its oversight, allow for greater communication
4 channels, and allow you to see more of me and vice versa, and
5 make sure things don't slip through the cracks as we were
6 entering a new phase of the litigation.

7 With that being said, I think we all had agreed, so it
8 was a shared vision is the way I remember it, that we would
9 have a status conference every month, which we were trying to
10 do last year, and I think for the most part did. Maybe it was
11 every other month. I know it slipped at the end because of the
12 Motions to Dismiss and when we ultimately got the hearings
13 scheduled, but we couldn't account for COVID for sure, so there
14 was some adjustment on the front end with that, and getting
15 used to Zoom.

16 In any event, it ended up being either once a month or
17 every other month, but the Court has made certainly a concerted
18 effort to say, starting this year, that we would have a status
19 conference every month, and that we would have something new.
20 So, that was old, but we are continuing it on a more regular
21 basis and a consistent basis, and what was new was monthly
22 discovery conferences, and that we would have the discovery
23 conferences staggered with the status conferences so that we
24 were really seeing each other every two weeks.

25 If I wasn't explicit about it, I thought it might be

1 implicit that the discovery conferences would be for discovery,
2 and then the status conferences would be for matters that did
3 not relate to discovery.

4 As you can see, we already had three very important
5 matters. Census and registry probably could consume a whole
6 status conference if we really allowed it to, I suppose.
7 Federal/State is really important. I imagine that those issues
8 will continue to, you know, take up time and reporting. And
9 then we have the motion from New Mexico, we may have a
10 different one next month, and there may be unexpected issues.

11 I just wanted to make sure that I was allotting
12 sufficient time, while not taking too much of your time. The
13 idea of the status conferences is not to elongate them and just
14 fill the time because I am very sensitive of your own dockets,
15 I mean your time and expense in appearing, and when you are
16 here, you are not doing something else.

17 It is not just being here, you do a lot of work to
18 prepare to be here, I know you do. You put the agenda
19 together, you want it to be meticulous. You are trying to
20 anticipate is it what I want, what I don't want.

21 I know that also must be stressful, and I don't want
22 that to be the case. This is supposed to be a situation where
23 this is facilitating your ability to do your work, not
24 interrupting your ability to do your work.

25 So, I took the discovery matters off -- when I say

1 "discovery" I mean the updates, because the way I read them
2 they were updates, and I figured, well, I just heard an update
3 two weeks ago, and I am going to hear one in two weeks, let's
4 hear about non-discovery matters and let me hear the updates in
5 two weeks.

6 So, that is how I envisioned our discovery conferences
7 to be, I would get discovery updates at the discovery
8 conferences, I would get non-discovery updates at the status
9 conferences, and at all times there is the hearing process
10 available. If there is a discovery dispute, pursuant to PTO
11 32, you have a dispute, you try to resolve it, you can't
12 resolve it, boom, you file your motion and you are heard and
13 that's a hearing. That is where relief is sought, there is an
14 actual and real dispute, it has been briefed or it has been
15 teed up per the instructions.

16 So, if it is heard by the Magistrate Judge, Judge
17 Reinhart has his own set of instructions, and it is teed up,
18 and the argument is heard and relief presumably will be awarded
19 based on -- or afforded, you know, based on what the arguments
20 are that are presented either to Judge Reinhart or to me.

21 So, in that regard, I wanted to explain what my
22 understanding of setting the status conferences and discovery
23 conferences are and why I took the discovery updates out. I
24 did not want it to be misconstrued as the Court not
25 understanding it to be important, counsel not wanting to tell

1 the Court. I didn't want to signal anything other than what I
2 am saying in a very transparent way.

3 I put it as an agenda item so you could be heard, too.
4 I could have said that's the way it is and just move on to
5 point number five, which is one of my favorite points always on
6 the status conferences, hearing from the LDC members. I think
7 it is everybody's highlight, that is why we always end on a
8 good note.

9 But I put it as an agenda item because I believe that
10 you should be heard as well, and if you have a different view
11 of it, let me know.

12 With that, I will turn it over to counsel.

13 *MR. GILBERT:* Thank you, Judge. If it is okay with
14 Mr. Bayman, I will go first. This is Robert Gilbert,
15 Plaintiffs' colead counsel.

16 First of all, we appreciate your explanation of why
17 you took the matters off. I would like to spend a couple of
18 minutes with you trying to articulate from the Plaintiffs'
19 counsel perspective why we believe -- what we understand the
20 purpose of both of these conferences to be and why we believe
21 that, while they are both different, they are very
22 complimentary and can work hand in hand together.

23 With the Court's permission, I will proceed. Thank
24 you.

25 First I will discuss the discovery conferences. As

1 your Honor will recall from two weeks ago when we got together
2 on January 6th for the first conference, you articulated your
3 vision that the purpose of the monthly discovery conferences
4 are for informational conferences only, just like you said now,
5 they are not to replace the PTO discovery relief mechanisms
6 that are in place, they are so both sides can report ongoing
7 discovery progress.

8 You did on January 6th ask for our suggestions on how
9 we might change or improve that process, and we have one
10 suggestion that we would like to present to the Court about how
11 to facilitate the forthcoming discovery conferences beginning
12 in early February.

13 It relates to something said by your Honor at the last
14 one in terms of what would go onto the agendas.

15 In addition to having a set of topics on the agenda
16 for each discovery conference that both sides agree on, and
17 that both sides speak to in their respective two-page
18 submissions, we think it is critical to allow both sides, it
19 might be Plaintiffs one month, it might be Defendants another
20 month, to include and report on an informational basis about
21 topics that we may not agree on, or do not agree on, on an
22 informational basis only.

23 We think it is important to do that in the context of
24 discovery conference because it relates to discovery, because
25 these are topics that while they may not have ripened into a

1 formal dispute where relief would be sought per PTO 32, they
2 are nevertheless brewing, and we don't want the Court to first
3 hear about these when a motion for formal relief is filed and
4 have the Court say to us, as you told us and encouraged us many
5 times earlier in this litigation, if there is something
6 brewing, I want to hear about it as early as possible.

