

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

**STATUS CONFERENCE**

In Re: Levaquin Products Liability	)		
Litigation,	)		<b>COURT MINUTES</b>
	)		BEFORE: John R. Tunheim
	)		U.S. District Judge
Plaintiff,	)		
	)	Case No:	08-1943 JRT
v.	)	Date:	September 4, 2014
	)	Deputy:	Heather Arent-Zachary
	)	Court Reporter:	Kristine Mousseau
	)	Time Commenced:	4:21 p.m.
Defendant.	)	Time Concluded:	4:55 p.m.
	)	Time in Court:	34 Minutes

Hearing on: Status Conference

**1. Substitution of Plaintiffs' Co-Lead and Liaison Counsel**

Charles S. Zimmerman of the law firm Zimmerman Reed, P.L.L.P. moved for an order substituting Charles S. Zimmerman for Genevieve M. Zimmerman as Co-Lead and Liaison Counsel for Plaintiffs. The Court granted the motion. Mr. Zimmerman will submit a proposed Fourth Amended Pretrial Order #1 reflecting the substitution.

**2. Cases Pending**

Defense counsel reported that there are currently 290 cases pending in the MDL. Approximately 118 of those cases have pending settlements, but counsel is waiting on paperwork and other logistics to be completed before submitting stipulations for dismissal in those cases.

**3. Cases Under Review**

Defense counsel reported that eight cases were filed in 2014. Defense counsel is still looking into those cases to determine whether settlement offers should be made.

**4. Suggestion for Remand Order**

Defense counsel has submitted a proposed final pretrial order to the Court suggesting remand in 59 cases. Plaintiffs' counsel indicated that he had questions about some of the names on the list. Defense counsel will provide the Court with an updated list. The Court will enter an order with respect to all of the cases for remand upon receiving these additional cases from Defense counsel.

**5. Transfer Order**

Defense counsel has also submitted a proposed order to the Court for transfer of 22 cases. The Court will enter an order with respect to the 22 cases as soon as possible. The Court indicated that it anticipates entering the order in the very near future.

## 6. Pro Se Cases

Defense counsel reported that there are 79 cases in which the plaintiff is either pro se because the attorney's motion to withdraw from that case has been granted or in which motions to withdraw are currently pending that, if granted, would render the plaintiff pro se. Defense counsel indicated that most of the 79 cases are plaintiffs previously represented by the Carey, Danis and Lowe law firm. Defense counsel will submit a proposed order to show cause and an updated list of the pro se cases that does not include plaintiffs formerly associated with Carey, Danis and Lowe. The Court will enter an order to show cause for those plaintiffs upon receiving the updated list from Defense counsel.

## 7. Carey, Danis and Lowe Cases

Defense counsel reported that they have requested that Carey, Danis and Lowe obtain releases on settled cases, but Defense counsel has not gotten a response. Defense counsel also reported on the *Flauta* case, involving 944 plaintiffs, which was transferred to this District from the Central District of California. Counsel indicated that Carey, Danis and Lowe sent withdrawal letters to 883 of the *Flauta* plaintiffs on February 28, 2014. The letters did not inform the plaintiffs that their cases had been dismissed by the Central District of California, but they did inform plaintiffs that they would need to take steps to reassert their claims because they will no longer be represented by counsel. Defense counsel reported that a handful of those letters would not have reached their intended recipients due to a missing address; 60 of the 944 plaintiffs did not receive a withdrawal letter, including 17 who are among the Carey, Danis and Lowe plaintiffs in the settlement; and Ms. Pickard was the only plaintiff to preserve her action. Approximately 40 plaintiffs therefore remain that have not gotten a withdrawal letter or money through settlement. Defense counsel indicated that those 40 should be removed from the docket, because their cases were dismissed in the Central District of California.

## 8. Miscellaneous

Defense counsel requested that the Court enter orders in several other cases—an order to show cause in a case where Defense counsel has not received a response from the plaintiff's attorney; an order to dismiss in two cases where a suggestion of death has been made and the time limit for adding a plaintiff to act on behalf of the deceased plaintiff will pass on September 9, 2014; and an order enforcing settlement in five cases.

**Next Status Conference: Tuesday, October 7, 2014 at 4:00 PM**

### APPEARANCES:

Plaintiff: Charles Zimmerman  
 Defendant: Tracy Van Steenburgh, Cort Sylvester  
 Phone: Douglas Whipple, Ed Coleman, Brenda Fulmer, Sharon Pickard, Daniel Diaz

s/Heather Arent-Zachary  
 Courtroom Deputy Clerk