

**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: January 8, 2013
	)	Deputy: Holly McLelland
	)	Court Reporter: Kristine Mousseau
	)	Time Commenced: 2:10 p.m.
Defendant.	)	Time Concluded: 2:40 p.m.
	)	Time in Court: 30 Minutes

Hearing on: Status Conference

**1. Number of cases pending and Federal/State Coordination**

Defendants state that there are approximately 1000 cases currently pending in the MDL that are in the process of settling, and will soon be dismissed. After the settlement is finalized, approximately 900 other cases will remain in the MDL.

In the New Jersey mass tort litigation, approximately 1400 cases are open. The number of open New Jersey cases does not include the 380 cases have been settled in principle. The next New Jersey status conference is set for January 25, 2013.

Three cases are pending in Illinois, and there is no trial date currently set for those cases. Additionally, there is one case in Pennsylvania and one in Mississippi. Additionally, four or five non-tendon cases have been filed in other state courts.

**2. Status of Settlement**

Plaintiffs reported that with respect to Phase 1 of the settlement, which includes the cases from 6 firms, the parties have reached a finalized settlement agreement and the agreement has been signed by the plaintiffs. Plaintiffs continue to work on their plan for allocation of the settlement funds. Plaintiffs anticipate that in the next 30 to 45 days they will submit the agreement for Chief Magistrate Judge Boylan's review and approval. Chief Magistrate Judge Boylan will also review the overall plan for allocation, as well as the allocations the plaintiffs' committee makes to individual cases. Additionally, plaintiffs anticipate creating some form of appeals process where plaintiffs can challenge allocations.

Both Phase 2 and Phase 3 are still in negotiation stages, and no settlement agreement has been finalized. Individual plaintiffs continue to request that their cases be submitted into these groups.

**3. Proposed Order to Appoint Chief Magistrate Judge Boylan**

Chief Magistrate Judge Boylan has approved the proposed order appointing him special master of the MDL settlement, and the Court will file that proposed order.

**4. Outcome of Meet and Confer on January 7, 2013 – re: Sharon Johnson case**

**a. Proposed Scheduling Order**

The parties have not yet reached a consensus on the pretrial scheduling order for the Johnson case. The parties will meet again tomorrow, and file either an agreed upon joint scheduling order, or, in the event they cannot reach a consensus, file separate proposed scheduling orders. The parties will submit the scheduling order(s) to the Court by January 11, 2013.

**b. Discovery**

Defendants have received updated medical records from Sharon Johnson, and have asked Plaintiff's counsel for dates to conduct updated depositions of Sharon Johnson and two treating physicians.

**c. Expert Designation**

Plaintiffs agreed to advise defendants this week of whether plaintiff's counsel intend to designate Johnson's prescribing physician and orthopedic specialists as experts

**5. Revised Proposed Remand Order**

The parties have agreed to meet and confer regarding an order for remand. Each side will submit a proposed order for remand with comments regarding its position on the inclusion or exclusion of particular provisions. These proposed orders will be submitted to the Court by January 11, 2013.

**Next Status Conference: Tuesday, February 5, 2013 at 12:30 PM.**

**APPEARANCES:**

Plaintiff: Ronald Goldser, Caia Johnson

Defendant: Tracy Van Steenburgh, John Winter

Phone: Charles Zimmerman, Lewis Saul, Kevin Fitzgerald, Robert Binstock, Kristian Rasmussen, William Bross, Ed Coleman, Stacy Howard, Sheri Wright, James Irwin

s/Holly McLelland  
Courtroom Deputy Clerk