

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION**

**IN RE: SKECHERS TONING SHOE  
PRODUCTS LIABILITY LITIGATION**

**Master File No. 3:11-MD-2308-TBR  
MDL No. 2308**

**THIS DOCUMENT RELATES TO ALL  
CASES**

**THOMAS B. RUSSELL  
U.S. DISTRICT JUDGE**

**SCHEDULING ORDER NO. 4**

**I. SCOPE OF ORDER**

This Scheduling Order amends this Court’s prior Scheduling Order (Docket #1203) and applies to all personal injury actions transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to its order of December 19, 2011, and all related personal injury actions originally filed in this Court or transferred or removed to this Court, as well as any tag-along personal injury actions transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to Rule 7.1 of the Rules of Procedure of that Panel subsequent to the filing of the final transfer order by the Clerk of this Court, and any related personal actions subsequently filed in this Court or otherwise transferred or removed to this Court, against Skechers, USA, Inc. (“Skechers”), Skechers, USA, Inc. II (“Skechers II”), and any other defendants (collectively, “Other Defendants”) in this action. In addition, there is an Order being entered concurrently with this Order that will apply to accelerated case groups.

**II. PRETRIAL SCHEDULE**

**A. Applicability**

Except where expressly stated otherwise in this Order, in subsequent Orders of this Court or by express written stipulation by Lead Counsel for the parties or their designees, the Federal

Rules of Civil Procedure shall control the obligations, limits, sequence, and timing of discovery in these cases.

**B. Stay Lifted**

The stay ordered by this Court on March 6, 2014 is hereby lifted as of the date of entry of this Order.

**C. Case Groups**

For the purposes of pretrial proceedings the following case groups are hereby established:

**1. Case Group 2:** Any personal injury action that was pending in MDL 2308 on or before June 6, 2012, shall be part of the group designated as Case Group 2 (unless placed in an Accelerated Case Group).

**2. Case Group 3:** Any personal injury action which is filed directly in this Court, for which a Conditional Transfer Order is filed with the Clerk of this Court, or which is transferred from within this District to the MDL after June 6, 2012 and on or before September 4, 2012, shall be part of the group designated as Case Group 3 (unless placed in an Accelerated Case Group).

**3. Case Group 4:** Any personal injury action which is filed directly in this Court, for which a Conditional Transfer Order is filed with the Clerk of this Court, or which is transferred from within this District to the MDL after September 4, 2012 and on or before December 3, 2012, shall be part of the group designated as Case Group 4 (unless placed in an Accelerated Case Group).

**4. Additional Case Groups:** Additional personal injury actions which are filed directly in this Court, for which a Conditional Transfer Order is filed with the Clerk of this Court, or which are transferred from within this District to the MDL after December 3, 2012,

shall be designated by sequential number for each 90-day period thereafter, and all deadlines listed below shall likewise be extended for 90 days from the deadline for the immediately preceding Case Group (unless placed in an Accelerated Case Group).

**5. Effectiveness of Case Group Modifications by Agreement of the**

**Parties:** Any case not in the Accelerated Case Groups can be moved from any one Case Group to any other case group by agreement of the parties in the form of an agreed order filed with the Court. Any case that was moved from one Case Group to another Case Group by agreement of the parties prior to this Order shall remain in the Case Group stated in the agreed order submitted by the parties.

**D. Deadlines for Filing Amended or Consolidated Pleadings**

**1. Case Groups 2, 3 and 4:** The deadline for submitting amended or consolidated pleadings for Case Groups 2, 3 and 4 has expired.

**2. Case Groups 5, 7 and 8:** Amended or consolidated pleadings shall be filed in Case Groups 5, 7 and 8 on or before January 18, 2015.

**3. Case Group 6:** Amended or consolidated pleadings shall be filed in Case Group 6 on or before April 18, 2015.

**E. Deadlines for Motions to Dismiss**

At any time after a complaint has been filed and answered, a party may file a motion to dismiss that complaint, which must be based on a good faith belief as to the merits of the motion to dismiss.

