

**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
	)	Date:	April 23, 2013
v.	)	Deputy:	Holly McLelland
	)	Court Reporter:	Kristine Mousseau
	)	Time Commenced:	12:40 p.m.
Defendant.	)	Time Concluded:	1:00 p.m.
	)	Time in Court:	20 Minutes

Hearing on: Status Conference

1. Federal and state cases in MDL and state court

There are currently 1,916 cases pending in the MDL.

There are three cases pending in Illinois and one in Pennsylvania

There are 1287 active cases in New Jersey. Roughly 379 of those cases are currently subject to dismissal due to settlement, and 458 have been settled in principal.

2. Status of Settlement

Defendants report that only 773 cases in the MDL remain unsettled. Approximately 64 of those cases are subject to remand, 450 belong to the Carey & Danis law firm, and of the 265 remaining unsettled cases, 196 of those are in settlement discussions. Stipulations for dismissal in settled cases will be filed with the Court soon. Plaintiffs' counsel will alert the Court in advance of filing those stipulations for dismissal so the Court and counsel can determine the most appropriate and efficient form for those motions.

3. Status of Amended PTO 3 in New Jersey

On January 3, 2013 the Court entered an Amended PTO 3 regarding Plaintiff's common expense fund. This order has no effect unless and until it is entered by the New Jersey court. With respect to the Amended PTO 3 entered by this Court, the bank holding the account for the common expense fund has requested the addition of the following language:

Notwithstanding the above, BMO Harris Bank N.A. may act on the instructions of Plaintiff's MDL Liaison Counsel with respect to the account and shall have no responsibility to determine whether such instructions are in accordance with this Order.

This language does not affect the substantive operation of the Amended PTO 3, and counsel for both sides agreed to the inclusion of this phrase. Therefore, the Court filed an Amended PTO 3 reflecting this change on April 23, 2013.

A parallel amended PTO 3 was presented to Judge Higbee during a New Jersey status conference last week. Judge Higbee has provided all parties with two weeks to file objections to the Amended PTO 3. Plaintiffs' counsel does

not anticipate any objections.

4. Motion to Dismiss (Carey, Danis & Lowe Cases)

On December 3, 2012, the Court entered an order to show cause regarding plaintiffs who had failed to serve a completed fact sheet (“PFS”) on Defendants. The order allowed a 60 day period for such filings, which time period expired February 1, 2013.

Defense counsel filed a motion to dismiss on March 4, 2013, to dismiss cases in which PFSs have been produced, but are still allegedly deficient. The Court allowed plaintiffs 30 additional days in which to produce complete PFSs. Those 30 days have expired and in 23 cases no updated PFS was served. Both sides agree that these cases will be dismissed without prejudice, and will file a stipulation to that effect. Additionally, defense counsel claims that in 23 other cases updated PFSs were served, but remain deficient. Defense counsel will bring a motion to dismiss these cases and the parties will fully brief this issue. The Court will hear arguments on that matter at the next status conference.

5. Cases for Remand and Remand Order (PTO 13)

Between 60 and 65 cases are subject to remand, counsel are preparing a final suggestion of remand order that will allow plaintiffs thirty days to file any objections to remand.

6. Cases for Transfer

There are currently very few cases subject to transfer that are not handled by the Carey & Danis firm. Carey & Danis has 436 cases subject to transfer. Counsel for both sides continue to work toward an approach to transfer, and will submit a proposed order to the Court.

7. Projected End Date

Counsel continue to anticipate that the MDL will be completed in June 2013.

Next Status Conference: Monday, May 20, 2013 at 12:30PM.

APPEARANCES:

Plaintiff: Ronald Goldser, Corey Sullivan

Defendant: Tracy Van Steenburgh, Jan Bernier

Phone: Kevin Fitzgerald, Yvonne Flaherty, Bill Essig, Ed Coleman, Paige Boldt, Bill Bross

s/Holly McLelland
Courtroom Deputy Clerk