

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

STATUS CONFERENCE

In Re: Levaquin Products Liability Litigation,	)	COURT MINUTES
	)	BEFORE: John R. Tunheim
	)	U.S. District Judge
Plaintiff,)	
	)	Case No: 08-1943 JRT
v.	)	Date: May 6, 2014
	)	Deputy: Heather Arent-Zachary
	)	Court Reporter: Kristine Mousseau
	)	Time Commenced: 5:03 p.m.
Defendant.	)	Time Concluded: 5:34 p.m.
	)	Time in Court: 31 Minutes

Hearing on: Status Conference

1. Cases Pending in the MDL

There are 363 cases currently pending in the MDL. In approximately 100 of those cases, settlement paperwork is being processed, and stipulations for dismissal will be filed.

2. Third Amended PTO 1

A third amended PTO 1 has been filed and will be entered by the Court substituting Genevieve Zimmerman as Plaintiff's liaison counsel for Ronald Goldser. Other than the substitution of counsel, the third amended PTO 1 is identical to the second amended PTO 1.

3. Suggestion for Remand Order

Defense counsel has prepared a proposed order that they will provide to the Court suggesting remand in 55 cases. Defense counsel reported that although these 55 cases represent the current universe of cases that are properly subject to remand, there could be up to 10 additional cases appropriate for remand as continued review of cases occurs. The Court will enter this order with respect to the 55 cases after it has been received.

4. Transfer Order

Defense counsel has also prepared a proposed order for transfer of 23 cases that they will provide to the Court. This proposed order supersedes other motions for and stipulations to transfer that have been received by the Court to-date. In these cases the parties have either stipulated to transfer or the plaintiffs are pro se and have been advised that if they proceeded with their case it would be transferred back to their district of residence. The Court will enter this order with respect to the 23 cases after it has been received.

5. Pro Se Cases

Defense counsel reported that in 22 cases the attorneys have filed motions to withdraw as counsel that are currently pending. Defense counsel anticipates that motions to withdraw will be filed in approximately 50 more cases. With respect to these approximately 72 cases, the Court will follow the same procedure adopted before with pro se and

potentially pro se plaintiffs, using an order to show cause requiring plaintiffs to indicate whether they wish to move forward with their case.

6. Carey Danis Lowe Cases

Defense counsel reported that there are 80 pending cases in which the law firm Carey, Danis, and Lowe represents plaintiffs, although this number has been somewhat of a moving target. Defense counsel anticipates that 42 of these cases will be dismissed pursuant to stipulation and that Carey, Danis, and Lowe will file motions to withdraw as counsel in the remaining cases.

One Carey, Danis, and Lowe plaintiff attended the status conference via telephone and expressed her frustration with the lack of communication she has received from the firm regarding her case and its status. Defense counsel and Plaintiffs' liaison counsel indicated that they will reach out to her directly to discuss her case.

7. Capretz & Associates Releases

Defense counsel and Capretz & Associates – plaintiffs' counsel in five MDL cases – raised an issue regarding alleged settlement agreements. Defense counsel claims that binding settlement agreements were reached in the five Capretz & Associates cases, while Capretz & Associates disputes that any such binding agreement was arrived at between the parties. Both sides have submitted letters regarding this issue. The Court will review the letters and any applicable case law and respond to the parties via letter providing guidance to the parties on the Court's view of the enforceability of the alleged settlement agreement.

8. End of MDL Date

Defense counsel anticipates that the MDL will be concluded in July 2014.

9. Settlement

Defense counsel also raised an issue of settlement allocation on behalf of certain plaintiffs. An issue has arisen with respect to settlement allocation, and the involved parties wished to reach out to Magistrate Judge Boylan that served as the special master of the settlement in this MDL, but were uncertain whether that was possible given Magistrate Judge Boylan's recent retirement. In light of Magistrate Judge Boylan's familiarity with this MDL and the settlement that was reached, the Court indicated that the parties should reach out to him for guidance resolving the allocation issue.

Next Status Conference: Wednesday, June 4, 2014 3:00PM

APPEARANCES:

Plaintiff: Genevieve Zimmerman

Defendant: Tracy Van Steenburgh, Cort Sylvester

Phone: Thomas Knight, Ed Coleman, Jim Capretz, Sharon Pickard

s/Heather Arent-Zachary
Courtroom Deputy Clerk