

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE: HUMIRA (ADALIMUMAB)  
ANTITRUST LITIGATION

No. 19 CV 1873  
Judge Manish S. Shah

**ORDER CONSOLIDATING CASES AND  
APPOINTING INTERIM CLASS COUNSEL**

Upon review of the submission of the parties, and for good cause shown, the court hereby orders as follows:

*Consolidation and Coordination for Pretrial Purposes*

1. The actions presently before this court\* involve common questions of law and fact under Federal Rule of Civil Procedure 42(a). Each is brought on behalf of a class of end-payers of Humira and alleges that AbbVie and other pharmaceutical companies engaged in anticompetitive conduct centered around AbbVie's actions with its drug Humira and related patents. These cases are hereby consolidated for pretrial purposes.

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\* *UFCW Local 1500 Welfare Fund v. AbbVie Inc., et al.* (No. 1:19-cv-01873); *Fraternal Order of Police, Miami Lodge 20, Insurance Trust Fund v. AbbVie Inc., et al.* (No. 1:19-cv-01933); *Mayor and City Council of Baltimore v. AbbVie Inc., et al.* (No. 1:19-cv-02015); *Pipe Trades Services MN Welfare Fund v. AbbVie Inc., et al.* (No. 1:19-cv-02182); *St. Paul Electrical Workers' Health Plan v. AbbVie Inc., et al.* (No. 1:19-cv-02196); *Welfare Plan of the International Union of Operating Engineers Locals 137, 137A, 137B, 137C, 137R v. AbbVie Inc., et al.* (No. 1:19-cv-02226); *Law Enforcement Health Benefits Inc. v. AbbVie Inc., et al.* (No. 1:19-cv-02415); *Kentucky Laborers District Council Health and Welfare Fund v. AbbVie Inc., et al.* (No. 1:19-cv-02578); *Sheet Metal Workers' Local Union No. 28 Welfare Fund v. AbbVie Inc., et al.* (No. 1:19-cv-02674); *Locals 302 & 612 of the International Union of Operating Engineers-Employers Construction Industry Health and Security Trust Fund v. AbbVie Inc., et al.* (No. 1:19-cv-02799); *Louisiana Health Service & Indemnity Company, D/B/A Blue Cross and Blue Shield of Louisiana, and HMO Louisiana, Inc. v. AbbVie Inc., et al.* (No. 1:19-cv-02904); *Cleveland Bakers and Teamsters Health and Welfare Fund v. AbbVie Inc., et al.* (No. 1:19-cv-03168).

2. All pleadings relating to these consolidated actions shall bear the below caption and be filed in the master docket, No. 19-cv-01873. The Clerk of Court shall revise the caption in Case No. 19-cv-1873 and shall administratively close all related cases.

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3. Any new filings in, or actions transferred to, this court that purport to be brought on behalf of a class of end-payers of Humira shall be deemed consolidated and subject to the terms of this order unless an objection is filed within fourteen days of notice to counsel for the plaintiff(s) in the newly-filed action, and the objection is sustained.

4. Any actions filed on behalf of plaintiffs who are not end-payers, whether class or non-class, shall be coordinated with, but not consolidated with, the end-payer class actions. Any non-class end-payer actions shall be coordinated with, but not consolidated with, the end-payer class actions.

5. The court vacates any order designating cases for participation in the Mandatory Initial Discovery Pilot in the Northern District of Illinois. The Clerk is directed to de-designate all associated cases from inclusion in the MIDP and is directed not to designate any cases consolidated with this case in the future for inclusion in the MIDP.

*Interim Class Counsel*

6. Pursuant to Federal Rule of Civil Procedure 23(g), the court appoints the following as interim co-lead counsel for the proposed end-payer class:

Karin E. Garvey  
LABATON SUCHAROW LLP  
140 Broadway, 34th Floor  
New York, NY 10005  
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kgarvey@labaton.com

Dena C. Sharp  
GIRARD SHARP LLP  
601 California Street, 14th Floor  
San Francisco, CA 94108  
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Lauren G. Barnes  
HAGENS BERMAN SOBOL SHAPIRO LLP  
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7. Interim co-lead counsel shall have authority over the following matters on behalf of plaintiffs and the proposed class: (a) convening meetings of counsel; (b) initiating, responding to, scheduling, briefing, and arguing motions; (c) conducting all discovery proceedings; (d) assigning work to, and drawing upon the experience and resources of, members of the executive committee (identified below) or counsel in any of the end-payer actions as interim co-lead counsel may deem efficient, non-duplicative, and appropriate; (e) retaining experts;

(f) designating which attorneys may appear at hearings and conferences with the court; (g) determining the timing and substance of any settlement negotiations with the defendants (or potential defendants); (h) enforcing compliance with the timekeeping protocol set forth below or such other timekeeping protocol as the court shall approve; (i) approving all financial expenditures advanced in furtherance of the litigation; and (j) overseeing all other matters concerning the prosecution or resolution of these cases. Interim co-lead counsel is charged with ensuring that all work done by or on behalf of end-payers shall be non-duplicative and performed in a reasonably efficient manner.

