

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS**

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| <b>IN RE: PRADAXA (DABIGATRAN</b>    | ) | <b>3:12-md-02385-DRH-SCW</b> |
| <b>ETEXILATE) PRODUCTS LIABILITY</b> | ) |                              |
| <b>LITIGATION</b>                    | ) | <b>MDL No. 2385</b>          |
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| _____                                | ) |                              |

**This Document Relates to:**

**ALL CASES<sup>1</sup>**

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**CASE MANAGEMENT ORDER NO. 25**

**LIFTING RESPONSIVE PLEADING STAY IN ALL CASES AND RESOLVING  
PENDING MATTERS IN CERTAIN CASES THAT WERE SUBJECT TO  
PREVIOUSLY ENTERED RESPONSIVE PLEADING STAY(S)**

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**Herndon, Chief Judge:**

**I. Vacating Responsive Pleading Stay(s)**

On September 12, 2012, the Court issued an order staying all pending motions, including responsive pleading deadlines (12-md-2385 Doc. 25). The Court

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<sup>1</sup> Section I of this Order, Vacating Responsive Pleading Stay(s), is applicable to all cases. Section II of this order is applicable to those cases specifically identified in section II. To ensure there is no confusion regarding the resolution of motions and issues identified in section II, this Order shall be docketed in the Master Case File and additionally in the individual member actions listed in section II.

has also issued responsive pleading stays in individual member actions for motions filed after September 12, 2012 (See 12-cv-60024-DRH-SCW Doc. 24; 12-cv-60091 Doc. 17). The parties have had an opportunity to confer regarding this matter and the Court has determined that the responsive pleading stay is no longer necessary. Accordingly, the Court hereby vacates any and all responsive pleading stays previously issued. All pleadings filed after entry of this order will be subject to the applicable responsive pleading deadlines provided for in the Federal Rules of Civil Procedure, the Local Rules of this Court, and orders entered by the Undersigned Judge.

The Court reminds the parties that that **when deadlines provided by CM/ECF conflict with orders of this Court, the Court ordered deadline will always control.** See United States District Court for the Southern District of Illinois, Electronic Filing Rules, Rule 3 (The “filer is responsible for calculating the response time under the federal and/or local rules. The date generated by CM/ECF is a guideline only, and, if the Court has ordered the response to be filed on a date certain, the Court's order governs the response deadline.”). The deadlines provided by CM/ECF are generated automatically based on the generic responsive pleading times allowed under the rules and do not consider special circumstances (such as court orders specific to a particular case or issue).

## II. CASE SPECIFIC MATTERS

### This Section is Applicable to the Following Member Actions:

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| <b><i>Richard Herbeck and Shirley Herbeck</i></b>  | <b><i>v. Boehringer Ingelheim Pharmaceuticals, Inc., et al.</i></b> | <b>MDL No. 3:12-cv-50004</b> |
| <b><i>Robert Stout</i></b>   | <b><i>v. Boehringer Ingelheim Pharmaceuticals, Inc., et al.</i></b> | <b>MDL No. 3:12-cv-50008</b> |
| <b><i>Mark A. Jackson, on behalf of himself and those similarly situated,</i></b>                      | <b><i>v. Boehringer Ingelheim Pharmaceuticals, Inc., et al.</i></b> | <b>MDL No. 3:12-cv-60004</b> |
| <b><i>Bobby D. Sessoms and Ruby J. Sessoms</i></b>   | <b><i>v. Boehringer Ingelheim Pharmaceuticals, Inc., et al.</i></b> | <b>MDL No. 3:12-cv-60012</b> |
| <b><i>Helen Jean and John Edward Hawkins</i></b>   | <b><i>v. Boehringer Ingelheim Pharmaceuticals, Inc., et al.</i></b> | <b>MDL No. 3:12-cv-60021</b> |
| <b><i>Janet Cornelius, Individually and as the Administratrix of the Estate of Floyd Cornelius</i></b> | <b><i>v. Boehringer Ingelheim Pharmaceuticals, Inc., et al.</i></b> | <b>MDL No. 3:12-cv-60022</b> |
| <b><i>Thelma Hawthorne</i></b>   | <b><i>v. Boehringer Ingelheim Pharmaceuticals, Inc., et al.</i></b> | <b>MDL No. 3:12-cv-60024</b> |
| <b><i>Garland James Lege and Patricia A. Lege</i></b>  | <b><i>v. Boehringer Ingelheim Pharmaceuticals, Inc., et al.</i></b> | <b>MDL No. 3:12-cv-60025</b> |

