

**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
v.	)	Date: March 2, 2011
	)	Deputy: Holly McLelland
	)	Court Reporter: Kristine Mousseau
	)	Time Commenced: 1:08 p.m.
Defendant.	)	Time Concluded: 2:00 p.m.
	)	Time in Court: 52 Minutes

Hearing on: **Status Conference**

1. Number of case pending and anticipated in the MDL and state courts

The parties reported there had been little change in the number of cases since the last status conference. Defendants said they had been served 990 in the MDL, and served a total of 2526. New Jersey alone accounts for 1512 of those cases.

2. Federal/State Coordination

The New Jersey trial is still scheduled to start on April 11, 2011 and anticipated to last four to six weeks. The parties expressed some concern over the Court's start date of May 31, 2011 but all thought it was still possible. Defendants have a case starting in California on September 12, 2011 but that date may likely change. Plaintiff's attorney Saul may have some conflicts with cases in New Jersey in the upcoming year.

3. Schedin

Both parties are waiting on final judgment to be entered to begin the post-trial motions and desire to follow the local rule on timing. All agreed to confer on timing after judgment was entered by the Court. If they cannot agree, each side will propose a schedule and present to the Court.

4. Second Bellwether Trial

All parties agreed that defendants should be allowed to choose the next plaintiff for trial from the Phase I plaintiffs, however, plaintiffs' attorneys stated there were some health concerns about the remaining 5 plaintiffs from the Phase I group and so they requested that Johnson be the next plaintiff since she is well enough to attend the full trial. Defendants want some verification as to the health issues of the other plaintiffs. The Court ordered plaintiffs to submit doctor's letters or reports on the remaining Phase I plaintiffs and what their medical limitations are in the next 10 days. If additional discovery is needed after receiving those letters, the Court will so order. The Court stated the decisive issue will be whether they are well enough to comprehend what is happening and at least offer their own testimony, but not whether they can attend the entire trial.

5. Discovery Issues / Phase II cases/ Remand Issues

All parties discussed missing fact sheets and stated the missing sheets should be procured in short order. There was also some discussion about Phase II discovery and the parties agreed to meet and confer about remand issues and Phase II discovery and report back to the Court since they had yet to do so.

There are thirty five plaintiffs in Phase II. Five are deceased. Parties discussed that some will be subject to statute of limitations dismissal, some subject to remand motions. The parties agreed that discovery was important since the plaintiffs were getting older. The Parties agreed to meet and confer.

\* The next status conference is scheduled for March 16, 2011 at 2:00 p.m. This will be a telephone conference.

#### APPEARANCES:

Plaintiff: Ronald Goldser, Lewis Saul, Kevin Fitzgerald, Robert Binstock, Troy Giatras,  
Diane Price, Bill Bross, John Walsh, Eric Terry, Elliot Olson, Douglas Whipple,  
Kristian Rasmussen, Alyssa Daniels, Corey Watson, Don Ledgard  
Defendant: John Dames, Tracy Van Steenburgh, James Irwin, Scott Smith

s/Holly A. McLelland  
Calendar Clerk