8. Pursuant to Federal Rule of Civil Procedure 23(g), the court appoints the following as the plaintiffs' executive committee for the proposed end-payer class:

James R. Dugan, II  
THE DUGAN LAW FIRM, LLC  
One Canal Place, Suite 1000  
365 Canal Street  
New Orleans, LA 70130  
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Robert G. Eisler  
GRANT & EISENHOFER P.A.  
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Roberta D. Liebenberg  
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David W. Mitchell (co-chair)  
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Sharon K. Robertson (co-chair)  
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cseeger@seegerweiss.com

9. The plaintiffs' executive committee shall act at the direction and under the supervision of interim co-lead counsel. The executive committee may assist interim co-lead counsel in connection with motion practice, discovery, preparation of expert witness reports and testimony, preparation for and appearances at hearings and settlement negotiations, and such other tasks concerning the prosecution or resolution of their respective cases as directed by co-lead counsel. The co-chairs of the executive committee shall assist interim co-lead counsel by facilitating communications with and delegation of work to the executive committee and making

orders, pleadings, hearing transcripts, and documents served by or upon plaintiffs' counsel available on a site accessible to all plaintiffs' counsel.

10. Only interim co-lead counsel or an executive committee member acting at the direction of interim co-lead counsel may communicate with defense counsel on behalf of end-payer plaintiffs. All such agreements shall be binding on all counsel in the end-payer class actions.

11. All counsel shall promptly register for and participate in the Northern District of Illinois's CM/ECF filing system. That system gives each counsel immediate access to all electronically filed documents and obviates the need to make personal service on the individual parties. Unless otherwise ordered, all documents shall be filed electronically via the court's CM/ECF system and must be filed in accordance with the Northern District of Illinois's Local Rules and Judge Shah's individual procedures. Counsel should familiarize themselves with the Local Rules for the Northern District of Illinois, and Judge Shah's individual procedures. Questions can be directed to the courtroom deputy, via email.

12. The court encourages interim co-lead counsel to provide opportunities for less senior attorneys not named to the leadership committee to participate in arguments before the court and depositions.

*Timekeeping Protocol*

13. All counsel seeking fees and/or expenses related to the prosecution of claims brought on behalf of end-payers must adhere to the standards and procedures contained in this order as implemented by interim-co-lead counsel.

14. Each attorney submitting a monthly time and expense report to interim co-lead counsel pursuant to this Order shall be considered as representing to the court, under oath, that the time and expenses submitted meet the criteria set forth below.

15. The below protocol shall be used by any counsel who intends to seek attorneys' fees and/or expense reimbursement from any settlement or judgment related to the end-payer class actions. Reimbursement for costs and/or fees for counsel performing functions in accordance with this Order will be the subject of a motion under Rule 23(h) and as further determined by the court after due notice to all counsel and after a hearing.

16. Only time and expenses authorized by interim co-lead counsel and incurred on work performed at the direction of interim co-lead counsel will be considered compensable.

17. All time for each firm shall be maintained in tenth-of-an hour increments. Time entries not maintained in tenth-of-an-hour increments may be disallowed.

18. Counsel shall keep contemporaneous records of their time spent in connection with work on this litigation, clearly describing the work performed and stating with specificity the amount of time spent, their position in the firm (Partner or equivalent, Of Counsel, Senior Counsel, Associate, Staff Attorney, Contract Attorney, Law Clerk, or Paralegal), and their hourly rate at the time the work was performed. Hourly rates for particular attorneys may be adjusted at the conclusion

of the matter dependent on, among other things, uniform rates or the relative years of experience to ensure the rate charged reflects the value added. Any such adjustments will be disclosed to the court.

19. Full descriptions of the work performed are required. Time entries that are not sufficiently detailed will not be considered for payment. Descriptions that say “document review” or “legal research” are, for example, not sufficient. “Block billing” is not acceptable. Time entries must state the amount of time spent on each discrete task.

20. The failure to secure the proper authority from interim co-lead counsel to incur common benefit time and expenses, to maintain and timely provide such records, or to provide a sufficient description of the activity will be grounds for denying the recovery of attorneys’ fees or expenses in whole or in part.

21. Only time spent on matters undertaken for the common benefit of the class (or classes) at the direction of interim co-lead counsel will be considered in determining fees.

22. Interim co-lead counsel may cap the hourly rate for time spent reviewing documents. Where appropriate, interim co-lead counsel may allow contract attorneys to perform document review. Counsel employing approved contract attorneys may report the time of those attorneys at their standard firm rates, which should be reasonable market rate and may not exceed \$375 per hour. Firms employing approved contract attorneys shall report time spent on this matter in accordance with this timekeeping protocol, including reporting any adjustments



to hourly rates. Interim co-lead counsel is responsible for ensuring that document review is efficient and non-duplicative.

23. Compensable work performed on behalf of the proposed class may include:

- fact investigation and factual and legal research;
- preparation of research memoranda, pleadings and briefs;
- conducting document discovery (*e.g.*, reviewing, indexing, and coding documents);
- preparation for and attendance at depositions;
- preparation of and responding to written discovery requests;
- preparation for and attendance at hearings;
- attendance at meetings called by interim co-lead counsel;
- work with clients;
- work with expert witnesses;
- settlement and settlement negotiations;
- trial preparation and trial; and
- performance of administrative matters specifically related to tasks assigned by interim co-lead counsel.