7 So, we would respectfully recommend to the Court,
8 suggest to the Court per your invitation, that these discovery
9 conferences allow both sides to address the agreed upon topics
10 on an informational basis only, as well as any topics relating
11 to discovery that one or both sides do not agree upon, where
12 relief is not being sought, but we are reporting on it to the
13 Court so that you are aware of it, as was the case on
14 January 6th when the subject of the Sanofi email destruction
15 came up.

16 Clearly it was not something that both sides agreed
17 upon, but we believed it was critical at that juncture for the
18 Court to be aware of that brewing issue.

19 So, that is the suggestion we have for the discovery
20 conferences. We understand their purpose. We appreciate the
21 Court taking up our recommendation that they be scheduled and
22 we look forward to participating in them going forward.

23 I would just close on the discovery conference issue
24 by saying this: If we limit it to only those topics that are
25 agreed upon on both sides, the Court will never hear about a

1 brewing issue on an informational basis that one side or the
2 other doesn't agree to, and that would mean that the first time
3 the Court would ever hear about it is when a formal motion is
4 filed.

5 We think that, given your Honor's desire to be
6 involved intimately in making sure that this MDL moves forward
7 on an efficient and timely basis, that that wouldn't be the
8 best way to handle it.

9 With the Court's permission, I will turn to the
10 monthly CMCs.

11 From our perspective, the monthly CMCs serve dual
12 purposes. First, as you noted earlier in this hearing, they
13 provide the Court and the Zantac legal community at large with
14 updates on issues like the census registry, the status of the
15 State Court litigation, and other topics of general interest,
16 but they also serve another very important purpose that is
17 fundamentally different than the discovery conferences.

18 We believe, your Honor, respectfully, that scheduling
19 issues should be discussed, not a discovery dispute about
20 documents that weren't turned over, or a deposition notice that
21 somebody is objecting to, but we believe that scheduling issues
22 in the overarching scheme of things should be discussed at the
23 monthly CMCs so the Court is aware when, like now, we believe
24 the trains are off schedule, the Court can discuss with counsel
25 at the CMC why the trains are off schedule and whether and how

1 they can be put back on schedule and whether an adjustment to
2 the schedule needs to be contemplated.

3 By hearing about the scheduling issues at the monthly
4 CMCs, the Court will be able to give important feedback to --
5 that provides insight to both sides about how the Court views
6 those scheduling issues and their overarching impact on the
7 litigation before formal motion practice takes place.

8 It may winnow the scope of motion practice. It may
9 alleviate the need for motion practice. It may help guide one
10 side or the other in the positions they are staking out that
11 affect the schedule for this case.

12 So, I would suggest, on behalf of my fellow coleads,
13 that these scheduling discussion at our monthly CMCs are one of
14 an MDL transferee judge's tools for keeping the MDL litigation
15 on track or adjusting it when circumstances warrant.

16 We believe for that reason that the monthly CMCs are
17 the appropriate forum for these types of discussions because
18 when scheduling impacts the overall litigation and the schedule
19 that this Court adopted back in June of last year, this Court
20 needs to know about it and understand it and work with both
21 sides in a collaborative fashion to try and figure out how to
22 either put that schedule back on track or to adjust it.

23 So, my final -- our final suggestion about the CMCs is
24 the following: In the spirit of what I have just laid out, we
25 suggest, your Honor, that -- by the way, before I lay this out,

1 we appreciate, and I am sure I can say this on Mr. Bayman and
2 Defense counsels' behalf as well, we appreciate your
3 sensitivity to not imposing any greater burden on us in
4 preparing for these conferences than we already have. We do
5 appreciate that, but this is so important that even if there is
6 a small additional burden for us, it will help us and help the
7 Court in managing this litigation going forward.

8 So, with that in mind, our suggestion would be that
9 the parties submit, with Special Master Dodge's assistance, a
10 proposed joint agenda five days before the CMC, including both
11 agreed and non-agreed topics, similar to what we have been
12 doing up until now, a little bit earlier; that separate and
13 apart from the joint agenda, that two days before the CMC that
14 both sides submit a single letter from their respective sides,
15 copying the other, to the Zantac email address setting forth
16 our respective positions on those topics that are either agreed
17 upon or disputed in the joint agenda; and that the Court then
18 meet with colead counsel in advance of the actual CMC, the
19 morning of, the afternoon before, after your Honor has had an
20 opportunity to receive and digest not only the agenda itself,
21 but our respective views in our two, or three, or four-page
22 written submissions about our respective views about these
23 issues so you are not hearing about them for the first time in
24 the context of a hearing with 180 participants.

25 We think that would be very helpful, it would allow

1 the Court to digest the parties' respective positions before
2 the CMC takes place and allow the Court to meet with us in
3 advance of the CMC to try to either resolve, or narrow, or
4 further understand those issues and ultimately expedite the CMC
5 itself.

6 Lastly, and you made reference to it just a moment ago
7 before you called Mr. Bayman and I up, we would urge the Court,
8 given that folks' schedules for 2021 are filling up -- and I
9 know the Court's schedule is busy as well. We would urge the
10 Court to issue a schedule soon setting forth the dates for the
11 next several monthly discovery conferences, which we know from
12 prior discussions with you are going to be held the first week
13 of every month, and for the several monthly CMCs, which we
14 understand are going to be held in the middle of each month, so
15 that all counsel on both sides can block those dates on our
16 calendars and we can then set the deadlines on our calendars
17 for submitting the joint agendas and our corresponding or
18 respective submissions in advance of those conferences.

19 I know making the dates firm will help everybody in
20 planning and preparing to make those submissions timely and
21 more efficient.

22 I am happy to answer any questions you have for me now
23 or after Mr. Bayman makes his presentation.

24 *THE COURT:* Thank you, Mr. Gilbert. Yes, let's hear
25 from Mr. Bayman.

1 MR. BAYMAN: Good afternoon, your Honor. Andrew
2 Bayman, King and Spalding, lead counsel for Boehringer
3 Ingelheim, but speaking on behalf of all the Defendants.

4 Your Honor, this is the first that I have heard of
5 some of these suggestions from Mr. Gilbert, so I am kind of
6 responding on the fly, but I would say at the outset that the
7 Defense's vision is entirely consistent with the vision you
8 articulated about what the discovery conferences were to be
9 about and what the case management conferences were to be
10 about.

