

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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GARY SELINSKY, *et al.*,  
AND RELATED CASES,

Civil No. 06-873 JMR/FLN

Plaintiffs,

v.

**ORDER REGARDING  
DISCOVERY RELATED TO  
TESTIFYING EXPERTS IN  
THIS MATTER**

BOEHRINGER INGELHEIM  
PHARMACEUTICALS, INC., a Delaware  
corporation, PFIZER INC., a Delaware  
corporation, PHARMACIA  
CORPORATION, a Delaware corporation,  
and PHARMACIA & UPJOHN  
COMPANY LLC,

Defendants.

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Based upon the stipulation entered into by the parties, and upon all of the files, records, and proceedings herein,

IT IS HEREBY ORDERED that:

1. The parties will produce, according to the dates set forth in the applicable Pretrial Schedule, their respective testifying experts' final reports, curricula vitae, engagement arrangements, and billing records. In addition, the parties will either identify by Bates number or, if not previously produced, produce a clean copy of all documents containing data or other information that the testifying expert considered in forming their opinions. Except as provided in paragraph 4 below, no other documents relating to testifying experts' reports will be produced or be subject to subpoena. The parties shall be barred from seeking or obtaining discovery of all testifying experts' notes, drafts of expert reports, or communications with counsel in preparation for deposition or drafting expert reports.

2. Except as stated in paragraph 1 above, nothing in this stipulation bars discovery

of documents that are discoverable from a party or third party outside of testifying expert discovery or alters the applicable rules regarding a party's ability or inability to obtain prior testimony or statements by a testifying expert.

3. Nothing in paragraph 1 shall be construed to prevent substantive deposition questions with respect to alternative theories, methodologies, variables, data or assumptions that the testifying expert may have considered in preparing his or her report.

4. Any party proffering the testimony of an expert witness shall produce a list of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years. To the extent that copies of the testifying expert's trial and deposition testimony and written opinions for each listed case are in the possession of the testifying expert, the parties or their counsel, the parties shall produce those copies unless disclosure would violate a pre-existing confidentiality order or agreement.

BY THE COURT:

Dated: June 19, 2007

s/ Franklin L. Noel  
Franklin L. Noel  
United States Magistrate Judge