

started in the Madison County cases and there are some motions pending in those cases as well.

(3) Counsel indicated that they have reached an agreement as to the proper defendant and that they will include a proposal in Pre-Trial Order No 7 stating that all complaints filed in this court will be amended to include that party as the proper party defendant, and stating that the amendment will relate back to the time of filing the complaint or December 31, 2007, whichever is later, because the defendant was created on December 31, 2007.

(4) Counsel represented that they held a meet and confer in accordance with the Court's order of February 12, 2010, and that the parties reached certain agreements. Defendants have agreed to remove from the privilege log 56 documents and to produce those documents by April 16, 2010. Defendants have agreed to remove redactions from 67 documents and to produce those documents by April 16, 2010. Defense counsel represented that they have withdrawn 35 documents on the privilege log as unresponsive. There are slightly more than 800 documents remaining within the privilege log motion. The Court set April 27, 2010 as the tentative deadline for preparing those remaining documents for in camera review by the Magistrate Judge, pending the Court's verification of the Magistrate Judge's schedule.

(5) The parties noted that on March 4, 2010, the Kentucky League of Cities Workers Compensation Trust filed a motion to intervene (Docket No. 1099) in the case involving plaintiffs Robert Dixon and Anetha Dixon, which had been filed initially in the Eastern District of Kentucky, No. 7:10-CV-0001. The Court indicated that it will ask counsel for the individual plaintiffs to respond to the motion.

(6) (a) Document production. The parties discussed various items set forth in a letter that precipitated the parties' most recent meet and confer. The parties reported that they had resolved several issues. Some remaining disputes involve litigation hold information involved with other Levaquin litigation, documents identified by Dr. Khan during his deposition, and documents that Johnson & Johnson's trial counsel had in certain patent litigation. Defense counsel argued that it was not reasonable or productive to require the defendant to go to counsel in unrelated litigations to try to find documents that defense counsel believes it already has and has already produced. The Court directed plaintiffs' counsel to bring a motion relative to the matters discussed, listing the cases that plaintiffs contend are relevant for further discovery. The Court requested that the parties get the matter before the Court in writing as quickly as possible.

Defense counsel indicated that they are reviewing for redaction removal approximately 45,000 to 50,000 documents containing financial information, and that they will produce those documents as quickly as they can. Defense counsel indicated that it would take at least one month to complete the review. The Court directed that counsel complete the review as quickly as possible, but recognized that it was difficult to set a deadline. Defense counsel indicated that the documents of sixteen sales representatives have been produced, and that they will produce documents from certain other sales representatives.

Plaintiffs' counsel indicated that the parties disputed whether defendants should be required to generate a list of documents they have reviewed but not produced. The Court directed plaintiffs' counsel to review the relevant transcript regarding the nature of the list defendants would be able to produce and, if counsel wishes, counsel may make a motion for the Court to consider.

(b) Third-Party Subpoenas. Plaintiffs' counsel stated that the Aventis documents are subject to a motion to compel in New Jersey and are still being compiled. Plaintiffs' counsel stated that it has three relatively new subpoenas that have been served on Excerpta Medica, CommonHealth, and DesignWrite in the federal MDL and simultaneously in the New Jersey state court litigation. DesignWrite has 50 boxes of materials and is beginning its review and privilege review. Plaintiffs' counsel indicated that First Data has given them some difficulty, and a motion to compel may be necessary. First Data is insisting that the motion to compel be filed in California, where First Data is located.

(c) Experts. Counsel stated that rebuttal expert reports have been generated and exchanged, and warnings experts for plaintiffs have been produced. Defense counsel will provide warnings experts at the end of April. The parties are in the process of scheduling follow-up depositions for all experts.

(d) Case specific discovery. Plaintiffs have produced case-specific reports and await the defense case-specific reports at the end of April. Plaintiffs' counsel clarified that when plaintiffs provided case specific fact witnesses they did not list defense witnesses whom they had deposed for the liability case. Plaintiffs' counsel

did not list such witnesses because they did not think it was necessary to do so. Plaintiffs' counsel indicated that there were some difficulties serving Dr. Butner, who has moved to a new clinic. Defense counsel objects to the follow-up deposition of Dr. Butner and indicated that they would file a motion later that day. Plaintiffs' counsel stated that they will file a response by April 9, 2010. The Court stated that it will review the motion and response when they come in to determine whether a hearing is necessary.

Defense counsel stated that they had received the list of fact witnesses for the bellwether cases and advised the Court that they had not yet decided how many witnesses they will need to depose, but that they will be asking for deposition dates.

The Court tentatively scheduled the next status conference for Monday, May 3, 2010, at 1:30 pm.

APPEARANCES:

Plaintiff: Ronald Goldser, Lewis Saul, Kevin Fitzgerald, Yvonne Flaherty, Robert Binstock, Kaia Johnson
Defendant: John Dames, William Robinson, Jr. Tracy Van Steenburgh, John O'Shaughnessey

s/Holly A. McLelland
Calendar Clerk