UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re Medtronic, Inc. Sprint Fidelis
Leads Products Liability Litigation

Multidistrict Litigation
No. 08-1905 (RHK/JSM)
ORDER

This document relates to:

Alexander v. Medtronic, Inc., Civ. No. 10-3373

This matter is before the Court on the Motions of Plaintiff Donald K. Alexander to lift the stay in this action (Doc. Nos. 43, 44), which is one of several hundred cases transferred to this Court by the Judicial Panel on Multidistrict Litigation as part of In re Medtronic, Inc. Sprint Fidelis Leads Products Liability Litigation, MDL No. 1905. This individual action, along with each other action comprising the MDL, is currently stayed pending appeal of the Court's Order dismissing the Master Consolidated Complaint in the MDL. Despite the continuing pendency of that appeal, Alexander asks the Court to lift the stay in his case for two main reasons.

First, he argues that his Complaint does not belong in these consolidated proceedings because he alleges violations of the Civil RICO statute, 18 U.S.C. § 1964, and such a claim "has nothing whatsoever in common with a suit based upon product liability" like the MDL. (Doc. No. 43 ¶ 5.) But Alexander raised that same argument with the JPML in opposing consolidation of this action before the undersigned. (See Doc. No. 235, MDL No. 1905 (dated May 6, 2010) (arguing that this case is "100% diverse from the product liability allegations pending before" the undersigned in the MDL).) And

the JPML squarely rejected that argument, noting that this action "arises from factual allegations common to MDL No. 1905 regarding allegedly defective Sprint Fidelis leads." (Doc. No. 264, MDL No. 1905 (dated Aug. 6, 2004).) Given the allegations in Alexander's Complaint, the Court perceives no reason to revisit that determination.

Second, Alexander argues that a further stay would be unfair given that (1) this action has been on hold for nearly two years and (2) the MDL has been "terminat[ed]" pursuant to a settlement. (Doc. No. 43 ¶¶ 5-6.) But the MDL has not been terminated. While termination of the MDL, and remand to transferor courts, is indeed contemplated by a *tentative* settlement in the MDL (see Def. Mem. (Doc. No. 48) at 4 n.3 ("[T]he [Settlement Agreement] contains procedures for dealing with the remand of cases and termination of this MDL.")), the settlement process has not yet been finalized, including final approval by the Court. And while the delay in Alexander's case is unfortunate, some delay is inevitable in an action of this size. Insofar as the parties are working diligently toward concluding the settlement process, the Court agrees with lead counsel for Plaintiffs in the MDL that "[r]emoving the stay currently in place or any of the cases in the MDL, including Plaintiff Alexander's, is premature at this juncture." (Pl. Mem. (Doc. No. 47) at 1.)

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS ORDERED** that Motions of Plaintiff Donald K. Alexander to lift the stay in this action (Doc. Nos. 43, 44) are **DENIED**.

Dated: February 18, 2011

s/ Richard H. Kyle
RICHARD H. KYLE
United States District Judge