

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

**IN RE: EpiPen (Epinephrine
Injection, USP) Marketing,
Sales Practices and Antitrust
Litigation**

MDL No: 2785

Case No. 17-md-2785-DDC-TJJ

**(This Document Applies to
Consumer Class Cases)**

ORDER ADOPTING SCHEDULING ORDER NO. 13 (TRIAL ORDER)

This Order adopts Scheduling Order No. 13. On December 16, 2020, the court entered an Order ([Doc. 2251](#)) vacating the trial date and other pretrial deadlines established by the Pretrial Order ([Doc. 2169](#)). Consistent with the court's December 16, 2020 Order, the court held a status conference with the parties on January 27, 2021, to discuss rescheduling the trial date and other pretrial deadlines. After reviewing the parties' submissions ([Doc. 2274](#)) and hearing the parties' additional comments at the status conference, and pending the court's resolution of defendants' pending summary judgment motions, the court reschedules this case for trial beginning on **Tuesday, September 7, 2021, at 9:00 am.**

As the court discussed at the status conference, it will allow plaintiffs one opportunity to file a motion to continue the September 2021 trial setting to another date in early 2022, if plaintiffs would prefer a later trial date to accommodate the schedule of one of its trial attorneys. (The court conferred this opportunity because the early 2022 date was defendants' proposed trial date.) If plaintiffs decide to file such a motion, they must file it no later than **February 10, 2021.**

The court enters the following revised schedule to reset other pretrial deadlines consistent

with the rescheduled trial setting in September 2021. The following deadlines supersede any deadlines previously established by the Pretrial Order ([Doc. 2169](#)).

<u>Event</u>	<u>Deadline</u>
Updated Damages Data	Parties confer within 15 days after the court issues a ruling on defendants' summary judgment motions
Updated Damage Expert Opinion	Updated reports due in half remaining time to trial after data refreshed (which must be completed at least 90 days before trial)
Final Witness Lists	106 days before trial
Final Exhibit Lists	106 days before trial
Exhibits Marked and Exchanged	106 days before trial
Deposition Designations	98 days before trial
Parties Exchange Proposed Juror Questionnaires (if any)	115 days before trial
Meet and Confer on Proposed Jury Questionnaires	110 days before trial
Objections to Final Witness Lists	88 days before trial
Objections to Final Exhibit Lists	88 days before trial
Objections to Deposition Designations	77 days before trial
Deposition Counter-Designations	77 days before trial
Simultaneous Juror Questionnaire Briefs (limited to 10 pages each)	93 days before trial
Simultaneous Juror Questionnaire Response Briefs (limited to 10 pages each)	86 days before trial
Objections to Deposition Counter-Designations	63 days before trial

Juror Questionnaire Hearing (at the court's discretion)	Thursday, June 17, 2021 at 1:30 pm
Offering Party to Provide Court with Each Deposition Transcript at Issue (via Objections)	56 days before trial
Motion in Limine Omnibus Opening Briefs (limited to 30 pages each)	51 days before trial
Motions in Limine Response Briefs ¹ (limited to 30 pages each)	37 days before trial
Plaintiffs Jury Instructions to Defendants	49 days before trial
Defendants Respond to Plaintiffs' Jury Instructions	28 days before trial
Final Pretrial and Limine Conference	Tuesday, August 24, 2021, at 9:00 am
Joint Jury Instructions with Alternative Instructions	5 days before trial
Trial	Tuesday, September 7, 2021, at 9:00 am

Also, the parties have proposed page limits for briefing on the motions in limine and jury questionnaires. [Doc. 2274-1 at 3](#). As noted above, the court limits briefing to the motions in limine as follows: (1) plaintiffs and all defendants are limited to filing one comprehensive motion in limine per side; (2) plaintiffs' and all defendants' Opening Briefs must not exceed 30 pages each, and (3) plaintiffs and all defendants' Responses must not exceed 30 pages each. The court will not allow Replies to motions in limine. The court will hold a limine conference on **August 24, 2021, at 9:00 am.**

¹ The court will not allow any replies to the motions in limine.

The court limits briefing on the jury questionnaires as follows: (1) plaintiffs and all defendants' Opening Briefs must not exceed 10 pages per side, and (2) plaintiffs and all defendants' Response Briefs must not exceed 10 pages per side.

IT IS SO ORDERED.

Dated this 28th day of January, 2021, at Kansas City, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge