

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re: Baycol Products)
Litigation) MDL No. 1431 (MJD)
)
)
)
This Document Relates to:) File No. CV-03-1097 (MJD)
)
)
Edna Dempsey vs. Bayer)
Corporation, et al.)
) Minneapolis, Minnesota
) September 25, 2006
) 1:30 p.m.
)

BEFORE THE HONORABLE MICHAEL J. DAVIS
UNITED STATES DISTRICT COURT JUDGE

(MOTIONS HEARING)

APPEARANCES

For Plaintiff Edna)
Dempsey:) MICHAEL ROTHMANN, ESQ.

For the Plaintiffs')
Steering Committee:) RICHARD LOCKRIDGE, ESQ.

For Defendant Bayer:) JAMES MIZGALA, ESQ.

For Defendant)
GlaxoSmithKline:) FRED MAGAZINER, ESQ.

Court Reporter:) LORI A. SIMPSON, RMR-CRR
1005 U.S. Courthouse
300 South Fourth Street
Minneapolis, Minnesota 55415

Proceedings recorded by mechanical stenography;
transcript produced by computer.

P R O C E E D I N G S

IN OPEN COURT

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2
3 THE CLERK: Multidistrict Litigation 1431, In re:
4 Baycol Products. Please state your appearances for the
5 record.

6 MR. LOCKRIDGE: Your Honor, Richard Lockridge here
7 on behalf of the PSC.

8 THE COURT: Good afternoon.

9 MR. ROTHMANN: Michael Rothmann, R-o-t-h-m-a-n-n,
10 on behalf of Plaintiff Edna Dempsey.

11 THE COURT: Good afternoon.

12 MR. MIZGALA: James Mizgala on behalf of Bayer.
13 Good afternoon, Your Honor.

14 THE COURT: Good afternoon.

15 MR. MAGAZINER: Fred Magaziner on behalf of
16 GlaxoSmithKline.

17 THE COURT: Good afternoon.

18 MR. MAGAZINER: Good afternoon, Your Honor.

19 THE COURT: You may proceed.

20 MR. ROTHMANN: Good afternoon, Your Honor. This
21 is a motion to compel, as you're aware. This is our motion
22 to try to obtain records from GlaxoSmithKline.

23 We're seeking records related to specific sales
24 representatives and detailers as to what they reviewed, what
25 they were trained on, and what they promoted and used to

1 promote Baycol to the prescribing physician, Dr. Bailey.

2 GlaxoSmithKline has objected to producing those
3 records and instead has indicated to us that we should look
4 at the over 1 million documents, as they indicated in their
5 responses, that have been produced so far.

6 In discussions with counsel they've indicated,
7 GlaxoSmithKline has indicated that they don't know -- they
8 haven't spoken to the detailers, their sales reps, so they
9 don't know exactly what records were reviewed by these
10 people and what was produced to or shown to the doctor.

11 Our contention is that, well, talk to the sales
12 reps, find out what they reviewed and what they may have
13 produced or used to detail Baycol, and then answer the
14 discovery requests. That has not occurred.

15 So we believe that the training records, the
16 records that discuss what --

17 THE COURT: Can the detailers for -- is it
18 Dr. Bailey? Have they been identified?

19 MR. ROTHMANN: They have been identified and that
20 is why we brought our motion to quash and motion to first
21 deal with these written discovery issues before we take
22 their deposition, because one of them is in New Jersey.

23 THE COURT: Right.

24 MR. ROTHMANN: We don't want to have to take their
25 deposition, find out that they have reviewed documents or

1 that they know of documents but they can't recall, and then
2 have to take another deposition and go back out there and
3 try to figure out what records they did review.

4 We also don't want to show up -- especially with a
5 four-hour time limit, we don't want to show up with
6 thousands of documents and say, Okay, is this one of the
7 sales representative training manuals that you reviewed, is
8 this a brochure that you may have produced or shown to
9 Dr. Bailey? That will take hours. And I think for
10 efficiency and time expediency that it's GSK's job to
11 properly answer discovery, to do that before the depositions
12 have proceeded.

13 Furthermore, Bayer has produced disks which have
14 discussed the training that the representatives have
15 undergone. There are thousands and thousands of documents,
16 I spent a week going through them, but obviously less than
17 the millions of documents that have been produced.

18 Even though they produced those documents, they
19 still don't -- they don't show what the sales reps, the
20 specific sales representatives, what training they had,
21 which seminars they appeared at or were attending, what
22 training education classes they may have had, which would
23 help me then be able to locate the date of the document and
24 then put the two together.

25 So the documents that have been produced so far do

1 not produce that information or show that information to me,
2 which puts it again in the hands of the Defendants to be
3 able to give me those answers. It's in their custody.

4 In terms of the personnel records, they are
5 relevant to this case because in numerous depositions of the
6 higher-ups in management of GSK and Bayer they discussed the
7 testing that goes on, the continuous testing to make sure
8 that these sales reps know what they're talking about when
9 they go out to detail Baycol.

10 It talks about the call logs for when doctors call
11 and ask questions or phone records or summaries of what the
12 doctors and the sales reps have discussed regarding Baycol.
13 None of that documentation has been produced to us and we
14 need those in terms of -- we asked for them and they haven't
15 been produced.

16 This is relevant because what they -- the sales
17 reps are not just going to come in and give the doctor a
18 pamphlet. They're going to -- the doctor may ask questions
19 and the sales reps are going to have to answer.

20 So we want to know whether or not these sales reps
21 knew the risks, were testing well enough to be able to
22 explain the risks of Baycol, and whether or not in these
23 call logs and these surveys whether or not these issues were
24 being brought up to these sales reps, which then would
25 provide -- put them on notice, more so than the evidence we

1 already have, that Baycol had a higher risk of
2 rhabdomyolysis than the other statins.

3 It goes to our causes of action regarding the
4 Consumer Fraud Act, our intentional torts, our negligence
5 and false advertisement. All these requests go to be able
6 to help us prosecute those issues.

7 The bonuses and incentive plan, that specifically
8 would relate toward our intentional torts. The more the
9 detailers sold Baycol, the bigger their bonus, which means
10 that they may have been decreasing or lessening the amount
11 that they were telling the physicians of the risks,
12 comparing Baycol to other statins. So that would go toward
13 our intentional torts.

14 In sum, we're asking this Court to order
15 Defendants to identify the records and materials that the
16 representatives reviewed in the training, their sales
17 training, and what they supplied to the doctors.

18 We ask that the personnel files be produced,
19 specifically but not -- and including call logs, phone
20 directories, surveys, incentive bonus documentation, any
21 accommodations or disciplinary documents.

22 And this may go -- this may show that a doctor
23 could have been calling Glaxo or Bayer and saying, Your
24 detailer doesn't know what she's saying or he's saying.
25 Your detailer is saying one thing, but I know this is not

1 true. So that may be relevant.

2 A list of seminars and training, that would help
3 us try to narrow down what has been -- what they have
4 reviewed and trained on.

5 The depositions I've reviewed so far from other
6 sales reps, every one says, I don't remember, I don't
7 remember, I don't remember, I don't know, I don't know, I
8 don't know. And we need to be able to either refresh their
9 recollection, impeach them if they say things that are
10 contrary to what they're saying, or confirm what they're
11 saying.

12 If the representatives review any records prior to
13 deposition, we ask that the Defendants bring the records to
14 the deposition just in case that they would need to be --
15 their recollection has to be refreshed; and if any
16 privileges are being sought on those documents, we ask that
17 a proper privilege log be produced.

18 And also, as our motion indicates, that we have
19 asked that the deposition of Dr. Bailey and the
20 representatives be extended so we can first -- we can finish
21 this dispute, which then would push back also our -- we
22 would like to then supplement our expert's opinions and give
23 the Defendants time to respond and then us time to take
24 their deposition.

25 We have completed all the treating physician

1 depositions so far, about 10 to 12 depositions in this case.
2 So this would be the last thing that has to be done.

3 Thank you.

4 THE COURT: Thank you. You should have scheduled
5 this down in Chicago on Arlington Million weekend.

6 MR. ROTHMANN: Next time.

7 MR. MAGAZINER: Good afternoon, Your Honor.

8 THE COURT: Good afternoon. How are you, sir?

9 MR. MAGAZINER: I'm well. Thank you, Your Honor.
10 I'm happy to be back in this court. It's been a while, I
11 think.

12 THE COURT: It has been.

13 MR. MAGAZINER: I would like to respond to
14 Mr. Rothmann's specific request, but I would first like to
15 put this in perspective because I think it's important for
16 Your Honor to appreciate why it is that after five years of
17 litigation one plaintiff's lawyer has decided that GSK has
18 not been responsive and has brought this motion to compel
19 and put this in perspective of the entire five years of
20 litigation.

21 As Your Honor knows, there have not been previous
22 motions. No other plaintiffs' lawyers have thought that we
23 have been anything other than fully responsive. We have had
24 this one dispute here, which has now reached Your Honor.

25 Mr. Rothmann's complaint and the discussions, the

1 correspondence we have had, I think, manifests a failure to
2 even try to understand what GSK's involvement was with
3 Baycol and what GSK's position is in the litigation.