11 We don't think it is appropriate at a case management
12 conference to have discovery issues on the agenda given that
13 the Court has said you want to try, at least in the beginning,
14 this system where we have monthly discovery conferences and
15 monthly CMCs.

16 Frankly, in my experience, CMCs that did not involve
17 discovery that occur on a monthly basis can be as short as 30
18 minutes or an hour. They do not need to be long conferences.
19 Your Honor has pointed out that all of these conferences are
20 expensive. We have 172 attendees on this Zoom conference
21 today.

22 It takes time to prepare the agendas. We are very
23 careful and very meticulous about that. It takes time to
24 prepare the arguments and the presentations and these are very
25 expensive to a lot of our clients.

1 My concern with Mr. Gilbert's proposal is that he is
2 suggesting we add more complexity and more expense to the
3 process rather than making them more efficient.

4 As your Honor mentioned, there is a process in place
5 for resolving discovery disputes under Pretrial Order 32. That
6 process requires the parties to meet and confer, including to
7 have a final meet and confer with Special Master Dodge. We
8 believe that system has worked. There have only been two
9 discovery issues that have come to hearing so far, there is one
10 coming next week, so the parties do have an opportunity to
11 avail themselves of Pretrial Order 32 and its processes.

12 We think it would be inappropriate to allow these
13 discovery conferences to become forums for the parties arguing
14 their respective positions before the issue has been joined.
15 There is often a great benefit to having continuing meet and
16 confers before the parties' positions get hardened, and we
17 don't think it is helpful to have even a preview of the dispute
18 at the discovery conferences.

19 Both you and Judge Reinhart made it very clear when
20 you announced this new system that these discovery conferences
21 were to be for updates and not as forums for people to air
22 their complaints and their grievances. We believe that is the
23 right approach. We believe that approach is working, and we
24 believe that the discovery conferences should be for discovery
25 issues.

1 The CMCs should be for the kind of issues that we have
2 discussed here today, and we don't feel that it would be
3 helpful to add more complexity and more time and more expense
4 such as been suggested by Mr. Gilbert.

5 So, I think that is an overview of where we are, your
6 Honor. I am happy to answer any questions or elaborate further
7 if need be.

8 *THE COURT:* Okay. Let me walk through what I think I
9 heard because I think, to some extent, the answer was maybe
10 broader than the question, but I do welcome the input because I
11 did ask for feedback at the last conference, and it is fair to
12 say I always, you know, welcome feedback.

13 I do think it is important, you know, the parties be
14 able to talk about the feedback so that they are not having to
15 necessarily respond on the fly, because then I will get the
16 most meaningful feedback from both sides.

17 With that being said, I started off with a question of
18 my understanding that, for the most part, updates on discovery
19 wouldn't be heard at a status conference, it would be heard at
20 the discovery conference, explaining that is why I took it off.

21 I know, Mr. Gilbert, you spoke about but we want to be
22 able to talk about timing issues on the status conferences. I
23 don't think I have ever said you can't talk about timing
24 issues, but if it is timing issues related to discovery I
25 would -- and by the way, in looking back over the joint

1 submission of the letter that was sent, it really wasn't
2 couched under proposed topic number two as a timing issue. It
3 was discovery, general discussion of discovery schedule, and
4 then update on status and continued viability of PTO 30
5 discovery schedule, and then it broke it down by brand,
6 generic, retailer.

7 Are we all in agreement that -- I look at that as sort
8 of an update on discovery. And so, that is what I meant by
9 that is what I envision being on a discovery status conference
10 and not on a status conference.

11 If there was a timing issue, let's say that there were
12 concerns of -- let me see, it is hard to keep all of the -- PTO
13 30, the schedule and if there is a timing issue non-discovery,
14 because that really does not relate to discovery, it relates to
15 disclosure of cancers and experts and things of that nature,
16 that is, to me, a timing issue, but it is not a discovery
17 timing issue.

18 Are we all in agreement that until we find it is not
19 working, that -- we had a conference two weeks ago, we are
20 having one in two weeks -- that just general status updates on
21 discovery should be given at the discovery status conference
22 and not at the case management status conference?

23 *MR. GILBERT:* Your Honor, Robert Gilbert. Of course
24 we are in agreement that general updates on discovery should be
25 given at what you called or titled the discovery conferences.

1 As I was saying, as long as we have an opportunity to,
2 in an informational setting, to share with the Court the impact
3 that some of these discovery issues are having on our overall
4 schedule under PTO 30 -- if you say, Mr. Gilbert, I want the
5 Plaintiffs and the Defendants to tell me that at the monthly
6 discovery conferences, you may have different views about it,
7 but I want to the hear from you about it at the monthly
8 discovery conference, then we will provide it to the Court at
9 the monthly discovery conference and not at the status
10 conference.

11 I was simply -- we need, and I know that there will be
12 a time that Defense feels that they do as well, we need an
13 opportunity at one of these conferences to be able to address
14 issues on an informational basis that you -- that may be or
15 will be impacting the overall PTO 30 schedule, even if my
16 colleague on the other side doesn't agree that they impact.

17 *THE COURT:* Okay, that is the second issue. Issue
18 number one, then, discovery matters are heard at the discovery
19 conference, informational status update, every month we will
20 have them for the time being. We all agree that is the process
21 in place until someone suggests that you feel it is not working
22 or the Court feels it is not working.

23 Consistent with that, that is why I took that piece of
24 the proposed agenda out, where it began with discovery and went
25 down right before presentation, it was for that reason and that

1 reason only. It looked to me like it was a status update,
2 exactly the kind of update that would go on the discovery
3 conference. I didn't see anything problematic about it and so
4 I would just say you cut and paste it and that would be part of
5 the two pager that you present in advance of the discovery
6 conference.

7 That is issue number one. It sounds like we agree on
8 that.

9 MR. GILBERT: Yes.

10 THE COURT: Secondly, I don't think I ever said -- I
11 know I didn't say it for the status conference, and I don't
12 think I said it for the discovery conference, and if I did, I
13 apologize if I am not remembering correctly, but clearly I
14 didn't say it for the status conference because, in fact, you
15 both submitted different agendas, proposed agendas, and I think
16 what I have made clear is that the Court sets the agenda for
17 the conferences, but the Court wants your input.