**F. Deadlines for Non-Expert Discovery**

**1. Case Group 2:** All non-expert fact discovery for Case Group 2 shall be completed on or before August 18, 2015.

2. **Case Group 3:** All non-expert fact discovery for Case Group 3 shall be completed on or before December 18, 2015.

3. **Case Group 4:** All non-expert fact discovery for Case Group 4 shall be completed on or before April 18, 2016.

**G. Deadlines for Dispositive Motions**

1. **Case Group 2:** The deadline for filing dispositive motions in Case Group 2 shall be July 2, 2016. Response briefs shall be filed by September 8, 2016, and reply briefs shall be filed by October 12, 2016.

2. **Case Group 3:** The deadline for filing dispositive motions in Case Group 3 shall be November 4, 2016. Response briefs shall be filed by January 7, 2017, and reply briefs shall be filed by February 11, 2017.

3. **Case Group 4:** The deadline for filing dispositive motions in Case Group 4 shall be March 29, 2016. Response briefs shall be filed by May 6, 2017, and reply briefs shall be filed by June 8, 2017.

**H. Deadlines for Expert Discovery and *Daubert* Motions**

1. **Case Group 2:** The Plaintiffs shall identify and disclose any expert witnesses on or before October 14, 2015. The Defendants shall identify and disclose any expert witnesses on or before November 9, 2015. The Plaintiffs and Defendants shall identify and disclose any rebuttal expert witnesses on or before December 14, 2015. Expert witness discovery shall be completed on or before April 4, 2016. The deadline for filing *Daubert* motions shall be June 1, 2016. Response briefs shall be filed by August 8, 2016, and reply briefs shall be filed by September 13, 2016.

**2. Case Group 3:** The Plaintiffs shall identify and disclose any expert witnesses on or before February 12, 2016. The Defendants shall identify and disclose any expert witnesses on or before March 8, 2016. The Plaintiffs and Defendants shall identify and disclose any rebuttal expert witnesses on or before April 12, 2016. Expert witness discovery shall be completed on or before August 4, 2016. The deadline for filing *Daubert* motions shall be October 5, 2016. Response briefs shall be filed by December 8, 2016, and reply briefs shall be filed by January 12, 2017. Except for good cause shown by motion to the Court, the parties may not re-depose any expert previously deposed during expert discovery in Case Group 2.

**3. Case Group 4:** The Plaintiffs shall identify and disclose any expert witnesses on or before June 11, 2016. The Defendants shall identify and disclose any expert witnesses on or before July 8, 2016. The Plaintiffs and Defendants shall identify and disclose any rebuttal expert witnesses on or before September 10, 2016. Expert witness discovery shall be completed on or before January 2, 2017. The deadline for filing *Daubert* motions shall be February 28, 2017. Response briefs shall be filed by May 6, 2017, and reply briefs shall be filed by June 10, 2017. Except for good cause shown by motion to the Court, the parties may not re-depose any expert previously deposed during expert discovery in Case Group 2 or Case Group 3.

**I. Telephonic Status Conferences**

**1. Case Group 2:** A telephonic conference for Case Group 2 is scheduled for December 3, 2016, at 9:30 a.m. EST. Counsel shall join the teleconference by dialing 1-877-336-1831 then give the Access Code 6879517 and #, then when prompted press # again to join the call.

**2. Case Group 3:** A telephonic conference for Case Group 3 is scheduled for March 30, 2017, at 9:30 a.m. EST. Counsel shall join the teleconference by dialing 1-877-336-

1831 then give the Access Code 6879517 and #, then when prompted press # again to join the call.

**3. Case Group 4:** A telephonic conference for Case Group 4 is scheduled for July 29, 2017, at 9:30 a.m. EST. Counsel shall join the teleconference by dialing 1-877-336-1831 then give the Access Code 6879517 and #, then when prompted press # again to join the call.

**IT IS SO ORDERED.**