4 The complaint alleges all sorts of things which
5 are indisputably false, such as GSK manufactured Baycol,
6 that GSK distributed Baycol, that it sold Baycol, that it
7 created Baycol, designed Baycol, tested Baycol, labeled
8 Baycol, packaged Baycol, supplied Baycol.

9 Mr. Rothmann alleges GSK did everything that Bayer
10 did; whereas, all the lawyers who have been in this
11 litigation since the outset know that that is completely
12 untrue. GSK had only certain involvement here.

13 After Bayer had invented the Baycol molecule,
14 cerivastatin, and tested it in animals, after Bayer had
15 tested it in human beings, after Bayer applied for a license
16 to sell Baycol in the United States, after the FDA approved
17 Bayer's new drug application permitting Bayer to sell Baycol
18 in the United States, only after all those things have
19 happened did Bayer then contract with GSK for assistance in
20 promoting Baycol.

21 And GSK's role in promoting Baycol was to make
22 sure that when its salespeople went -- that was my
23 BlackBerry, I'm sorry -- when GSK's salespeople were
24 promoting Baycol -- or promoting GSK's drugs to physicians,
25 they also mentioned Baycol.

1 Bayer retained the sole responsibility, if you
2 look at the co-promotion agreement, the sole responsibility
3 for making sure that everything complied with the FDA law
4 rules and regulations regarding the safety of the drug.
5 Bayer had the sole responsibility for communicating with the
6 FDA. It was Bayer's sole responsibility to write the Baycol
7 label.

8 What the GSK sales reps had to do is make sure
9 they promoted Baycol to doctors in accordance with the
10 Baycol label and did not go off saying things that were not
11 part of the official FDA approved package insert or label.
12 It's because of that that in this litigation, as Your Honor
13 well knows, we have had such a very minor role.

14 Your Honor may remember about a year after the
15 litigation began we furnished to Your Honor and to all the
16 plaintiffs' lawyers involved in Baycol a copy of the
17 agreement between Baycol -- between Bayer and GSK in which
18 it is stated that Bayer will maintain responsibility for
19 paying any judgments, 95 percent of any judgments, and for
20 any settlements, that is, 95 percent of all settlements.
21 This has basically been Bayer's litigation, as Your Honor
22 well knows.

23 We now come to Mr. Rothmann's request of GSK.
24 There is no evidence, no evidence or shred of evidence of
25 any kind in this case that is different from the evidence in

1 all the other thousands of cases in which GSK and Bayer were
2 named. There's no evidence that anything improper or
3 inappropriate happened here between the GSK sales reps and
4 the doctor.

5 As a matter of fact, of the 133 doctors who were
6 deposed in Phase I under PTO 149 that have been deposed in
7 this last six months, to my knowledge not one doctor has
8 testified that a GSK sales rep said anything the least bit
9 improper, out of the ordinary, inconsistent with the label.

10 No doctor has said that and there has been no
11 evidence in all the depositions taken of GSK's sales reps to
12 date that any GSK sales rep has ever did -- ever did
13 anything improper in detailing Baycol to any doctor.

14 Mr. Rothmann now says he needs to have a whole
15 raft of discovery related to these GSK sales reps, but it's
16 a pure fishing expedition. It serves no purpose, no
17 purpose, Your Honor, other than perhaps to try to pressure
18 GSK into settling this rhabdo case.

19 And I will tell Your Honor this is one of 15 or so
20 rhabdo cases left. If it's going to be settled, it's going
21 to be because Bayer and Plaintiff agree to an amount. Bayer
22 has been trying to settle it. It hasn't settled yet.

23 Mr. Rothmann apparently thinks by propounding a
24 lot of discovery against GSK somehow that's going to promote
25 this towards settlement, but it will not. It's not our case

1 to settle. It's Bayer's case. If Bayer thinks Plaintiff's
2 demand is fair, it will settle. If not, it won't.

3 Mr. Rothmann asks for all the detailing pieces,
4 the promotional pieces that the GSK sales reps used and
5 wants us to tell him which ones a particular rep used with
6 this particular doctor.

7 As I've explained, it's in the papers and I have
8 explained it by telephone as well, we do not have within our
9 corporate knowledge any way of answering that question. We
10 don't have any records that show which particular
11 promotional piece a sales rep gave to a doctor. We don't
12 have anyone -- any officer or managing agent of the company
13 who would know that.

14 We have a bunch of approved promotional pieces.
15 They are the same approved pieces that Bayer's sales reps
16 used. They were all approved by the FDA. We gave them to
17 sales reps and we said to them you can use these with
18 doctors, but we have no record of whether a sales rep did or
19 did not use a particular promotional piece with a doctor.

20 Mr. Rothmann says, well, we have to go to the
21 sales reps and interview them and find out. That's a
22 completely new concept of discovery as I understand it. We
23 as a corporation are required to answer interrogatories
24 about things that are within our corporate knowledge, but
25 I'm not familiar with any case law or rule that says we have

1 to go and interview employees to find out what they
2 personally know when we have no corporate knowledge of it.

3 If Mr. Rothmann wants to find out about what sales
4 reps gave to doctors in the unlikely event that any of these
5 sales reps remember what they gave to a particular doctor
6 five, six, seven, or eight years ago, Mr. Rothmann can
7 depose the sales reps. He can depose the doctors.

8 We have told him the dates on which we produced
9 the documents that contain the promotional pieces that we
10 made available to sales reps. We've told him the dates so
11 he can track this within the PSC database. The dates on
12 which we produced the training materials, which are
13 essentially the same as the Bayer training materials, he can
14 track those. But we have no corporate records that would
15 allow us to answer his question of did sales rep X give a
16 particular promotional piece to Dr. Bailey.

17 Mr. Rothmann now wants all the personnel files,
18 every document in the company's files that mention these
19 sales reps. But for what purpose? There's no suggestion in
20 the record in this case that this is any different from any
21 other case.

22 There's no reason to believe that these sales reps
23 said to Dr. Bailey anything they shouldn't have, that they
24 deviated from the label, which is their guideline, their
25 bible in the words of one of the GSK's executives, in

1 deciding what they can and cannot say to a sales rep [sic].

2 No reason to think they did, but Mr. Rothmann in a
3 fishing expedition says I want to see everything there is
4 about this rep because maybe I will discover something that
5 would allow me to somehow argue that maybe a rep said
6 something wrong to the doctor.

7 I've said if there is any evidence after you
8 depose the doctor that the rep said something improper, I
9 will give you a second bite at the rep, a second deposition
10 of that rep, and we will then go and produce materials from
11 our files about that rep, but let's first find out whether
12 there is any reason at all to suspect that a GSK sales rep
13 said something improper to this doctor.

14 The position I just outlined has been good enough
15 for every other plaintiff's lawyer in the country through
16 thousands and thousands of Baycol cases, but Mr. Rothmann
17 says it's not good enough for him, he wants to fish around,
18 see what he can find about these reps, maybe find some dirt
19 about these reps somehow which will somehow lead to
20 something that will be useful to him, but I don't know in
21 what way.

22 We would ask the Court to deny his motion to
23 compel. I'm happy to turn over to Mr. Rothmann something he
24 didn't even ask for, which is the very minimal call notes we
25 have from the sales rep.

1 The other plaintiffs' lawyers have said let us see
2 the call notes that the sales reps create after they visit a
3 doctor because maybe that will shed light on what the sales
4 rep said. Mr. Rothmann hasn't even asked for that, but I
5 will be happy to give that to him. It's very minimal, it
6 doesn't say much, but he can have it.

7 I am happy to have the reps deposed, and then if
8 they need to be deposed a second time because there's some
9 reason to think that there was something inappropriate that
10 happened, they will be deposed a second time, but not just
11 turn over the whole corporate file, personnel files,
12 training files, everything in the hope that Mr. Rothmann
13 might find something that would be of some interest to him.

14 THE COURT: Thank you.

15 MR. MAGAZINER: Thank you, Your Honor.

16 MR. LOCKRIDGE: Can I say one word, Your Honor?

17 THE COURT: In a few minutes.

18 MR. LOCKRIDGE: Okay.

19 MR. MIZGALA: Thank you, Your Honor.

20 MR. LOCKRIDGE: Sorry. I didn't realize he was
21 coming up.

22 MR. MIZGALA: James Mizgala on behalf of Bayer.

23 Your Honor, when I showed up today Mr. Lockridge
24 looked at me and said, James, what are you doing here? Do
25 you have a dog in this fight? And I said no until

1 Mr. Rothmann got up to speak and he kept referring to
2 Defendants and what he wanted from Defendants.

3 Your Honor, this motion, as you know, was not
4 directed to Bayer. It was directed to GSK. The only thing
5 he asked for was a certificate of completeness from us and I
6 will represent to Your Honor that we provided that by letter
7 essentially on June 28th. If the Court would like a copy of
8 this, I would be more than happy to hand it up.

9 THE COURT: Please.

10 MR. MIZGALA: On behalf of Bayer, I would
11 respectfully request that any relief offered with respect to
12 Mr. Rothmann's motion be limited to GSK.

