

FILED

MAR 07 2019

IN RE ABILIFY

: **JOHN C. PORTO, J.S.C.**
: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION: ATLANTIC COUNTY
: CASE TYPE: MCL NO. 626

: MASTER DOCKET NO. ATL-L-1098-18

: Hon. John C. Porto, J.S.C.

Civil Action

IN RE ABILIFY

fel ~~**PROPOSED**~~ **ORDER REGARDING CASE REVIEW PROCESS**

For good cause shown, including the high number of voluntary dismissals of cases in the discovery and trial pools, and the need for the just, speedy, and inexpensive determination of actions in accordance with the New Jersey Court Rules, the Court hereby Orders the following:

1. Plaintiffs' Counsel's Review of the Cases. This Order applies to any cases that are filed in this MCL by any Plaintiffs who are either ineligible to participate in the Confidential Master Settlement Agreement ("the Agreement") because they filed their Complaint after January 28, 2019, or are eligible to participate in the Agreement but decline to do so. Plaintiffs' counsel in those cases must certify that:

- a. He or she has made a good faith effort to obtain the following records, and has reviewed the records, to the extent available: (1) medical records¹

¹ "Medical records" include but are not limited to: physician records, psychiatrist records, medication management records, therapy records, counseling records, pharmacy records, billing records, insurance records, hospital records, admission records, discharge records, medication lists authored by medical professionals, records from specialists,

documenting Plaintiff's Abilify use; (2) medical, financial,² gambling,³ or other records during the period of Plaintiff's Abilify use documenting an injury (compulsive behavior) alleged to be related to such Abilify use; (3) medical, financial and gambling records before and after Plaintiff's Abilify use, consistent with the time periods imposed by the Plaintiff Fact Sheet, Plaintiff Profile Form and Supplemental Profile Form approved in this litigation, reflecting whether or not Plaintiff had a prior or subsequent compulsive behavior; (4) medical, financial, gambling, or other records sufficient to support Plaintiff's claimed damages; and (5) all available medical records documenting Plaintiff's treatment by each key physician who prescribed Abilify to Plaintiff. A "key" physician is one who started a Plaintiff on Abilify, or who prescribed Abilify when the compulsive behavior(s) that is/are the subject of Plaintiff's lawsuit began;

- b. Plaintiffs' counsel and Plaintiff have discussed the obligations for participation in the litigation, including providing personal medical, psychiatric, and financial records (e.g., bank statements and credit reports); completing a Plaintiff Profile Form and Supplemental Plaintiff

records from primary care physicians, records from treatment facilities, and photographs of prescription bottles showing the patient's name and date of prescription.

² "Financial records" include but are not limited to: bank statements, credit card statements, credit reports, statements of interest-earning accounts, bankruptcy records, loan records, tax returns, worker's compensation and/or unemployment records, records of settlement payment(s) received in connection with any other lawsuit, and any other record held by a financial institution pertaining to Plaintiff's relationship with the financial institution.

³ "Gambling records" include but are not limited to: records from casinos or other facilities that house or accommodate gambling activities, lottery and scratchoff tickets, Form W-2 records, records from online gambling websites or applications, communications between Plaintiff and gambling entities, and gambling receipts.

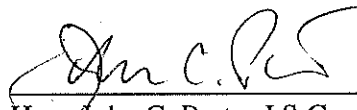
Profile Form and attaching the required documentation; sitting for a deposition; having depositions of Plaintiff's spouse, family members, and treating physicians taken; and potentially appearing at trial and being subject to cross-examination; and

- c. Based on review of the available records and other pertinent evidence, and in consultation with Plaintiff, Plaintiffs' counsel has a good faith and reasonable basis to proceed with the action, and Plaintiff is willing to proceed with the action and to undertake the obligations necessary to do so.

2. Deadline for Certification. The deadline for submitting the certification described above is as follows:

- a. For ineligible cases, within 60 days of this Order or within 21 days of filing a Complaint, whichever is later; and
- b. For eligible cases, within 14 days of notification to Defendants that Plaintiff has rejected participation in the Agreement.

3. Dismissal for Failure to Provide Required Certification. If Plaintiffs' counsel fails to provide the certification required by this Order within the applicable deadlines for a particular Plaintiff then, after a meet and confer, Defendants may seek an order to show cause why such Plaintiff's claims should not be dismissed with prejudice for failure to comply with this Order. Plaintiffs may oppose such a motion on the basis of good cause.

 3/7/19
Hon. John C. Porto, J.S.C.
216057545v1