

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

IN RE: ABILIFY (ARIPIPRAZOLE)
PRODUCTS LIABILITY
LITIGATION

Case No. 3:16-md-2734

Chief Judge M. Casey Rodgers
Magistrate Judge Gary Jones

This Document Relates to All Cases

ORDER

The Court directed the parties to meet and confer by Friday March 2, 2018 regarding (1) the order in which the trial pool cases are to be tried and (2) the anticipated duration of each trial and to submit a joint proposal, preferably, or independent proposals on their respective positions by Monday March 5, 2018.

Plaintiffs' proposal, ECF No. 776, does not identify the order in which the trial pool cases are to be tried but instead, recommends that out of the three cases in the trial pool, the Court determine which case is most representative of the approximately 750 cases in the MDL based on each party's summaries of the underlying facts of each case (to be submitted). Under Defendants' proposal, ECF No. 778, each party would strike one of the three trial pool cases, and the remaining case will be tried first.

At the outset, the Court wishes to remind the parties that the cases in the first trial pool are not intended to serve as a true *bellwether* sample because neither the cases nor their characteristics were analyzed before selection nor was the selection

random. Instead, these cases were chosen for convenience because they were originally filed in the Northern District of Florida and did not require *Lexecon*¹ waivers. Bearing that in mind, the Court has randomly selected the order of the cases²:

<u>Trial #:</u>	<u>Case:</u>
1	<i>Lyons v. Bristol-Myers Squibb Co., et al.</i> , Case No. 3:16-cv-414
2	<i>Viechec v. Bristol-Myers Squibb Co., et al.</i> , Case No. 3:16-cv-291
3	<i>Lilly v. Bristol-Myers Squibb Co., et al.</i> , Case No. 3:17-cv-186

DONE and **ORDERED** on this 13th day of March, 2018.

M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE

¹ *Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998).

² The cases were randomly selected utilizing the “RAND” function in Microsoft Excel to generate random numbers for each case and sorting the numbers from least to greatest, with the lowest number representing the first case to be tried.