



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
MARY K. JONES, et al.,

Plaintiff,

-against-

PFIZER, INC. et al.,

Defendants.
----- X

**ORDER CONCERNING
MOTIONS IN LIMINE**

10 Civ. 3864 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

At the January 6, 2015, pretrial conference, the Court ruled on certain pending motions:

1. The Court will seat eight jurors. 1/6/2015 Tr. at 6-7.
2. Defendants' Motion to Exclude Plaintiffs' Expert Steven Feinstein (Dkt. 249) is DENIED without prejudice. 1/6/2015 Tr. 30-32.
3. Defendants' Motion *in Limine* No. 1 to Exclude Plaintiffs' Designated Expert Jerome Avorn (Dkt. 341) is GRANTED in part and DENIED in part. Dr. Avorn may not testify as to someone else's intent. 1/6/2015 Tr. 39.
4. Defendants' Motion *in Limine* No. 5 to Exclude Evidence Related to Marketing and Alleged Off-Label Promotion of Pfizer Products (Dkt. 354) is GRANTED in part. Plaintiffs may not have a witness testify as to what the witness did or sold that plaintiffs suggest was illegal. If defendants dispute that they engaged in off-label promotion and the extent of the off-label promotion, then plaintiffs may be permitted to present evidence of off-label promotion. 1/6/2015 Tr. 46-47.
5. Plaintiffs' Motion in Limine To Exclude Reliance Evidence And Argument (Dkt. 343) is DENIED. Defendants shall be permitted to introduce evidence and argument that they relied on securities disclosure advice from Dennis Block and Larry Fox to the

extent that Defendants allowed Plaintiffs to inquire, both of Messrs. Block and Fox as to the information upon which they relied, and as to the individuals and information each relied on. 1/6/2015 Tr. 35, 51-54.

6. Plaintiffs' objection to defendants' witnesses Ethan Posner, Gary Giampetruzzi and Carl Wessel is SUSTAINED. 1/6/2015 Tr. 40.
7. All other motions *in limine*, to the extent not addressed by the Court's rulings, are deferred to the trial.
8. Rulings on motions *in limine* are subject to review in the context of the trial.

The Clerk shall mark the motions (Dkt. Nos. 249, 341, 354, 343) terminated.

SO ORDERED.

Dated: New York, New York
January 12, 2015



ALVIN K. HELLERSTEIN
United States District Judge

Regan Karstrand

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U.S. District Court

Southern District of New York

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Case Name: Jones et al v. Pfizer, Inc. et al

Case Number: [1:10-cv-03864-AKH](#)

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Document Number: [447](#)

Docket Text:

ORDER CONCERNING MOTIONS IN LIMINE deferring ruling on [337] Motion in Limine; deferring ruling on [339] Motion in Limine; granting in part and denying in part [341] Motion in Limine; denying [343] Motion in Limine; deferring ruling on [344] Motion in Limine; deferring ruling on [347] Motion in Limine; deferring ruling on [350] Motion in Limine; deferring ruling on [351] Motion in Limine; granting in part [354] Motion in Limine; deferring ruling on [356] Motion in Limine; deferring ruling on [358] Motion in Limine; deferring ruling on [360] Motion in Limine; deferring ruling on [363] Motion in Limine; deferring ruling on [365] Motion in Limine; deferring ruling on [367] Motion in Limine; deferring ruling on [370] Motion in Limine; deferring ruling on [372] Motion in Limine; deferring ruling on [373] Motion in Limine; deferring ruling on [376] Motion in Limine; deferring ruling on [379] Motion in Limine; deferring ruling on [381] Motion in Limine; deferring ruling on [385] Motion in Limine; denying [249] Motion in Limine. At the January 6, 2015, pretrial conference, the Court ruled on certain pending motions: 1. The Court will seat eight jurors. 1/6/2015 Tr. at 6-7. 2. Defendants' Motion to Exclude Plaintiffs' Expert Steven Feinstein (Dkt. 249) is DENIED without prejudice. 1/6/2015 Tr. 30-32. 3. Defendants' Motion in Limine No. 1 to Exclude Plaintiffs' Designated Expert Jerome Avorn (Dkt. 341) is GRANTED in part and DENIED in part. Dr. Avorn may not testify as to someone else's intent. 1/6/2015 Tr. 39. 4. Defendants' Motion in Limine No. 5 to Exclude Evidence Related to Marketing and Alleged Off-Label Promotion of Pfizer Products (Dkt. 354) is

GRANTED in part. Plaintiffs may not have a witness testify as to what the witness did or sold that plaintiffs suggest was illegal. If defendants dispute that they engaged in off-label promotion and the extent of the off-label promotion, then plaintiffs may be permitted to present evidence of off-label promotion. 11612015 Tr. 46-47. 5. Plaintiffs' Motion in Limine To Exclude Reliance Evidence And Argument (Dkt. 343) is DENIED. Defendants shall be permitted to introduce evidence and argument that they relied on securities disclosure advice from Dennis Block and Larry Fox to the extent that Defendants allowed Plaintiffs to inquire, both of Messrs. Block and Fox as to the information upon which they relied, and as to the individuals and information each relied on. 1/6/2015 Tr. 35, 51-54. 6. Plaintiffs' objection to defendants' witnesses Ethan Posner, Gary Giampetruzzi and Carl Wessel is SUSTAINED. 1/6/2015 Tr. 40. 7. All other motions in limine, to the extent not addressed by the Court's rulings, are deferred to the trial. 8. Rulings on motions in limine are subject to review in the context of the trial. The Clerk shall mark the motions (Dkt. Nos. 249, 341, 354, 343) terminated. (Signed by Judge Alvin K. Hellerstein on 1/12/2015) (kko)

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