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| <b><i>Jerald R. Radcliff and<br/>Debbie Radcliff</i></b>   | <b><i>v. Boehringer Ingelheim<br/>Pharmaceuticals, Inc.,<br/>et al.</i></b> | <b>MDL No. 3:12-cv-<br/>60026</b> |
| <b><i>Bertha Bivens, as Next of<br/>Kin Estate of Nancy<br/>Brummett, Deceased</i></b>                               | <b><i>v. Boehringer Ingelheim<br/>Pharmaceuticals, Inc.,<br/>et al.</i></b> | <b>MDL No. 3:12-cv-<br/>60027</b> |
| <b><i>Edward Stair, Jr.</i></b>  | <b><i>v. Boehringer Ingelheim<br/>Pharmaceuticals, Inc.,<br/>et al.</i></b> | <b>MDL No. 3:12-cv-<br/>60028</b> |
| <b><i>Marlene Wright,<br/>Individually and on<br/>Behalf of the Estate of<br/>Gertrude Eubanks,<br/>Deceased</i></b> | <b><i>v. Boehringer Ingelheim<br/>Pharmaceuticals, Inc.,<br/>et al.</i></b> | <b>MDL No. 3:12-cv-<br/>60030</b> |
| <b><i>Vanessa Meuse</i></b>  | <b><i>v. Boehringer Ingelheim<br/>Pharmaceuticals, Inc.,<br/>et al.</i></b> | <b>MDL No. 3:12-cv-<br/>60072</b> |
| <b><i>Robert W Geske, Jr. and<br/>Olvia Geske</i></b>  | <b><i>v. Tedros Kebede, et al.</i></b>                                      | <b>MDL No. 3:12-cv-<br/>60091</b> |

Pending before the Court are various motions filed by Boehringer Ingelheim Pharmaceuticals, Inc. (“BIPI”) and/or Plaintiff(s) that were subject to the Court’s responsive pleading stay(s). Certain motions, identified below, were filed by the parties but not ruled on in the Southern District of Illinois and/or other transferor courts prior to the creation of MDL No. 2385. The Court finds, and the parties

agree, that the following matters be briefed and/or resolved pursuant to the following terms. Accordingly, the Court hereby orders as follows:

| <b>Case Name/<br/>MDL &amp; Transferor Court Docket<br/>#</b>   | <b>ORDER</b>   |
|---|--|
| <i>Richard Herbeck &amp; Shirley Herbeck</i><br><br>MDL No. 3:12-cv-50004<br>ILS/3:12cv613                                | Docket #10 (Motion to Dismiss for Failure to State a Claim, filed 6/5/2012) is withdrawn.  |
| <i>Robert Stout</i><br><br>MDL No. 3:12-cv-50008<br>ILS/3:12cv617   | Docket #11 (Motion to Dismiss for Failure to State a Claim, filed 7/6/2012) is withdrawn.  |
| <i>Mark A. Jackson, on behalf of himself and those similarly situated,</i><br><br>MDL No. 3:12-cv-60004<br>LAE/2:12cv1389 | BIPI may file a Reply in Support of its Motion to Dismiss for Failure to State a Claim and, in the Alternative, Rule 12(f) Motion to Strike within 14 days of the entry of this Order. See S.D. Illinois L.R. 7.1(c), (d). |
| <i>Bobby D. Sessoms &amp; Ruby J. Sessoms</i><br><br>MDL No. 3:12-cv-60012<br>SC/2:12cv01698                              | Docket #6 (Motion to Dismiss for Failure to State a Claim, filed 7/6/2012) is withdrawn.   |

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| <p><i>Helen Jean &amp; John Edward Hawkins</i></p> <p>MDL No. 3:12-cv-60021<br/>KYE/6:12cv45</p>   | <p>Docket #7 (Motion to Dismiss for Failure to State a Claim, filed 4/2/2012) is withdrawn, and the following claims of the Plaintiff are <b>dismissed without prejudice</b>: Manufacturing Defect, Negligence Per Se, Breach of Warranty of “Ordinary Use” and allegations of joint and several liability.</p>  |
| <p><i>Janet Cornelius, Individually and as the Administratrix of the Estate of Floyd Cornelius</i></p> <p>MDL No. 3:12-cv-60022<br/>KYE/6:12cv64</p> | <p>Docket #9 (Motion to Dismiss for Failure to State a Claim, filed 4/24/2012) is withdrawn, and the following claims of the Plaintiff are <b>dismissed without prejudice</b>: Manufacturing Defect, Negligence Per Se, Breach of Warranty of “Ordinary Use” and allegations of joint and several liability.</p>   |
| <p><i>Thelma Hawthorne</i></p> <p>MDL No. 3:12-cv-60024<br/>LAE/2:12cv1203</p>   | <p>Docket # 22 (Motion to Dismiss Filed by Thelma Hawthorne on 12/21/2012). Responsive pleading is due within 14 days of the entry of this Order.</p>  |
| <p><i>Garland James Lege &amp; Patricia A. Lege</i></p> <p>MDL No. 3:12-cv-60025<br/>LAW/6:12cv572</p>   | <p>Docket #4 (Motion to Dismiss for Failure to State a Claim, filed 4/3/2012), is withdrawn, and the following claims of the Plaintiff are <b>dismissed without prejudice</b>: Manufacturing Defect; Negligence; Negligence Per Se; Gross Negligence; Breach of Implied Warranty of Merchantability; Breach of Implied Warranty of Fitness for Particular Purpose; Breach of Implied Warranty of “Ordinary Use;” Misrepresentation, Suppression of Evidence and Fraud (including Negligent Misrepresentation); Redhibition; Deceptive Trade Practices; and request for Punitive Damages.</p> |
| <p><i>Jerald R. Radcliff &amp; Debbie Radcliff</i></p> <p>MDL No. 3:12-cv-60026<br/>OKW/5:12cv266</p>  | <p>Docket #9 (Motion to Dismiss for Failure to State a Claim, filed 4/6/2012) is withdrawn, and the following claims of the Plaintiff are <b>dismissed without prejudice</b>: Manufacturing Defect, Negligence Per Se, Breach of Warranty of “Ordinary Use” and allegations of joint and several liability.</p>  |

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| <p><i>Bertha Bivens, as Next of Kin Estate of Nancy Brummett, Deceased</i></p> <p>MDL No. 3:12-cv-60027<br/>TNE/3:12cv103</p>                        | <p>Docket #8 (Motion to Dismiss for Failure to State a Claim, filed 4/2/2012) is withdrawn, and the following claims of the Plaintiff are <b>dismissed without prejudice</b>: Manufacturing Defect, Negligence Per Se, Breach of Warranty of “Ordinary Use;” Tennessee Consumer Protection Act; claims brought on behalf of Plaintiff on an individual basis; and any request for prejudgment interest.</p>  |
| <p><i>Edward Stair, Jr.</i></p> <p>MDL No. 3:12-cv-60028<br/>TNE/3:12cv116</p>   | <p>Docket #6 (Motion to Dismiss for Failure to State a Claim, filed 4/9/2012) is withdrawn, and the following claims of the Plaintiff are <b>dismissed without prejudice</b>: Manufacturing Defect, Negligence Per Se, Breach of Warranty of “Ordinary Use;” Tennessee Consumer Protection Act; and any request for prejudgment interest.</p>  |
| <p><i>Marlene Wright, Individually and on Behalf of the Estate of Gertrude Eubanks, Deceased</i></p> <p>MDL No. 3:12-cv-60030<br/>TNW/2:12cv2262</p> | <p>Docket #7 (Motion to Dismiss for Failure to State a Claim, filed 5/9/2012) is withdrawn, and the following claims of the Plaintiff are <b>dismissed without prejudice</b>: Manufacturing Defect, Suppression of Evidence and Fraud, claims brought on behalf of Plaintiff on an individual basis, and any request for prejudgment interest.</p> <p>Docket #10 (Plaintiff’s Motion for Leave to File First Amended Complaint, filed 6/6/2012) is granted, subject to dismissal of the claims listed above.</p> |
| <p><i>Vanessa Meuse</i></p> <p>MDL No. 3:12-cv-60072<br/>FLM/ 3:12-cv-968-J-99</p>   | <p>Docket # 8 (Motion to Vacate Order Striking Complaint filed by Vanessa Meuse on 9/24/2012). Responsive pleading is due within 14 days of the entry of this Order.</p>   |
| <p><i>Robert W. Geske, Jr. &amp; Olivia Geske</i></p> <p>MDL No. 3:12-cv-60091<br/>NVD/ 2:12cv1932</p>   | <p>Docket # 16 (Motion to Dismiss filed by Boehringer Ingelheim Corporation on 12/3/2012). Responsive pleading is due within 14 days of the entry of this Order.</p>   |

The Court further orders that BIPI shall have 60 days from the entry of this Order to file an Answer in any of the above-referenced actions in which a responsive pleading is otherwise required.

**IT IS SO ORDERED.**

 Digitally signed by  
David R. Herndon  
Date: 2013.02.22  
09:59:08 -06'00'

**Chief Judge  
United States District Court**

**Date: February 22, 2013**