

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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In Re: Levaquin Products  
Liability Litigation, File No. 08-md-1943  
(JRT/AJB)

Minneapolis, Minnesota  
June 19, 2013  
12:35 P.M.

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BEFORE THE **HONORABLE JOHN R. TUNHEIM**  
UNITED STATES DISTRICT COURT JUDGE  
**(STATUS CONFERENCE)**

APPEARANCES:

For the Plaintiffs: **RONALD S. GOLDSER, ESQ.**  
**COREY SULLIVAN, ESQ.**

Via telephone: **ED COLEMAN, ESQ.**  
**CAIA JOHNSON, ESQ.**  
**DOUGLAS WHIPPLE, ESQ.**  
**PAIGE BOLDT, ESQ.**

For the Defendants: **TRACY J. VAN STEENBURGH, ESQ.**

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(In open court.)

THE COURT: You may be seated. Good afternoon.  
This is multi district litigation, 08-1943, In Re:  
Levaquin Products Liability Litigation.

Counsel, note appearances today.

MR. GOLDSER: Good afternoon. Ron Goldser for  
plaintiffs.

THE COURT: Mr. Goldser.

MR. SULLIVAN: Good afternoon, Your Honor. Corey  
Sullivan for plaintiffs.

THE COURT: Good afternoon.

MS. VAN STEENBURGH: Good afternoon, Your Honor.  
Tracy Van Steenburgh on behalf of defendants.

THE COURT: Ms. Van Steenburgh, good afternoon to  
you.

Do we have anyone on the phone today?

MS. JOHNSON: Good afternoon, Your Honor. This  
is Caia Johnson from Lockridge Grindal Nauen on behalf of  
plaintiffs.

THE COURT: Okay. Good afternoon.

Anyone else?

MR. WHIPPLE: Hello. Douglas Whipple on behalf  
of Martin Fannin.

THE COURT: Okay. Good afternoon, Mr. Whipple.

1           Anyone else?

2           MR. COLEMAN: Ed Coleman from Lewis Saul &  
3 Associates for plaintiffs.

4           MS. BOLDT: Paige Boldt for Ryan Thompson for  
5 plaintiffs.

6           THE COURT: All right. Anyone else that we  
7 missed?

8           Okay. Let's look at our agenda this afternoon  
9 for this status conference.

10          Ms. Van Steenburgh?

11          MS. VAN STEENBURGH: Thank you, Your Honor. The  
12 first item on the agenda are the number of federal and  
13 state cases in the MDL and state court. Again, the number  
14 is, remains high, but we're in the process of having a lot  
15 of dismissals and withdrawals, but for purposes of  
16 reporting that today, there are 1842 pending MDL cases,  
17 with one pending transfer, a case from Kansas should be  
18 here soon, and a total of 1856 pending MDL plaintiffs.

19          As I indicated, we are, because of the  
20 settlements, there are going to be a fair number that will  
21 be dismissed. So by the time we report next time, that  
22 number should be significantly lower.

23          In state cases we have six: One in New York,  
24 three in Illinois, one in Pennsylvania, and one in  
25 Mississippi, and I don't have the status of any of those

1 cases other than to say, I don't think there is a trial  
2 date for any of them.

3 THE COURT: Okay.

4 MS. VAN STEENBURGH: They're in the early stages  
5 or else -- and I don't know.

6 Mr. Sullivan, are those Illinois cases --

7 MR. SULLIVAN: We don't have a trial date in  
8 those.

9 MS. VAN STEENBURGH: Okay. That's what I  
10 thought.

11 With respect to New Jersey, total cases filed to  
12 date, 2216; active cases there, 1144. There have been 982  
13 cases dismissed, and that's either outright dismissal or  
14 with a settlement and a dismissal that is in progress or  
15 done. So New Jersey continues also to move in the same  
16 vein as we are moving in the MDL.

17 With respect to the coordination, I think there  
18 really isn't anything to report other than the cases  
19 continue to be settled, and I think that is occurring in  
20 both jurisdictions, and in fact some of the cases that we  
21 have been involved in with respect to settlement include  
22 New Jersey cases, so there is some overlap there.

23 With respect to number three on the agenda, the  
24 status of settlement, I'm happy to tell the Court that we  
25 have settled a total of 1312 cases in the MDL, and there

1 are 112 additional cases that are in the process of  
2 settlement, either because we're waiting for the approval  
3 of a release or we're waiting for a response to a  
4 settlement offer or that we're still in negotiations. So  
5 hopefully those will be added to the total number of cases  
6 that have been settled.

