

**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-01968

THIS ORDER RELATES TO ALL CASES

**PRETRIAL ORDER #35
(Selection of Group 1 Trial Pool Cases)**

In accordance with procedures outlined in Section VII.(D) of PTO #16, the court selects the following cases to constitute the initial trial pool cases, Group 1:

- Scottie Vega et al., v. Actavis Group hf., et al., 2:09-cv-00768;
- Kathy McCornack, et al., v. Actavis Totowa LLC et al., 2:09-cv-00671;
- Jacquelyn K. Fox et al., v. Actavis Totowa, LLC et al., 2:09-cv-00389;
- David Kelch et al., v. Actavis Totowa, LLC et al., 2:08-cv-01282;
- William J. Young et al., v. Actavis Totowa, LLC et al., 2:09-cv-00498;
- Ortra Wayne Davis v. Actavis Totowa, LLC et al., 2:09-cv-00460;
- Karen Sheahan, et al., v. Actavis Group, et al., 2:08-cv-01051;
- Delphia Davis, et al., v. Actavis Group hf., et al., 2:08-cv-01099;
- Alice Maroon, et al., v. Actavis Totowa, LLC et al., 2:09-cv-00235;
- Christine A. Pane, etc., v. Actavis Totowa, LLC et al., 2:08-cv-01286.

To be clear, the court is selecting the above 10 cases agreed upon by the parties during

the hearing and no others. As stated during the July 22, 2009, hearing, PTO #16 was modified and the remaining twenty (20) cases proposed by the parties not selected as part of Group 1 shall constitute the waiting list for Group 1, and shall have priority for trial selection in Group 2.

Discovery for Group 1 will begin in accordance with the schedule outlined in PTO #16 and any amendments thereto.

The court **DIRECTS** the Clerk to file a copy of this memorandum opinion and order in 2:08-md-1968 which shall apply to each member Digitek-related case previously transferred to, removed to, or filed in this district, which includes counsel in all members cases up to and including civil action number 2-09-cv-890. 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: August 5, 2009


Joseph R. Goodwin, Chief Judge