

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

STATUS CONFERENCE

In Re: Levaquin Products Liability	)	COURT MINUTES
Litigation,	)	BEFORE: John R. Tunheim
	)	U.S. District Judge
)	
Plaintiff,)	
	)	Case No: 08-1943 JRT
v.	)	Date: July 13, 2011
	)	Deputy: Holly McLelland
	)	Court Reporter: Kristine Mousseau
	)	Time Commenced: 3:10 p.m.
	)	Time Concluded: 3:40 p.m.
Defendant.	)	Time in Court: 30 Minutes
)	

Hearing on: **Status Conference**

1. Number of case pending and anticipated in the MDL and state courts

In total, over 3000 cases.

2. Federal/State Coordination

The New Jersey trial is still scheduled to start on August 29, 2011 jury and opening statements are anticipated to last through September or October. No other court with a case pending. Two plaintiffs in the New Jersey trial with different prescription dates and symptoms, one involves steroids and the other not. Many of the counsel from the MDL are involved on the plaintiff's side, but not on defense side.

3. Third Bellwether Trial date – November 7, 2011/Phase 2 Discovery/Remand

Must pick bellwether trials and deal with 1404 motions. Some discovery has occurred on the Minnesota resident/filed cases. There are twenty Phase 3 Minnesota filed/resident cases. Counsel only have fact sheets on those cases. Plaintiffs want to include those in the next bellwether group – each side pick 5 for further discovery and then pick the next 3-5 that will be tried. Defendants want to pick from the Phase 1 and 2 cases, not add more from Phase 3 and stick with November trial date.

Defendants want to reconsider any consolidation, arguing the cases are too fact specific. Plaintiffs want consolidation to get through the volume of cases and start to move away from the concept of bellwether. The Court believes it is still in the bellwether phase. The Court is inclined to keep November date, with a focus on the 5 cases in Phase 1 and 2, the court will hear arguments at the next status conference if the plaintiffs are similar enough to be efficiently consolidated and the choice of plaintiff.

Of the change of venue cases, 3 are partly prepared: Grinner, Parr, Schaffer. There are 10 other cases in Phase 2 that are non- Minnesota resident but Minnesota filed. The Court previously indicated 8 cases for discovery. Plaintiffs expressed

some concerns about discovery for these cases for the purpose of determining the convenience of the witnesses in terms of time and resources. Plaintiffs wants limited discovery for 1404 purposes. The parties will confer.

4. Motion for Reconsideration: Orders re Waymack/Blume Testimony

Defendants will send a letter regarding reconsideration of the Waymack and Blume Daubert orders in light of the recent Supreme Court decision in *PLIVA*.

Next status conference: August 10, 2011 at 11AM.

APPEARANCES:

Plaintiff: Ronald Goldser

Defendant: Tracy Van Steenburgh, Jim Irwin, Bill Essig

On phone: Lewis Saul, Kevin Fitzgerald, John Dames, Eric Terry, Elliot Olson, Douglas Whipple

s/Holly A. McLelland

Calendar Clerk