7 There are 38 cases that will be part of another  
8 group where settlement has been rejected. So they will  
9 either go on the remand list, or they will go onto the  
10 forum non conveniens transfer list, but that, I'm happy to  
11 say, is a pretty small number compared to the number that  
12 we have been able to settle so far in the MDL.

13 And as we are getting the cases settled, there  
14 are some issues with respect to withdrawals by attorneys on  
15 some of the cases, dismissals on others. So the Court is  
16 going to see just a whole slew of motions to withdraw or  
17 stipulations for dismissal I think coming through.

18 With respect to those cases that have been part  
19 of a settlement group where the attorney has decided to  
20 withdraw, I think that we have -- the requirement has been  
21 that there has to be an address and a name and address  
22 where the plaintiff can be contacted, and we are compiling  
23 a pro se plaintiff list.

24 So when we get down to the final issues with  
25 respect to settlement, we will have a complete list for the

1 Court as to who is a pro se plaintiff and whether that pro  
2 se plaintiff is part of a remand list versus a part of a  
3 list where the case was originally filed here and needs to  
4 be transferred back. So we're trying to keep a list for  
5 the Court so the Court will know how many are on that list.

6 THE COURT: And how many are likely to be on that  
7 list?

8 MS. VAN STEENBURGH: I don't know. Right now on  
9 the remand list we have 31 pro se plaintiffs, and we have 6  
10 on the forum non conveniens list. So I think they will  
11 increase as we kind of carve out the number of cases.

12 THE COURT: We're starting to get a large number  
13 of motions to withdraw.

14 MS. VAN STEENBURGH: Some of them, when we have  
15 been going through them, for example, last week there were  
16 a whole bunch because there was someone from Zimmerman Reed  
17 who moved over to Lockridge, so she withdrew, but she  
18 didn't withdraw as counsel entirely.

19 So we are trying to sort that out, too.  
20 Sometimes we have also seen withdrawals where there has  
21 been someone who was on the case with Zimmerman Reed or  
22 with Lewis Saul & Associates who is now withdrawing. So  
23 we're trying to sort that out to make sure that that is  
24 just not a withdrawal of an attorney versus a withdrawal of  
25 counsel.

1           So we will try to make sure that we have all of  
2           those lined up and be able to report to the Court on what  
3           is going on.

4           THE COURT: Do you know how many cases,  
5           Mr. Goldser, there were withdrawals of attorneys which will  
6           leave the plaintiff pro se?

7           MR. GOLDSER: Overall --

8           THE COURT: Quite a number of the ones that you  
9           have been filing look like Mr. Saul is also listed as  
10          counsel of record.

11          MR. GOLDSER: Yeah. Two issues there, Judge. In  
12          my settlement group, which comprises six firms, there were  
13          roughly 250 cases that I believe will have withdrawals for  
14          all six of the firms. I know that we filed ours last week,  
15          which is what prompted Elizabeth Peterson, who moved over  
16          to Lockridge, to file hers as two motions. I think  
17          Mr. Saul's office will be doing the same and need two  
18          motions shortly. I heard from them on that subject a day  
19          or two ago.

20          I think the second question had to do with  
21          Mr. Saul. I think I just answered it.

22          THE COURT: Yeah. So -- but do you know, I mean,  
23          what's your anticipation for the numbers of plaintiffs who  
24          will remain in the case pro se?

25          MR. GOLDSER: Well --

1 THE COURT: To be transferred or whatever we do  
2 with them.

3 MR. GOLDSER: Sure. Out of our group that we  
4 have all along called Phase I, I'm expecting there will be  
5 about 250 withdrawals, if my memory is right about those  
6 numbers. How many of those cases will ultimately be  
7 pursued, I don't know.

8 My guess is the number will not be large, that  
9 when the court to which the case is transferred issues a  
10 status conference or something, that will jog that case,  
11 and the courts will find out whether any of those cases are  
12 going to go forward or not go forward.

13 I don't know whether you would prefer to do that  
14 before you transfer those cases. Perhaps you would, but it  
15 probably makes sense to find out whether those pro se folks  
16 are interested in going forward in any fashion.