18 I could not get your input and just talk about what I
19 wanted to talk about, but I don't think that is very productive
20 because I wouldn't know all of the things that you wanted to
21 talk about that I would just not be aware of.

22 So, I envision the input process to be educational for
23 the Court. As you can see, I selected most everything, and
24 there was a reason why I didn't select the other; it was that
25 you are going to be heard, but you are going to be heard in two

1 weeks, let's use this for the other items. You don't have to
2 agree on the agenda items.

3 So, I guess to your point, Mr. Gilbert, yes, you can
4 submit -- we do have the two-page process in place for the
5 discovery conference. We thought for the status conference we
6 would make it a little more streamlined and it would just be
7 sort of topical issues with maybe a brief explanation, a line
8 or two of what would go under the topic. Again, I didn't want
9 to overload anybody.

10 But you don't have to agree on the items. You didn't
11 agree on the items here and the Court picked the ones that it
12 wanted to hear about and actually added its own, which is what
13 this part of it is.

14 So, if I didn't make that clear, or if it sounds like
15 I am changing, maybe I didn't articulate it clearly last time,
16 you don't have to agree. Then, yes, you arguably would never
17 be heard on an informational update basis. I still strongly
18 require and believe for the reasons I have articulated why you
19 should confer and explain to the other side what you are
20 putting on the agenda so no one is unfairly surprised, so
21 people have a chance to consider the issues so they can give a
22 meaningful response, and so the Court gets a meaningful update
23 and not just a one-sided update.

24 It is hard for people sometimes to think on the spur
25 of the moment, some are better than others. It is always

1 better, I think, when you have some advance notice, which is
2 why I put the one day in advance process in place, or the two
3 day in advance process in place for the discovery and for the
4 status conference.

5 So, you don't have to agree. If you thought you had
6 to agree, you don't.

7 I think the two page -- let's give it another month.
8 We were going to do it in two weeks. I thought the last two
9 pager was really helpful. Let's see what this two pager looks
10 like.

11 So, I hope that answers the second point that you
12 brought up, that you don't have to agree, and that the Court
13 will ultimately decide. You have to trust the Court that when
14 it reads both two pagers, and one side has put forth one issue,
15 and the other side hasn't, or neither side has put forth an
16 issue, that there is usually a rhyme or reason why the Court
17 has not included something or the Court has included something
18 you haven't proposed. Then I will try to explain, like I am
19 doing now, why I didn't include something.

20 And as far as disputes, I don't hear anyone
21 disagreeing, disputes are heard in the way the disputes should
22 be heard. It is an untenable position to put the Court in.
23 You can be assured that if the Court is being updated every two
24 weeks on discovery and non-discovery matters that nothing
25 should shock the Court or so surprise the Court when it hears

1 of a discovery dispute, or any other kind of dispute pursuant
2 to PTO 32. If so, then the Court is not paying attention, and
3 shame on the Court.

4 You are giving the Court updates regularly and so if a
5 dispute comes in, it just tells the Court that something was
6 not able to be resolved that it is either big or small, but of
7 enough significance that the dispute process needs to go
8 forward and go to a hearing and that is what the hearings are.

9 You don't want to put the Court in a position of
10 opining, surmising, saying things off the cuff. You know that
11 is not how the Court operates. If there truly is a dispute, I
12 want it to be fully teed up, I say briefed because I am using
13 sort of traditional language of motion practice, but we know
14 the discovery process has its own teeing up language in terms
15 of the process in PTO 32.

16 And then either I or Judge Reinhart will give you a
17 full opportunity to be heard on the nitty-gritty details of the
18 dispute because that is what is required when a Court hears a
19 dispute, not -- it is not a general update, it is truly this is
20 the dispute, here are all the factors, and the Court is then
21 applying the law to the dispute, to the facts, and affording or
22 not affording relief that is being sought.

23 So, we don't want to get into any kind of a situation
24 where it is a quasi, I am not really asking for relief, but I
25 am previewing something that might or might not happen in a

1 dispute.

2 I just think if we stick with the updates, the Court
3 is going to be informed and let the dispute process play out
4 the way the dispute process was intended per the PTO.

5 I don't think I heard anyone say anything differently.
6 I just want to reiterate why that is so important to the Court.
7 I don't want to be in an uncomfortable position, I don't want
8 you to be, and I don't want you to put me in an uncomfortable
9 position of speculating or saying something.

10 I don't write down everything I am going to say at a
11 status conference, so I don't want you to take something that I
12 say and attribute it to a pending dispute and say, well, I
13 think this is what she meant as to this dispute. It can't be
14 what I meant because I am not hearing a dispute, or at least it
15 is not my intention to hear of a dispute at a status
16 conference.

17 I think the only remaining matter, Mr. Gilbert, was
18 the proposal that maybe you tweak the way you prepare for the
19 status conferences a bit, whereas right now, unlike the
20 discovery conference where you send in the two-page summary,
21 you are just sending in topical items for the agenda with a one
22 or two liner, and then the Court will select and/or include its
23 own agenda items.

24 You were suggesting, I think, five days in advance
25 that maybe there is a summary, a one-page summary of what is

1 going to go on the status conference agenda, and then two days
2 in advance the parties meet, and then there is also an in
3 chambers.

4 Did I understand that as being the remaining issue?

5 MR. GILBERT: Almost, Judge. First, thanks for your
6 guidance, much appreciated.

7 What I was suggesting with regard to the agenda
8 modification for the status conferences was as follows: The
9 parties submit to the Court five days before a scheduled status
10 conference the proposed joint agenda. It doesn't necessarily
11 even have to be in the form of a letter, it can be five to ten
12 bullet points, whatever. Some of them will be agreed and they
13 can be flagged as agreed, some of them can be flagged as not
14 agreed, Plaintiff request or Defendant request.

15 Whatever those bullet points are, both agreed and not
16 agreed, that two days before the actual conference the
17 Plaintiffs would submit a two or three-page letter to the
18 Court, copy the other side, the Defendants submit a two or
19 three-page letter to the Court, copy our side, and we would
20 present to the Court in those letters our respective views,
21 rather than it being just a bullet point, a little bit of
22 color, a little bit of explanation about what our respective
23 positions are on those bullet points on the agenda.

