

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: DIGITEK
PRODUCTS LIABILITY LITIGATION

MDL NO. 2:08-md-1968

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER #85
(*Daubert* / Dispositive Motion Hearing)

In accordance with PTO #70, it is hereby **ORDERED** that a hearing is scheduled for Wednesday, **September 14, 2011, at 9:00 a.m.** in Room 7000, Robert C. Byrd United States Courthouse, 300 Virginia Street East, Charleston, West Virginia. The court will hear oral argument on the pending *Daubert* and dispositive motions.

Defense counsel and plaintiff's counsel in civil actions with pending *Daubert* and dispositive motions are **ORDERED** to appear in person at the hearing. The parties have agreed that plaintiffs' co-lead counsel in MDL 1968 are not required to appear and no witnesses will be called to testify. The schedule proposed by the parties and outlined below is hereby adopted by the court for the hearing:

- Opening statements
- Argument on Motion for Summary Judgment
- Argument on *Daubert* motions to bar general liability witnesses
- Argument on *Kathy McCornack, et al. v. Actavis Totowa, LLC, et al.* civil action 2-09-cv-

00671

- Argument on *Scott Vega v. Actavis Totowa, LLC, et al.* civil action 2-09-cv-00768
- Argument on Unreliable Hearsay
- Closing Argument

The court **DIRECTS** the Clerk to file a copy of this order in 2:08-md-1968 and it shall apply to each member Digitek-related case previously transferred to, removed to, or filed in the is district, which includes counsel in all member cases up to and including civil action number 2:11-cv-00425. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsd.uscourts.gov.

ENTER: September 12, 2011


Joseph R. Goodwin, Chief Judge