17 THE COURT: So what makes up that group? Does it  
18 make up individuals who have not received a settlement  
19 offer at all? Does it include those who have received a  
20 settlement offer and they have rejected it and want to  
21 proceed on their own or proceed differently? Explain who  
22 is in the group for me.

23 MR. GOLDSER: Sure. Those are the two main  
24 categories, and there are only very few individuals who  
25 have received a settlement offer who have chosen not to

1 accept it. To my knowledge at this point, there are a few  
2 who will have such offers who have not even responded yet,  
3 so I'm not quite sure what to do with those, but that's  
4 under five.

5 Most of these withdrawals are cases for people  
6 that will not have received offers. For the most part, if  
7 you want to break that category down, I venture to say most  
8 of them are post black box cases that have not received  
9 offers. I don't think there will be any other categories  
10 of people that I can think of, certainly not anything of  
11 any consequence.

12 THE COURT: Yeah. So if we were to try to  
13 address these issues before transferring -- see, my concern  
14 here is that however many are the number, we've already got  
15 the first letter, you know, with someone saying, you know,  
16 I'm injured. I can't get a settlement. My attorney has  
17 abandoned me, what do I do, sort of throwing themselves on  
18 the laps of the Court, which --

19 MR. GOLDSER: Are you starting to see those?

20 THE COURT: The first how many did we receive,  
21 one or two?

22 THE CLERK: Yeah.

23 THE COURT: Well, we just saw one the other day,  
24 so they're starting to come because of the withdrawals.

25 MR. GOLDSER: Mm-hmm.

1 THE COURT: People who don't know what to do at  
2 this stage, and I'm just wondering if you have thoughts for  
3 how we handle this because it seems unseemly to send them  
4 off to another district pro se after lengthy litigation,  
5 and if I were a judge in another district, I wouldn't  
6 really know what to do with something like that.

7 MR. GOLDSER: Well, I commend your consideration  
8 of that, and thank you very much. I guess if I were in  
9 your shoes, and I don't envy you that prospect for this  
10 one, I might do something like convene a status conference  
11 for all pro ses, probably be by telephone, and give folks  
12 the instructions on how these cases will proceed, that they  
13 will be remanded to the extent that you choose to remand  
14 them or if you choose to keep them here, and you will have  
15 that discretion and that, you know, if there is any effort  
16 to resolve them short of trial, then, you know, I would  
17 certainly make that effort to the extent that Johnson &  
18 Johnson would prefer to do that.

19 Alternatively, and I guess you then tell folks  
20 that their cases will be either going back somewhere or  
21 here and they will be set for trial, and if they want to  
22 have a trial, they're entitled to a trial. And we would --  
23 we on the plaintiffs' side would be happy, as we have  
24 offered to all plaintiffs' counsel, to provide a set of the  
25 trial materials from the three MDL trials.

1           So for lawyers who are keeping their cases,  
2           that's what we have been doing. We have it all on a hard  
3           drive. We ask that the lawyers pay us for the cost of the  
4           hard drive, which has been typically 75 bucks, and if that  
5           pro se plaintiff wants to get that, they should contact us.  
6           We will make it for them. They send us the check. We will  
7           send them the materials.

8           They will be just as equipped as any plaintiff  
9           lawyer would be in terms of materials to try the cases if  
10          that's what they want to do. Beyond that, I'm not sure how  
11          to handle it.

12          MS. VAN STEENBURGH: The one other thought that  
13          came to my mind, because I thought about this, too, Your  
14          Honor, is that I think having some kind of a status  
15          conference with all the pro se plaintiffs -- because  
16          they're going to be from all over the country. It's not  
17          like they live here in Minnesota -- might be difficult.

18          What we're trying to do with both the forum non  
19          conveniens and remand cases is to segregate them into what  
20          district into which they are going to be transferred. One  
21          other possibility is that you talk to or notify the judge  
22          to whom these will be transferred and let them know that  
23          there may be some pro se plaintiffs.

24          I mean, I realize that's hard to have to do, but  
25          at the same time, that might almost be an easier way to do

1 it because let's say we have five or six, seven, eight  
2 cases in Florida. Getting all the people in Florida on the  
3 phone or else bringing them up here to have a conference is  
4 going to be I think unmanageable.

5           Whereas, it may be easier if you contact the  
6 judge in the middle district or if they can all be assigned  
7 to the same judge in the middle district, then that judge  
8 is aware, gets the remand order, understands the issues in  
9 the case and may be able to do something more on the local  
10 level rather than you having too work with it here, despite  
11 the fact that it would be much more, obviously, efficient  
12 if you could do it all at once here. So that is just  
13 another alternative.

14           THE COURT: Maybe there is different categories  
15 here, but are these cases that if they were set for trial  
16 the defendant would be moving for summary judgment?

17           MS. VAN STEENBURGH: We haven't gotten to that  
18 point because we haven't taken any discovery. So to the  
19 extent that, you know, we have to go through some of the  
20 discovery process and take the treating physician's  
21 deposition, yes, we may end up moving for summary judgment  
22 at that point, but we haven't done anything with those  
23 cases.

24           THE COURT: Mm-hmm.

25           MS. VAN STEENBURGH: The reason my idea came up

1 partly is the 31 cases that we have right now are all from  
2 the same firm. What is it, the Padburg firm?

3 MR. GOLDSER: Mm-hmm.

4 MS. VAN STEENBURGH: And they're all going to be  
5 in the Southern District of Illinois, so those are all  
6 going to be in the same place if they actually get  
7 remanded.

8 THE COURT: There, there is counsel involved.

9 MS. VAN STEENBURGH: No counsel.

10 THE COURT: No counsel involved?

11 MS. VAN STEENBURGH: They withdrew.

12 THE COURT: Okay.

13 MS. VAN STEENBURGH: So most of these cases,  
14 there has been no discovery at all. It has all just been  
15 the plaintiff fact sheets what we have and some limited  
16 records.

17 THE COURT: Tell me again how many there were  
18 that are in the category of cases where settlements were  
19 rejected?

20 MS. VAN STEENBURGH: We only have 38 right now.

21 THE COURT: 38?

22 MS. VAN STEENBURGH: Right. And that's where we  
23 negotiated with the attorneys for, you know, for plaintiffs  
24 who were represented.

25 THE COURT: Mm-hmm.

1 MS. VAN STEENBURGH: So those have gone on the  
2 remand. The remand list, we have 121 remands, and 31 of  
3 those are pro se plaintiffs right now. So we have a little  
4 under 100 where there are plaintiffs who are represented  
5 that would be remanded to a certain jurisdiction, and  
6 actually six of those we may actually settle, so it will be  
7 less than that.

8 So in terms of represented plaintiffs, it's going  
9 to be under 100 to remand. I don't know what happens when  
10 all of these start to come through. It's not only the 250  
11 from your group, but it's Mr. Saul's group, too. I don't  
12 know if Mr. Coleman is on the phone and if he has a number  
13 as to how many would be included in the number that they  
14 have that they will withdraw, but that would also probably  
15 be a big number, don't you think?

16 MR. GOLDSER: Hard to know.

17 MS. VAN STEENBURGH: Okay. Because those are the  
18 two largest inventories in terms of the number of -- of  
19 course yours includes all seven law firms.

20 MR. GOLDSER: Mine only includes six. Mr. Saul's  
21 would be in addition.

22 MS. VAN STEENBURGH: I see. Okay. All right.

23 THE COURT: Well, I will have to figure out how  
24 to proceed there. I may hold off on granting the motions  
25 to withdraw for the time being until I figure out a path of

1 how to proceed.

2 MS. VAN STEENBURGH: And I'll put more thought to  
3 this or my group will put more thought in terms of how we  
4 can be more creative about helping administer that issue,  
5 too.

6 THE COURT: I assume there are some that will  
7 just go away.

8 MS. VAN STEENBURGH: I think so.

9 THE COURT: That's likely to happen, especially  
10 when confronted with the possibility of a trial without a  
11 lawyer, but I would like to wrap up everything that we can  
12 here.

13 MS. VAN STEENBURGH: Understood. Okay. So  
14 that's where we are, and I guess I jumped forward a little  
15 bit to the remands. I have not submitted a proposed remand  
16 order yet because the numbers and which cases are just a  
17 little bit in flux. So we're pretty close on those, but we  
18 have a few more housekeeping matters to attend to before we  
19 do that.

20 Going back up on the agenda to the status of the  
21 amended PTO 3 in New Jersey, my understanding is the order  
22 has been entered. I think Mr. Goldser has more details  
23 about that.