24 So that when your Honor thinks about what you want to
25 keep on that agenda, and what you may choose not to include on

1 the agenda, you will be more fully informed about why we or
2 they think it is important to keep on the agenda and what our
3 view is on it.

4 Then, before we actually come in for the actual CMC,
5 the Court could choose, if it felt comfortable, to have an
6 in-chambers meeting with colead counsel to discuss these issues
7 that you have chosen to put on the agenda and to try to work
8 through them in advance of the formal hearing. That was my
9 recommendation.

10 *THE COURT:* Okay. Mr. Bayman, any opportunity to
11 reflect?

12 *MR. BAYMAN:* Yes, your Honor. As I said previously, I
13 think this is adding more complexity and costs than is needed.
14 We not only as leads, we represent our clients, but we also
15 represent the other Defendants, and a lot of time and expense
16 is spent having to confer with the other Defendants in a
17 litigation.

18 You are trying this new system, your Honor. It worked
19 well the first time. I think we should stick with it, it is
20 not broken. Mr. Gilbert, what he is suggesting is adding more
21 complexity and more cost with more of these submissions that I
22 am concerned become pieces of advocacy rather than updates
23 about what the differences are.

24 And also, your Honor, bear in mind we have Special
25 Master Dodge, she is involved in this process, she is

1 conferring with both sides. She can apprise your Honor if
2 there are issues that you need to be aware of, whether it be
3 scheduling or otherwise. And so, there is a -- this is an
4 interactive process, and your Honor has the ability to get that
5 information as Special Master Dodge confers with both sides or
6 confers with us together.

7 So, my reaction is this is just more complexity and
8 more cost that is not warranted and runs the danger of just
9 becoming a vehicle for advocacy.

10 *THE COURT:* Okay. I thank you both.

11 It is definitely consistent with giving me feedback,
12 which is what I want. I would encourage you not only to give
13 me the feedback, but as you come to certain conclusions about
14 new and improved ways of doing things, to share it with the
15 other side. Even if the other side disagrees, I will then get
16 the benefit of your thinking, you know, with some advance
17 knowledge and preparation, and maybe even your ability to
18 confer with coleads.

19 So, Mr. Bayman presumably would need to confer with
20 other coleads. He is speaking now and I guess is comfortable
21 enough doing so even though -- I guess if he is hearing it for
22 the first time, arguably he didn't have a chance to speak with
23 coleads, just as if Mr. Bayman were to say something, it
24 wouldn't be fair to Mr. Gilbert to not have the ability to
25 speak with his coleads.

1 With that being said, it is all in, you know, I
2 believe in the interest of communication and what is in the
3 best interest of the litigation and that is how I am viewing
4 the input.

5 I would say on a going forward basis what I would like
6 to do for the next status conference is stick with what we have
7 done for this status conference. Again, I have the letter in
8 front of me. I don't believe that I put a limitation. Again,
9 I could be corrected if I am wrong, I don't have the transcript
10 from the last status conference.

11 To be clear, there is no limitation on the issues,
12 that is, you don't have to agree, so that nobody feels muzzled,
13 nobody feels they can't be heard unless the other side --
14 because that gives the other side always a veto over what you
15 might want to update the Court on and that was never the
16 intention.

17 The other side might not like it, they might think it
18 is not important, they might feel they're on the defense, but
19 look, if the other side wants to put it on the agenda, they
20 have the right to put it in the proposed agenda items and then
21 the Court makes the ultimate call.

22 With respect to a little descriptive, I think your
23 bullet points worked quite well, Mr. Gilbert, in this one. So,
24 I would like to just stick with this format. I don't think I
25 have a page limit, but you put the topic, and then you explain

1 what the issue is underneath, and that is perfectly fine.

2 That gives the Court an understanding of what you want
3 to go on the agenda and then the Court -- if the Court had a
4 question about what you meant I could go through Special Master
5 Dodge, or if I am concerned about an issue, I could decide that
6 I wanted to have an in chambers. I am not saying in chambers
7 are not possible, we have had them and we most certainly will
8 again.

9 I guess I am reluctant at this point, so new into the
10 new system, to institute yet another standardized meeting, if
11 you will. And I think you even suggested, Mr. Gilbert -- in
12 the second iteration of your comments, you said -- I think I
13 heard you say, if the Court thinks it is necessary.

14 Why don't you assume that any time I feel that it is
15 necessary I will certainly let you know, and if anyone feels
16 that an in chambers is necessary, you should let the Court
17 know, and you can let the Court know through the special master
18 so that I know you feel one is necessary separate and apart
19 from these other two conferences we are having every month, and
20 if the Court feels that it needs one, it certainly has had them
21 and will continue to have them.

22 For the next status conference let's have an agenda
23 like you have done now. You can give me a couple of lines, or
24 on some issues it was a paragraph, of what you think the Court
25 should hear.

1 It shouldn't be argument, it shouldn't be advocacy.
2 It is, again, informational, update, status. And then the
3 Court will ultimately conclude what goes on the agenda in the
4 interest of what the Court thinks it should hear, what the
5 public needs to hear, and, quite frankly, in the interest of
6 being sensitive to time, which I am right now.

7 So, I would like to, unless there are any further
8 comments, move on to the final agenda item.

9 I hope that everyone feels the process will enable you
10 to be heard. Nobody can have a veto over other's issues. The
11 Court might make a decision based on seeing two agendas and why
12 one side thinks an issue should be on and why one side thinks
13 it shouldn't be on, to conclude that it shouldn't be on. Just
14 because you put it on the agenda does not mean it is on the
15 agenda, but you certainly have the right to put it forth to the
16 Court.

17 So, in that regard, I hope that that satisfies
18 everyone's interest in feeling that they have been heard, which
19 is an important part of the process in the Court's view.

20 MR. GILBERT: We appreciate and understand the Court's
21 thinking, your Honor. As it relates to timing of scheduling, I
22 understood from your Honor, I want to make sure I am a hundred
23 percent clear, that issues relating to the schedule as it is
24 impacted by ongoing discovery issues should be raised on an
25 informational basis during the discovery conferences.

