

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

IN RE: TASIGNA (NILETINIB)
PRODUCTS LIABILITY LITIGATION

Case No. 6:21-md-3006-RBD-DAB
(MDL No. 3006)

This document relates to all actions.

ORDER

Before the Court is Plaintiffs' appeal ([Doc. 317](#)) of U.S. Magistrate Judge David A. Baker's discovery order ([Doc. 314](#)) concerning case-specific discovery in the Middle District of Florida member cases.

The instant dispute arose when the parties disagreed over the scope of electronically stored information ("ESI") to be produced; one of several disagreements concerned Plaintiffs' social media. (Docs. 306, 307.) Defendant wanted Plaintiffs to use the "Download Your Information" tool and then produce everything pulled or manually review to produce responsive items; Plaintiffs complained that producing everything would be irrelevant and manual review was unduly burdensome, so they wanted to use search terms. (Docs. 306, 307.) Among other rulings, Judge Baker concluded that search terms would not sufficiently capture responsive items, so he ordered Plaintiffs to produce their social media ESI in full (subject to agreed timeframes). ([Doc. 314.](#)) Plaintiffs now appeal the portion of Judge Baker's order solely pertaining to the social media

ruling, arguing that it will result in the production of vast swaths of irrelevant data. ([Doc. 317.](#)) Defendant opposes and urges the Court to affirm Judge Baker's order. ([Doc. 320.](#)) The matter is ripe.

A party may object to a magistrate judge's order on a non-dispositive matter, and the district judge must modify any part of the order that is "clearly erroneous or . . . contrary to law." [Fed. R. Civ. P. 72\(a\)](#). "[A]n order is contrary to law when it fails to apply or misapplies relevant statutes, case law or rules of procedure." *Tolz v. Geico Gen. Ins. Co.*, No. 08-80663, [2010 WL 384745](#), at *2 (S.D. Fla. Jan. 27, 2010).

Here, the Court agrees with Judge Baker that search terms will not sufficiently capture responsive documents, but it also agrees with Plaintiffs that turning over the full social media history without a relevance review is overbroad. *See Martin v. Halifax Healthcare Sys., Inc.*, No. 6:12-cv-1268, [2013 WL 12153535](#), at *2 (M.D. Fla. Dec. 31, 2013) (Baker, M.J.) ("[T]he Federal Rules do not grant a requesting party a generalized right to rummage at will through information that the responding party has limited from public view Otherwise, the Defendant would be allowed to engage in the proverbial fishing expedition, in the hope that there might be something of relevance in Plaintiff's [social media] accounts." (cleaned up)); *Doe v. Rollins Coll.*, No. 6:18-cv-1069, [2019 WL 11703980](#), at *7 (M.D. Fla. Feb. 27, 2019) (Spaulding, M.J.) ("Defendant [has not] explained how a broad

all-encompassing sweep of Plaintiff's social media is proportional to the needs of the case."). The only¹ reasonable solution is for Plaintiffs to conduct a manual review for relevance; the time limitations will alleviate any undue burden while ensuring that relevant items are produced. *See* Fed. R. Civ. P. 26(b)(1).

So it is ordered as follows: Plaintiffs shall download all of their social media information without resort to search terms. Plaintiffs shall manually review the download for any items relevant to the claims and responsive to the requests. Plaintiffs shall then provide Defendant with the relevant responsive documents along with an explanation of the review method. Plaintiffs shall retain all information downloaded to facilitate further review and intervention by the Court if necessary.

Accordingly, it is **ORDERED AND ADJUDGED** that Plaintiffs' appeal (Doc. 317) is **GRANTED IN PART** and Judge Baker's order (Doc. 314) is **OVERTURNED IN PART** as set forth above.

DONE AND ORDERED in Chambers in Orlando, Florida, on November 30, 2023.

¹ Of course, the parties may agree to search terms to obviate the need for manual review to determine relevance. But in the absence of such agreement, manual review is the only solution.



A handwritten signature in blue ink, appearing to read "Roy B. Dalton, Jr.", written over a horizontal black line.

ROY B. DALTON, JR.
United States District Judge