24 MR. GOLDSER: The order has now been entered.  
25 There are a couple of differences between the New Jersey

1 order and the Minnesota order, the MDL order. They are  
2 procedural. There are some deadlines in the New Jersey  
3 order. Specifically all those lawyers who have claims for  
4 reimbursement of shared and held costs need to submit those  
5 claims on the proper form within 30 days of the date of the  
6 order.

7 I think that deadline actually falls on July 4th,  
8 so it will be probably the next business day after July  
9 4th, and then there will be, I believe, some deadlines  
10 within which after that they get evaluated and a  
11 determination is made.

12 In addition, as we talked about last time, there  
13 is an audit provision in it, but there is a cap on fees of  
14 \$15,000. Otherwise my understanding is that the substance  
15 of the order is the same as the MDL order. I know that in  
16 New Jersey a call for those shared and held costs has been  
17 put out.

18 I put out the same call to the plaintiffs  
19 steering committee in the MDL, and I'm sure that people who  
20 want to get their money back will be diligent about putting  
21 their claims in in a timely fashion.

22 THE COURT: I would hope so.

23 MS. VAN STEENBURGH: The next item, Your Honor,  
24 is number five, and this is, takes a little bit of  
25 explanation. We had received consent from the Carey Danis

1 Firm to transfer all of the cases that were filed in  
2 Minnesota, so we do a consent to transfer to the  
3 jurisdiction where the plaintiff resides.

4 And as we went through to create a list, and what  
5 we did is that we wanted to be able to provide the Court  
6 not only the state but actually the division or district  
7 where the case would have to be transferred. So we went  
8 and analyzed the PFS, figured out what county the person  
9 lived in, and then figured out what district, division or  
10 district within a state, if there was more than one, where  
11 it would be transferred.

12 In that process we discovered that of the 393  
13 cases that were supposed to be subject to this agreement,  
14 229 of them we didn't have a PFS. So we are, there are two  
15 things going on here. First, for 163 cases we have a PFS.  
16 We can go ahead and enter into the stipulation.

17 We can create an exhibit for the Court that would  
18 have on it the name of the plaintiff, where it was filed,  
19 the file number, the district to which it should be  
20 transferred, including whether it's northern, southern,  
21 eastern, western district where those states have divided  
22 that, and the state and then prepare an order for the Court  
23 to review in that regard.

24 Then for the 229 cases that are remaining, we,  
25 yesterday, I sent an e-mail to Mr. Sullivan and Mr. Carey

1 saying, we can't do anything with these. We think that it  
2 would be better -- the Court has indicated, you know, that  
3 it would be better to have -- we only want the cases that  
4 have a bona fide basis for being transferred to be  
5 transferred.

6 So we would like to look at those cases, and if  
7 there is a reason those cases shouldn't be transferred, the  
8 PFS will help us determine that. So I sent an e-mail  
9 asking that they provide us within 30 days either a PFS on  
10 those cases, all of which would be due at the beginning of  
11 this year.

12 So they're about six months overdue, provide  
13 those within 30 days or let us know if those cases should  
14 be dismissed, because they really aren't bona fide cases  
15 that should be transferred pursuant to 1404 or otherwise,  
16 and I talked to Mr. Sullivan just briefly this morning to  
17 see if that is something that the firm can agree to.

18 And I'll let him speak for himself, but it seemed  
19 like that would be an adequate time to be able do that, so  
20 we could split it up.

21 THE COURT: And how many are in that category,  
22 non PFS?

23 MS. VAN STEENBURGH: 229. So I think what the  
24 Court will see is, we will send in a stipulation for  
25 transfer for 163 of them, and then the second batch, the

1 229, either will be a smaller number. Ultimately we will  
2 figure out what the PFSs have to say, and then we will get  
3 those transferred.

4 Just so the Court knows, of the 163 that have, we  
5 do have a PFS and would be transferred, they're scattered  
6 all over the country. There is not one concentration. So  
7 there is not a fear that one judge will suddenly get 30 or  
8 40 cases. Even within one state, it's either northern  
9 district, southern district, east or west. So we will line  
10 all those up so the Court can see where those go if there  
11 is any concern that the Court has with respect to those.

12 I don't know, Mr. Sullivan, if you wanted to say  
13 anything about the 229.

14 MR. SULLIVAN: I don't really have anything to  
15 add to that, Your Honor.

16 THE COURT: So the next step for your firm is to  
17 either put together the PFS or decide perhaps that it's a  
18 case that should be dismissed?

19 MR. SULLIVAN: Exactly, Your Honor.

20 THE COURT: All right.

21 MS. VAN STEENBURGH: And we have provided a list  
22 of all those cases to his firm, so hopefully they will be  
23 able to get that done. Other than that, Your Honor, we do  
24 have eleven other cases that would be subject to a transfer  
25 motion that are all with one firm, and we're going to see

1 if we can get that firm to agree to transfer. It's the  
2 Behnke firm, and so --

3 There are 441 cases, just so the Court has a  
4 total. 393 are Carey & Danis cases. Eleven belong to the  
5 Behnke firm, and there are 24 firms that represent the  
6 remaining 31 cases. And out of those, right now we have  
7 six pro ses, but, you know, that will probably increase  
8 depending on what happens with the withdrawals.

9 And we may end up with the 24 firms that  
10 represent the 31, we will probably reach out to them to see  
11 if they will consent, rather than having to bring the  
12 motion.

13 THE COURT: All right.

14 MS. VAN STEENBURGH: So hopefully we will be able  
15 to get all of the ones that are subject to transfer under  
16 1404 wrapped up and done pursuant to a consent, other than  
17 the pro se which I think the Court will have to figure out  
18 how you want to deal with those.

19 Other than that, I don't have anything else. I  
20 think we're wrapping things up. It's moving a little  
21 slower obviously than we always like. We always said at  
22 the end of June we will be done, but we aren't quite there  
23 yet.

24 It will be another month or so before we can get  
25 everything done.

1 THE COURT: Mr. Goldser, did you have anything  
2 else?

3 MR. GOLDSER: The only thing that occurs to me,  
4 Judge, is that one remaining jurisdictional issue that may  
5 go on a few months beyond remand is the Court's approval of  
6 the common expense distribution. So I don't know that that  
7 will require a formal status conference, but I certainly  
8 want to make sure you retain your jurisdiction to deal with  
9 any issues that may arise in that context.

10 THE COURT: How long do you think that will take  
11 to get that resolved?

12 MR. GOLDSER: If my memory of the order is  
13 correct, we have to get the expenses in by July 4th.  
14 Hopefully all the expense claims will be well-documented,  
15 and I'm not sure whether we will do the audit first or have  
16 the committee meeting first because we have to do those two  
17 things.

18 Once we jump through that hoop, hopefully we will  
19 have an agreement on what is reimbursable and what the  
20 allocations of that are, or at least if we can't have an  
21 agreement, we will know what the issues are, and we could  
22 present that, I would like to say 60 days. It probably  
23 means 90 days.

24 THE COURT: All right. Anyone on the phone have  
25 anything to say?

1 Mr. Sullivan, did you have anything?

2 MR. SULLIVAN: I don't, Your Honor.

3 THE COURT: Okay. So the question is, should we  
4 set another date for a status conference? I think we  
5 probably should just so we have it on the calendar. We can  
6 always cancel it, and I guess I would propose the week of  
7 the 29th of July.

8 MS. VAN STEENBURGH: That works for me except not  
9 the 1st or the 2nd. I have to be on business.

10 THE COURT: Okay. July 30th, Mr. Goldser?

11 MR. GOLDSER: One of these days I will figure out  
12 how to move quickly in my calendar. I have yet to do that.  
13 That looks like it would work, Your Honor.

14 THE COURT: All right. Why don't we set it for,  
15 let's set it for 11:30 that day. I do have a trial  
16 scheduled, but it's a bench trial, so I have a little more  
17 flexibility. So 11:30 on Tuesday, the 30th of July, and I  
18 will think about this idea relative to the pro ses who may  
19 be remaining, and any thoughts that any of you have about  
20 that, just let me know.

21 All right. Anything else for today?

22 MS. VAN STEENBURGH: No, Your Honor.

23 THE COURT: If not, thank you. We will be in  
24 recess.

25 MR. SULLIVAN: Thank you.

1 MR. GOLDSER: Thank you, Your Honor.

2 THE CLERK: All rise.

3 \* \* \*

4 I, Kristine Mousseau, certify that the foregoing  
5 is a correct transcript from the record of proceedings in  
6 the above-entitled matter.

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10 Certified by: s/ Kristine Mousseau, CRR-RPR  
11 Kristine Mousseau, CRR-RPR

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