24. Compensable work performed on behalf of the proposed class does not include:

- work not authorized by interim co-lead counsel;
- attendance by more than one attorney from one firm on conference calls or at depositions (unless reasonably necessary or appropriate and authorized by interim co-lead counsel);
- excessive time for a particular task;

- work performed by a person more senior than appropriate for the task;
- duplicative time;
- “read and review” time (*e.g.*, recording time for reading every document filed on the court’s docket regardless of whether it related to the individual’s responsibilities) unless related to a task assigned by interim co-lead counsel;
- time for which descriptions are “block-billed,” missing, or incomplete;
- internal firm time for firm management;
- time related to fee issues; and
- time spent preparing or reviewing time and expenses, unless the fee review or time reporting review is being done by assignment or at the direction of interim co-lead counsel.

25. Advanced costs will be deemed as either “Shared” or “Held.”

- Shared Costs are costs that will be paid out of a separate litigation fund account to be established and administered by interim co-lead counsel and to be funded by interim class counsel. Shared costs may include court filing fees, deposition and court reporter fees, costs of document repositories, expert witness and consultant fees, trial preparation fees, and accounting fees.
- Held Costs are those that will be carried by each attorney and reimbursed following a judgment or settlement. Held costs include Lexis/Westlaw research, telephone and postage, travel accommodations, and reasonable meals.

26. Each firm appointed in a role as interim class counsel will contribute to the litigation fund at times and in amounts sufficient to cover the payment of Shared Costs and any other expenses as may be necessary and appropriate. Interim co-lead counsel will determine the timing and amount of each assessment.

27. Interim co-lead counsel will establish a bank account for the collection and deposit of assessments and for the payment of Shared Costs as defined herein,

as well as any other such functions as may be necessary and appropriate. Interim co-lead counsel will make statements for this account available to interim class counsel groups for their review upon their request.

28. To be eligible for reimbursement of expenses, those expenses must meet the requirements of this section. Specifically, expenses must be:

- for the common benefit;
- appropriately authorized by interim co-lead counsel;
- timely submitted;
- reasonable in amount; and
- supported by adequate documentation.

29. Common benefit expenses include:

- assessments paid at the request of interim co-lead counsel;
- costs related to obtaining, reviewing, indexing, and paying for hard-copies of computerized images of documents;
- deposition and court reporter costs;
- costs for the electronic storage, retrieval and searches of ESI;
- court, filing, and service costs;
- group administration matters, such as meetings and conference calls;
- reasonable expenses, including travel, lodging, and meals, incurred in connection with attending depositions, court hearings, meetings, and other common benefit tasks at the direction or authorization of interim co-lead counsel;
- expert witness and consultant fees and expenses approved in advance by interim co-lead counsel;
- investigator fees and expenses approved in advance by interim co-lead counsel;

- printing, copying, coding and scanning;
- data and materials provided by outside third-party vendors, consultants and attorneys approved in advance by interim co-lead counsel;
- witness expenses, including travel;
- translation costs; and
- bank or financial institution charges.

30. Only expenses actually and reasonably incurred will be reimbursed. Interim co-lead counsel will set and enforce standards for incurring and documenting reasonable expenses.

31. Attorneys shall keep receipts for all expenses. Credit card receipts or monthly credit card statements are an appropriate form of verification. Hotel and restaurant costs must be proven by credit card statements, hotel invoice, or restaurant bill. The description of unclaimed expenses on the statement or invoice may be redacted. Receipts need not be submitted on a monthly basis but shall be maintained by the attorneys and shall be available at the request of interim co-lead counsel or the court.

32. Counsel for the proposed end-payer class must submit all time and expense reports to interim co-lead counsel (or a member of the executive committee designated by interim co-lead counsel) in the format supplied by interim co-lead counsel and in accordance with this Order. Absent extraordinary circumstances, counsel may not supplement or correct their monthly report to add any time not timely reported.

33. The first time and expense report must be submitted on or before July 25, 2019, and must include all time and expense entries from the inception of the case through June 30, 2019.

34. Thereafter, counsel shall submit time and expense reports on a monthly basis. Such reports shall be submitted no later than the twenty-fifth day of the month, following the end of the month being reported. For example, September reports are due no later than October 25.

35. Each monthly submission should include a detailed time report with:

- the name and title of each person who performed common benefit work for the litigation during the reporting period;
- an itemization of the number of hours each person worked each day during the reporting period, in tenth-of-an-hour increments, separated by task; and
- a detailed description of the work performed in relation to each task on each day.

36. Each monthly submission should also include a detailed expense report that itemizes each expense incurred on each date, separated by expense category.

37. Time and expense entries that are not sufficiently detailed will not be considered for payment.

38. The court retains jurisdiction to oversee compliance with, and to resolve any disputes related to, the requirements of the Timekeeping Protocol and counsel's time and expense recording practices.

ENTER:

Date: June 4, 2019



Manish S. Shah  
United States District Judge