

**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: April 4, 2012
	)	Deputy: Holly McLelland
,	)	Court Reporter: Kristine Mousseau
	)	Time Commenced: 4:20 p.m.
Defendant.	)	Time Concluded: 4:50 p.m.
	)	Time in Court: 40 Minutes

Hearing on: **Status Conference**

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

Defendants state that there are 1,774 cases in the MDL. New Jersey has 1919 cases pending. Seven cases have been filed in other state courts.

Up to fifty federal cases remain unfiled, but the effect of the statute of limitations on these cases is unknown. No additional state cases are expected to be filed.

2. Federal/State Coordination

The next status conference in New Jersey is scheduled for late April, but no future trial dates have been set.

Two cases in St. Clair County, Illinois have been consolidated and trial is scheduled for September 10, 2012.

3. Settlement

A settlement conference was held on April 4, 2012 before Magistrate Judge Boylan. No settlement was reached, but the parties will meet with Judge Boylan again tomorrow.

4. Remand

a. Amended Pretrial Order 3

Plaintiffs have submitted a proposed amended Pretrial Order Number 3. The Court directed that any objections to that proposed order be made by April 23.

b. Discovery to be Completed in MDL

Plaintiffs have identified additional people who they would like depose before a remand order issues. The Court directed Plaintiffs to turn over a list of potential deponents to Defendants.

c. 1404 Motions

Pending cases:

- 344 cases were transferred to this Court for the purposes of discovery and would be eligible for remand
- 38 cases were filed by Minnesota residents in this Court and would not be eligible for remand
- 1372 cases were filed in Minnesota but the plaintiff resides elsewhere; these cases would be eligible for transfer under § 1404.

d. Court of Appeals decision in *Schedin*

The Court indicated that, if other aspects of the case were ready for remand, it would not wait until the Eighth Circuit ruled on the appeal of the *Schedin* case before issuing a remand order. Because a ruling by the Eighth Circuit may be delayed, it would be inconsistent with this Court's MDL responsibilities to wait for a decision in that case.

e. Other Issues

The parties noted that they continue to meet and confer on other issues related to remand.

5. Schedin Rule 60 motion

Defendants filed a Rule 60(b) motion and supporting memorandum in March. Plaintiffs' response is due April 23.

6. Straka New Trial Motion

Plaintiffs have filed their motion and supporting memorandum. Defendants' response is due soon. A hearing on this motion is expected in late May.

7. Future Trial

As ordered in Pre-Trial Order Number 12 (Docket No. 4092), the parties are conferring to select additional bellwether trial cases. The list has not yet been submitted by the parties.

The Court has set aside three weeks for another bellwether trial, beginning October 22, 2012.

Next Status Conference: May 15, 2012 at 9:00 AM.

APPEARANCES:

Plaintiff: Ronald Goldser, Lewis Saul, Charles Zimmerman, Kevin Fitzgerald, Corey Sullivan
Defendant: Tracy Van Steenburgh, John Winter
On phone: Bill Essig, Jim Irwin, Joseph Soffey

s/Holly A. McLelland
Calendar Clerk