1 *THE COURT:* Yes. If they are discovery related
2 matters they would be heard.

3 *MR. GILBERT:* I apologize, I am struggling with this.
4 If a particular issue that is occurring related to discovery or
5 issues are impacting the overall schedule, the topic of the
6 schedule and the impact of those matters on the overall
7 schedule, you would prefer that we raise them at the discovery
8 conference.

9 *THE COURT:* If they are integrally linked to
10 discovery. The status of X, Y, and Z discovery is not
11 proceeding as we had anticipated, and this is why, and this is
12 what the implications of the discovery not going according to
13 how we had envisioned it might play on the overall schedule, I
14 would put that as a discovery matter.

15 *MR. GILBERT:* Thank you.

16 *THE COURT:* That impacts an overall schedule as
17 opposed to a non-discovery matter that might impact the overall
18 case management schedule.

19 I think it is easier for us. First of all, we
20 always -- I know Judge Reinhart is on, but his face is not on
21 the Zoom, so you are not seeing him, but obviously he is
22 integrally involved with discovery and I would hate for
23 discovery related matters -- there he is -- to come on without
24 making sure that he was teed up and had the ability to be fully
25 present as well, even though he already is fully present.

1 Yes, Mr. Gilbert, if that answers your question, if it
2 is a discovery matter that impacts the schedule, let's call it
3 a discovery matter.

4 Just like today, I will tell you, so if you aren't
5 quite sure and you put it on your status conference and I see
6 it as a discovery matter, I am going to send a communication
7 back and say, gee, I really see this as a discovery matter, so
8 we will see each other in two weeks.

9 MR. GILBERT: Understood, and I appreciate it.

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

11 MR. BAYMAN: No thank you, your Honor.

12 THE COURT: All right. I appreciate the input and the
13 feedback. Thank you so much.

14 MR. GILBERT: Have a good afternoon.

15 MR. BAYMAN: Thank you.

16 THE COURT: You, too.

17 The final matter that we have on the agenda are the
18 presentations by the LDC members. Today we are going to hear
19 from Mr. Krause and Ms. Insogna.

20 Let's have you all say hello and state your names for
21 the record.

22 MR. KRAUSE: Good afternoon, this is Adam Krause for
23 the Plaintiffs.

24 THE COURT: Good afternoon.

25 MS. INSOGNA: Good afternoon, your Honor, this is

1 Katie Insogna for Defendants, I represent Sanofi in this case.

2 THE COURT: Insogna. Sorry, I didn't get it right.

3 It is great to see you both. I am going to turn my
4 mic off so I can hear from you. Tell me what you are doing,
5 how you are doing, and then anything else.

6 MR. KRAUSE: May it please the Court, I appreciate you
7 letting me speak today. The last time we spoke was in May, I
8 think, during my interview and I think it would be accurate to
9 say that a lot has occurred since then.

10 You recall my law firm primarily focuses its time and
11 attention on mass torts, in fact, many of the same adversaries
12 that we have in this litigation. I also litigated against a
13 hernia mesh and some of the environmental torts that my firm is
14 actively involved with.

15 My particular interest has been in pharmaceutical mass
16 torts because of the previous employment at Eli Lilly and
17 Company, a pharmaceutical company. Over the last eight months
18 or so I have worked closely with Mr. Watts and the other team
19 members on trial strategy and the bellwether team. That same
20 team has worked closely with Mr. Pulaski and the data analytics
21 team to better understand the cases that have been filed in
22 this Court.

23 Now that the document production has started to come
24 in, I have been working on preparing for upcoming depositions
25 with Ms. Finken and many others on the PSE team as well. The

1 group of individuals that are assembled to lead this litigation
2 are extremely talented. The culture within our PSE is one in
3 which we can volunteer for any aspect of the case and freely
4 use our talents to develop the case.

5 My actual individual firm currently represents more
6 than one thousand individuals who are suffering from cancer.
7 We have hired a grief counselor to extend emotional support to
8 those that need it. We have dedicated paralegals, legal
9 assistants, and case managers that work exclusively on this
10 case.

11 My firm and I and my team are excited to continue to
12 work on such a righteous case, and kind of on a personal note,
13 I do enjoy Zoom meetings, but I cannot wait to come into court
14 and meet the Court in person.

15 Thank you again for letting me speak today.

16 *THE COURT:* Thank you, Mr. Krause, thank you for your
17 work. I do remember you from your May interview. You
18 obviously made a very positive impression on the Court which is
19 why you were appointed to a leadership position. I am glad
20 that you have been afforded the many opportunities that you
21 have.

22 I always like to credit lead counsel in making the new
23 structure that the Court put in place with the LDC actually
24 work, so that it is not in name only, but that they are fully
25 integrating you, mentoring you, not that you don't come with

1 your own set of experience, clearly you do having been
2 in-house, but being able to operate from the inner workings of
3 this case and at every part of that aspect of the case that you
4 want to volunteer, so it is terrific.

5 I am just so pleased that you are fully participating
6 and I am sure that you are making a very positive contribution
7 to not only the Plaintiffs' team, but I am sure to the Defense
8 team as well, and to your fellow LDC members, as I recall
9 hearing in prior updates that you have conferences with one
10 another and have been able to provide a nice support network
11 and I think that that is important to the litigation.

12 You see people as human beings, even though they are
13 adversaries, but when you can see someone as a colleague, as a
14 professional, as a human being, you tend to treat them a little
15 bit better and you tend to listen to them a little bit more,
16 and it tends to bring out the best in you and the best in them,
17 which is good for the overall litigation.

18 We, too, took look forward to seeing you one day here
19 in court and we hope it will be soon. We are spending a lot of
20 time in our court implementing safety measures to ensure that
21 nobody walks through a courthouse who will endanger her own
22 safety or the safety of others. So, we meet weekly.

23 Actually, it is a big part of what I do when I am not
24 doing MDL work, which is working on many, many different
25 committees that are COVID related as it relates to the

1 functioning of this courthouse and the judicial system overall,
2 civil and criminal.

3 So, thank you.

4 MR. KRAUSE: Thank you, your Honor.

5 THE COURT: Ms. Insogna.

6 MS. INSOGNA: Thanks again, your Honor, good
7 afternoon. Like I mentioned before, my name is Katie Insogna,
8 I am a recently elevated partner at DLA Piper in Boston, and I
9 represent Sanofi in this case.

