

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

STATUS CONFERENCE

In Re: Levaquin Products Liability)		
Litigation,)		
)		
Plaintiff,)		
	)	Case No:	08-1943 JRT
v.	)	Date:	October 1, 2012
	)	Deputy:	Holly McLelland
	)	Court Reporter:	Kristine Mousseau
	)	Time Commenced:	2:20 p.m.
Defendant.	)	Time Concluded:	2:55 p.m.
	)	Time in Court:	35 minutes

COURT MINUTES
BEFORE: John R. Tunheim
U.S. District Judge

Hearing on: Status Conference

1. September 2012 settlement

The parties discussed the tentative settlement agreement reached on September 25, 2012, in a conference held in front of Chief Magistrate Judge Arthur J. Boylan. This tentative settlement agreement is being drafted, and involves the case inventories of 6 law firms. The effect of this settlement would reduce the MDL case count by 845 cases and plaintiffs. At the time of the status conference several other plaintiffs' firms have expressed an interest in exploring settlement, but there remain firms that are interested in going forward with the litigation.

2. MDL case status

In light of the September 2012 settlement and the Court's previous severance order the current number of MDL cases is 1,036.

Defendants forecast that there will be 774 cases subject to possible transfer for forum non-conveniens and 237 cases subject to remand following the settlement.

3. PTO 3

Plaintiffs indicated that the parties, including participants in the New Jersey litigation, are close to reaching a tentative agreement about the core issues raised by the amended Pre-trial Order 3. Plaintiffs indicated that the parties' goal is for simultaneous orders to be issued by this Court and the New Jersey state court with respect to the common fund to avoid potentially problematic jurisdictional issues.

In the event that an agreement cannot be reached the parties have agreed to a new briefing deadline. At the last status conference the Court had ordered that any attorney who intended to oppose Plaintiffs' brief on this issue and Plaintiffs' proposed amended Pre-trial Order 3 was to file responsive papers by September 27, 2012. Prior to this status conference the Court granted a 3 week extension to file such papers, making the new deadline for responsive papers October 18, 2012. Any reply is then due by October 25, 2012.

As of the time of the status conference, no funds are set to be dispersed for at least 30 days. Defendants agreed that if no agreement is reached regarding the common fund, Defendants will notify the Court at least 2 weeks prior to funds being dispersed to allow the Court sufficient time to consider the handling of the funds before they are dispersed.

4. March 2013 Trial – Cases in discovery, trial case selection

Defendants indicated that the September 2012 settlement reduced the number of Minnesota resident/Minnesota filed cases from 32 to 10. Settlement talks are ongoing with respect to 3 or 4 of these cases. With regard to the other 6 or 7 cases Defendants are acquiring updated Plaintiff Fact Sheets and updating depositions. Defendants foresee no problem complying with the November 26, 2012, deadline for filing summary judgment motions in these cases, and expects to be ready for trial on March 5, 2013.

The Court entered a deadline of January 2, 2013, for the parties to submit either an agreement as to which case or cases will be tried in March 2013, or sufficient information regarding the cases for the Court to select trial cases shortly after January 2, 2013.

5. Deficient plaintiff fact sheets

Defendants indicated that in 119 cases Defendants have sent two deficiency letters to Plaintiffs' counsel. After the September 2012 tentative settlement 67 Plaintiff fact sheets remain outstanding. Defendant anticipates sending 59 more additional second deficiency letters by year end.

After the last status conference Defendants submitted a list of cases, along with the respective Plaintiffs' counsel and their addresses, and a draft order to show cause. Due to the September settlement and the possibility of further settlements in the near future, the Court will keep this matter under advisement and take up the need for an order to show cause in any remaining plaintiff-fact-sheet-deficient cases at the next status conference.

6. Forum non conveniens-cases subject to potential transfer, cases for remand and remand order

The forum non conveniens and remand issues have been fully brief by the parties. In light of the September settlement, and the imminent possibility of further settlement which could significantly impact resolution of these issues, the Court will revisit these issues at the next status conference.

Next Status Conference: October 30, 2012 at 2:30 PM.

APPEARANCES:

Plaintiff: Ronald Goldser, Genevieve Zimmerman, Caia Johnson, Stacy Hauer, Charles Johnson, Susan Bieniek - Pro Se, Peter Krieser - Pro Se
Defendant: Tracy Van Steenburgh, John Winter
Phone: Kristian Rasmussen, Tim Maloney, Bill Bross, Lewis Saul, Kevin Fitzgerald, Tina Olson, Ed Coleman, Eric Terry, Jim Irwin

s/Janet Midtbo
Calendar Clerk