

[Digitek Federal Court MDL Judge Sets Joint Hearing To Address Scientific And Technical Issues For October 2010](#)

Judge Goodwin Will Be Joined By State Court Judges Overseeing Digitek Consolidations In New Jersey, Pennsylvania, Texas, And West Virginia At This *Daubert* Hearing

(Posted by Tom Lamb at www.DrugInjuryWatch.com on December 18, 2009; see <http://bit.ly/4YIViH>)

On December 18, 2009 Joseph F. Goodwin, Chief Judge for the United States District Court, Southern District of West Virginia, issued [Pretrial Order #48](#) for *In Re Digitek® Product Liability Litigation MDL No. 1968*, entitled "Joint Hearing to Address Challenges to Scientific and Technical Evidence".

Therein, Judge Goodwin set for hearing on October 13-14, 2010 the disposition of all issues related to *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). Essentially, this *Daubert* opinion sets forth the federal court standard for the admissibility of expert witness testimony at trial.

Further, Judge Goodwin announced that the so-called *Daubert* hearing in October 2010 will include the four state court judges who are overseeing the Digitek case consolidations that have been established in New Jersey, Pennsylvania, Texas, And West Virginia.

From [Pretrial Order #48](#):

In the spirit of cooperation and collegiality evident since the inception of this MDL, several distinguished state judicial officers presiding over certain consolidated *Digitek* actions have graciously agreed to conduct, with the undersigned, a joint hearing to address the scientific and technical issues presented in this litigation for resolution pursuant to *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and its federal and state progeny. Those issues are best addressed through coordinated proceedings, albeit with each presiding judicial officer giving separate and individualized attention, and disposition, to the evidence and arguments as they relate to his or her assigned consolidated civil actions.

The Honorable Sandra Mazer Moss of Pennsylvania, the Honorable Brian R. Martinotti of New Jersey, the Honorable Alan D. Moats of West Virginia and the Honorable Buddie J. Hahn of Texas will sit jointly with the undersigned and hear evidence on these issues....

A bit earlier, on November 20, 2009, Judge Goodwin entered [Pretrial Order #47](#) by which it is was ordered that the following five Digitek federal court cases have been selected for trial:

- *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;
- *Jacquelyn K. Fox et al., v. Actavis Totowa, LLC et al.*, 2:09-cv-00389;
- *Karen Sheahan, et al., v. Actavis Group, et al.*, 2:08-cv-01051;
- *Scottie Vega et al., v. Actavis Group hf., et al.*, 2:09-cv-00768.

Interestingly, no starting dates for these first five Digitek MDL trials were included in [Pretrial Order #47](#). It appears, however, that the earliest trial date for the first federal court Digitek case would be some time in early 2011.

As you may recall, [in late April 2008 the FDA announced that Digitek \(digoxin tablets\) was the subject of a nationwide Class I recall](#) because of the possibility that some tablets were manufactured such that they contain twice the approved level of active ingredient.

We will continue to monitor the federal court Digitek MDL as well as the Digitek state court consolidations in New Jersey, Pennsylvania, Texas, and West Virginia.

Attorney [Tom Lamb](#) represents people in personal injury and wrongful death cases involving unsafe prescription drugs or medication errors. The above article was posted originally on his blog, **Drug Injury Watch** – with live links and readers' Comments.
<http://www.DrugInjuryWatch.com>