10 Just by way of background about myself, I went to
11 college at Georgetown, I went to law school at USC in Los
12 Angeles, and then I practiced in California for several years
13 before moving with my family to Boston.

14 I have been involved in a number of other product
15 liability MDLs, but am honored to be a part of the LDC in this
16 matter. I have been working on the case from the very
17 beginning, but most recently and extensively on science issues
18 and also in preparation for Sanofi's 30(b)(6) depositions, I
19 look forward to participating in those and many other aspects
20 of the case.

21 Thank you very much for the opportunity to introduce
22 myself to you today.

23 THE COURT: Absolutely, it is a pleasure to meet you
24 and congratulations on your new title, your new status in the
25 firm as a partner. That is not an easy thing to come by. I

1 know it takes a lot of hard work and dedication and commitment,
2 so it clearly reflects very well on you.

3 It is a pleasure to have you as part of this
4 litigation and to be able to see you here today, and I thank
5 you for all of the work that you are doing.

6 Hopefully you are not questioning your move from the
7 West Coast to the East Coast. Are you from the West Coast
8 originally or are you from the East Coast?

9 MS. INSOGNA: I am originally from Cincinnati, but the
10 weather in Boston is hard to --

11 THE COURT: It is not L.A.

12 MS. INSOGNA: -- hard to reconcile. It is not L.A.,
13 exactly, yes. I miss it for that purpose.

14 THE COURT: But Boston is a great city. I love
15 Boston. Good. Thank you so much.

16 Unless there is anything further -- Judge Reinhart,
17 did you want to say anything?

18 MAGISTRATE JUDGE REINHART: No, I think you have
19 covered it all. I appreciate everyone's time today, and I look
20 forward to seeing some of you next Tuesday.

21 THE COURT: All right. Thank you, everyone. I
22 apologize that we have gone as long as we have. I hope you
23 don't feel it is too long or a waste of your time.

24 It is two hours, I want to say that is shorter than
25 our status conferences in the past, but honestly, I don't have

1 a metric here of keeping track of all of them. I feel that
2 they are important, we covered a lot of ground, we covered
3 census and registry, we covered State/Federal, we covered the
4 New Mexico litigation. We flushed out a little bit more the
5 monthly status and discovery conferences.

6 Again, it is a new process, let's give it some time.
7 Everybody be patient. There is always an opportunity to be
8 heard. I don't want you to be nervous, I don't want you to
9 feel frantic, I don't want you to feel stressed out about how
10 you get an issue before the Court. I hope I have opened up
11 more avenues for you informational wise and then you always
12 have your dispute process available to you as your right under
13 the Federal rules.

14 The Court is never intending to abandon Federal or
15 local rules, just, as you know, really promotes cooperation,
16 and compromise, and resolution where possible. You know that
17 that is where I come from, it is just my orientation, but I am
18 a realist, and I know that if you can't resolve things, you
19 belong in court to have them heard, and that is what we are
20 here for.

21 I want you to know Judge Reinhart and I are always
22 here. We are actively engaged in the case. We follow it
23 closely both from the status conferences, and the filings, and
24 interactions with our special master, but we couldn't pretend
25 to walk in the shoes that you are walking and the work that you

1 are doing day in and day out, and I guess it is fair to say we
2 can never know as much as you do, but don't worry about that.

3 You will have all of the right opportunities to ensure
4 the Court hears what the Court needs to hear and support you in
5 what you are doing to move the case along, to adhere to the
6 schedule. I alluded loosely to, gee, if you had an issue that
7 affected the case management schedule, if its discovery, it
8 goes on the discovery schedule, as conference if it is
9 non-discovery, but I guess what I should say is that I really
10 would like you to stick to that case management schedule of
11 Pretrial Order 30.

12 I think it was a well thought out schedule. I think
13 it is an ambitious one, it is an aggressive one, but it is one
14 that is doable. With all of the procedures that we have put in
15 place in this case, it is absolutely doable, and I am a firm
16 believer that it is a good thing for both Plaintiffs and
17 Defense to move cases more quickly than not. The issues ripen,
18 it keeps the costs down, it keeps you sharply focused.

19 You put the schedule in place and I am here to support
20 you and make sure that you fulfill the deadlines that are in
21 that schedule. I think you would be serving your clients well
22 by doing so and encourage you to just keep your eye on the ball
23 and, you know, work hard like you are doing, but at the same
24 time I also say that you need a balance in life and don't burn
25 out, take a break. I hope everybody did over the holidays,

1 they feel rejuvenated.

2 You have other clients, I am sure, so it is a
3 balancing act. We signed up for a profession that isn't always
4 easy, and this case is certainly not an easy case, so I admire
5 all of you for the work you do, the dedication, the commitment
6 to your clients. It is so abundantly evident to the Court and
7 it should be evident to each other.

8 So, when you -- in moments of frustration with each
9 other or cynicism at times, just remember that -- put yourself
10 in that person's shoes, they are doing what they think is in
11 the best interest of their client and appreciate -- that may
12 give you a greater appreciation of why they are doing what they
13 are doing.

14 If you communicate in an appropriate way so that they
15 can understand your position, even though you represent
16 different clients, you both understand how the process works,
17 both sides, and that compromise can sometimes be the right
18 outcome just in the interest of getting to that next step in
19 the litigation.

20 So, rather than mountains, look at them as hills.
21 When there is a true mountain, treat it like a mountain and
22 bring out all the forces, but not every matter, every issue,
23 every obstacle, necessarily has to be a mountain.

