

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

**STATUS CONFERENCE**

In Re: Levaquin Products Liability	)		<b>COURT MINUTES</b>
Litigation,	)		BEFORE: John R. Tunheim
	)		U.S. District Judge
	)		
Plaintiff,	)	Case No:	08-1943 JRT
	)	Date:	December 4, 2012
v.	)	Deputy:	Janet Midtbo
	)	Court Reporter:	Kristine Mousseau
	)	Time Commenced:	2:30 p.m.
Defendant.	)	Time Concluded:	3:30 p.m.
	)	Time in Court:	1 Hour

Hearing on: Status Conference

**1. Number of cases pending and Federal/State Coordination**

Defendants state that there are 1927 cases currently pending in the MDL. Two cases are pending transfer to the MDL.

In the New Jersey mass tort litigation, 1470 cases are active. The next New Jersey status conference is set for December 13, and a June 2013 date has been set for the next Bellwether trial. Plaintiffs for the Bellwether case have not been selected.

Two cases are pending in Illinois. A hearing date has not been set on the summary judgment motion and there is no trial date at this time.

**2. Status of Settlement**

The parties are still working toward negotiating a three phase settlement. The parties are confident they will have the major settlement terms resolved in early 2013.

The parties would also like to appoint Chief Magistrate Judge Arthur J. Boylan to act as a special master for purposes of the settlement. The Court will speak with Chief Magistrate Judge Boylan about this appointment.

Phase I currently involves 858 cases. Phase II has approximately 100 cases. 72 cases have been dismissed as not part of a settlement.

**3. Proposed Amendment to PTO 3**

Plaintiffs indicated that they have reached an agreement regarding a proposed amended Pretrial Order 3, which governs the common benefit fund. Plaintiffs submitted a copy of the proposed amended order to the Court, and the Court will issue an order to show cause, requiring any objections to the proposed amended order to be filed within 14 days of the order to show cause.

The proposed amended Pretrial Order 3 has also been submitted to Judge Higbee in New Jersey.

#### **4. March 2013 Trial – Cases in Discovery**

Only Plaintiff Sharon Johnson's case remains for the March 5, 2013 trial. Defense counsel anticipates bringing several motions in limine, and would like to meet and confer with plaintiff's counsel regarding the motion to exclude Dr. Wells' expert testimony. A hearing date has not yet been set for the Wells motion. Several depositions have been taken, a few other depositions have been scheduled or will be scheduled, and both sides are updating discovery. Defense counsel agreed to submit to plaintiff's counsel the information required by Rule 35 so plaintiff's counsel can determine whether or not they will object to the IME.

#### **5. Forum Non Conveniens**

There are slightly over 700 cases that would be subject to transfer under forum non conveniens.

#### **6. Cases for Remand**

About 238 cases will be subject to remand. The parties have agreed to meet and confer regarding defense counsel's proposal for remand prior to the next status conference in early January.

**Next Status Conference: Tuesday, January 8, 2013 at 1:30 PM.**

#### **APPEARANCES:**

Plaintiff: Ronald Goldser, Charles Zimmerman  
Defendant: Tracy Van Steenburgh, Dana Lenahan  
Phone: Robert Binstock, Todd Klein, Christian Rassmussen, Brian McCormick, Caia Johnson, Sarah McNeely, William Bross, Kevin Fitzgerald, Bill Essig, John Winter,

s/Janet Midtbo  
Courtroom Deputy Clerk