24 With that, I wish you well. Everybody stay safe, and
25 we will be seeing each other soon.

1 *(Thereupon, the hearing was concluded.)*

2 * * *

3 I certify that the foregoing is a correct transcript
4 from the record of proceedings in the above matter.

5
6 Date: January 23, 2021

7 /s/ Pauline A. Stipes, Official Federal Reporter

8 Signature of Court Reporter
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Pauline A. Stipes, Official Federal Reporter

MAGISTRATE JUDGE REINHART: [1] 78/17 MR. AGNESHWAR: [3] 21/23 26/6 29/14 MR. BAYMAN: [5] 45/2 55/25 67/11 73/10 73/14 MR. GILBERT: [10] 44/22 49/12 59/22 61/8 66/4 71/19 72/2 72/14 73/8 73/13 MR. KRAUSE: [3] 73/21 74/5 77/3 MR. MATTHEWS: [3] 23/24 24/23 26/1 MR. MCGEE: [8] 30/2 32/19 38/22 39/5 39/18 41/19 42/17 44/13 MR. PARISER: [9] 29/22 29/24 30/3 35/8 39/8 40/15 41/20 44/2 44/14 MR. PETROSINELLI: [5] 4/23 5/21 5/24 21/4 21/15 MR. PULASKI: [7] 4/25 5/20 9/20 21/7 23/2 24/8 29/13 MS. INSOGNA: [4] 73/24 77/5 78/8 78/11 THE COURT: [51] 2/18 5/1 5/23 9/19 13/14 21/14 21/17 21/25 23/22 23/25 24/19 25/7 26/3 27/19 29/15 29/23 29/25 30/5 34/22 38/3 39/1 39/6 39/12 39/19 41/9 41/22 43/23 44/10 44/15 44/25 45/6 55/23 58/7 60/16 61/9 67/9 68/9 71/25 72/8 72/15 73/9 73/11 73/15 73/23 74/1 75/15 77/4 77/22 78/10 78/13 78/20 / /s [1] 82/7 0 0147 [1] 1/17 02110 [1] 2/15 1 10019 [1] 2/5 1100 [1] 1/20 117 [1] 1/16 1180 [1] 2/8 12th [1] 2/2 16 [1] 22/24 1600 [1] 2/8 172 [1] 56/20 1725 [1] 1/13 180 [1] 54/24 181 [1] 5/7 19720 [1] 1/17 2 20-md-02924-ROSENBERG [1] 1/3 20001 [1] 2/11 20005 [1] 2/2 202-434-5567 [1] 2/3 202-942-6216 [1] 2/12 2020 [2] 43/14 45/23	2021 [6] 1/5 3/11 3/15 6/2 55/8 82/6 21 [1] 1/5 212-836-8011 [1] 2/6 23 [1] 82/6 24 [1] 29/19 250 [2] 1/24 2/5 2567 [1] 29/20 26th [1] 2/14 2700 [1] 1/25 2800 [1] 1/20 2925 [1] 1/13 3 30 [7] 56/17 59/4 59/13 60/4 60/15 77/18 80/11 302-276-0147 [1] 1/17 30309 [1] 2/8 305-384-7270 [1] 1/21 30th [5] 6/7 6/17 6/22 7/3 7/24 32 [6] 48/11 51/1 57/5 57/11 64/2 64/15 33 [1] 2/14 33134 [1] 1/21 35 [1] 25/4 4 404-572-4600 [1] 2/9 42 [1] 31/11 4555 [1] 1/14 4600 [1] 2/9 4717 [1] 1/23 5 50 [1] 12/2 52 [1] 12/2 5567 [1] 2/3 55th [1] 2/5 56 [3] 6/4 10/7 17/25 6 601 [1] 2/11 6046 [1] 2/15 617-406-6046 [1] 2/15 6216 [1] 2/12 64112 [1] 1/24 65,000 [1] 11/11 6th [3] 50/2 50/8 51/14 7 713-664-4555 [1] 1/14 725 [1] 2/2 7270 [1] 1/21 77098 [1] 1/14 772.467.2337 [1] 2/18 8 8011 [1] 2/6 816-760-2700 [1] 1/25 A abandon [2] 15/15 79/14 abide [1] 13/8 ability [7] 33/3 47/23 47/24 68/4 68/17 68/24 72/24 able [15] 14/4 15/1 19/22 24/14 25/1 25/6 41/24 53/4	58/14 58/22 60/13 64/6 76/2 76/10 78/4 about [73] 6/12 6/16 8/8 18/11 19/4 22/5 22/16 24/25 25/19 26/6 26/20 28/3 28/5 29/8 30/10 32/15 34/17 34/19 34/25 35/13 36/3 37/3 37/18 38/16 38/19 40/15 40/17 41/8 42/9 45/5 45/19 46/1 46/25 48/4 50/10 50/20 51/3 51/6 51/25 52/3 52/19 53/3 53/5 53/20 53/23 54/22 54/22 54/23 56/8 56/9 56/10 56/23 58/14 58/21 58/22 58/23 60/6 60/7 61/3 61/18 61/19 61/21 62/12 66/22 66/24 67/1 67/23 68/13 70/4 70/5 77/10 79/9 80/2 above [1] 82/4 absolutely [2] 77/23 80/15 abundantly [1] 81/6 acceptable [2] 33/9 43/5 accomplished [1] 19/14 accomplishing [1] 16/6 according [1] 72/12 accordingly [1] 40/14 account [1] 46/13 accurate [2] 12/19 74/8 acknowledge [1] 34/7 across [1] 25/3 act [1] 81/3 actively [2] 74/14 79/22 activities [1] 26/17 activity [2] 22/9 27/15 actual [5] 48/14 54/18 66/16 67/4 75/5 actually [11] 4/8 14/5 36/3 40/17 42/18 42/22 45/11 62/12 67/4 75/23 76/23 ADAM [4] 1/12 1/22 9/22 73/22 adapt [1] 14/25 add [5] 8/22 9/18 44/1 57/2 58/3 added [1] 62/12 adding [2] 67/13 67/20 addition [5] 5/6 21/11 34/6 34/11 50/15 additional [1] 54/6 address [14] 9/23 31/1 36/2 36/23 37/3 38/2 40/25 41/5 41/7 44/4 44/6 51/9 54/15 60/13 addressed [1] 40/13 addresses [1] 42/24 addressing [1] 35/22 adhere [1] 80/5 adhered [1] 33/10 adjust [1] 53/22 adjusting [1] 53/15 adjustment [2] 46/14 53/1 admire [1] 81/4 adopt [1] 17/8 adopted [2] 17/2 53/19 advance [11] 54/18 55/3 55/18 61/5 63/1 63/2 63/3 65/24 66/2 67/8 68/16 advantage [1] 30/14
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