13 Thank you, Your Honor.

14 THE COURT: Mr. Lockridge.

15 MR. LOCKRIDGE: Very briefly, Your Honor.

16 The PSC does support Mr. Rothmann in this matter
17 and I would note that when counsel talks about that this is
18 good enough for all the other attorneys in all of these
19 other cases, the reality is, of course, that virtually all
20 rhabdomyolysis cases settled. This one has not.

21 And on the muscle injury cases there have been
22 very few of those issues come up because, quite candidly,
23 the muscle injury cases, while significant, there simply
24 isn't a value in those cases to warrant motions like this.

25 So I think that's one of the reasons why this is

1 one of the few cases where this has come up, but the PSC
2 does support Mr. Rothmann.

3 THE COURT: Thank you.

4 MR. ROTHMANN: A quick reply. Thank you.

5 As you're aware, PTO 114 just started. We just
6 started case-specific discovery in May of 2006. So that is
7 why this issue has not come up, and we are one of the 15 --
8 I guess one of the 15 rhabdo cases that are left.

9 Our brief did indicate and produced evidence based
10 on what the GSK and Bayer reps -- or higher-ups testified to
11 that GSK did distribute, did have safety -- they had joint
12 teams, development teams. They were required to provide
13 each other with adverse event knowledge and I think it was,
14 not McClung, but King who indicated that they did have some
15 sort of role with safety.

16 Once GSK knew of the adverse events, they had a
17 duty to advise the physicians that there was an increased
18 risk of rhabdo compared to other statins and so -- I mean,
19 this is just in response to what they were saying in terms
20 of our understanding of this case.

21 GSK did not have a minor role in detailing
22 Dr. Bailey. They saw her three and a half times per month
23 for three years. So their role was very significant in
24 being able to provide Dr. Bailey with the requisite
25 knowledge regarding the risks and the safety of Baycol and

1 whether these representatives knew enough to be able to
2 answer the questions that these doctors -- that the doctors
3 provided is critical in this case.

4 Now, as I indicated, case specific just started in
5 May. There is no evidence because, like both counsels have
6 indicated, most of the rhabdo cases have settled. As long
7 as GSK tries to not hide, but not produce the requested
8 materials which are relevant in this case, there will be no
9 evidence.

10 So by trying to quash or suppress our discovery,
11 they will be successful in making sure that we don't get
12 the evidence that probably will lead to admissible evidence
13 at trial. And if it was not a big issue, then why are they
14 fighting it so strongly if they are not scared of what's in
15 those records?

16 In terms of -- strike that.

17 THE COURT: Let me ask you this. Where is the
18 settlement discussions with Bayer dealing with -- if this is
19 a rhabdo case?

20 MR. ROTHMANN: In April of 2006 we met with John
21 Jackson and another attorney from Bayer in the Chicago
22 office with Sidley Austin at Sidley Austin's office, and we
23 were there for a day and unfortunately we were unable to
24 resolve the case. We had decreased our demand quite
25 significantly. Well, I don't know if you want me to go into

1 that.

2 THE COURT: It doesn't matter whether -- Bayer
3 doesn't want me to try these cases anyway, so it doesn't
4 matter.

5 MR. ROTHMANN: Bayer really did not come off with
6 what they started with at the pretrial.

7 So one of the main things is our case is unique in
8 terms of muscle damage to the urinary muscles and the
9 doctors have testified that the rhabdo caused muscle myalgia
10 of the -- which impedes her ability to urinate, so she has
11 to catheter herself and Valsalva's maneuver to urinate. The
12 doctors are indicating that it started on the day of rhabdo
13 and it's related. Plus the science is there to support it
14 because it's skeletal muscle.

15 So they wanted -- we agreed to take the deposition
16 of the urogynecologist as well as the other physicians to
17 give everyone a better picture of what was happening to
18 this -- to the plaintiff.

19 So hopefully we will be able to continue to
20 discuss settlement, but I don't think that it's fair for us
21 to depose a representative and a doctor, find out that we
22 will need to depose them again, have the expense of two
23 depositions when it should be done first let's finish the
24 written and do the deposition at one time. I mean, that is
25 what the -- that is how typical discovery, oral and written

1 discovery, occurs.

2 They did provide us with the dates that the
3 discovery was produced to the general -- to the Plaintiffs'
4 Steering Committee, but they did not provide any Bates stamp
5 numbers. So I don't know what records in those days that
6 they did produce which are relevant to these issues.

7 And if -- and that's basically it. I think that
8 they should be compelled.

9 MR. MAGAZINER: May I have a moment, Your Honor?

10 THE COURT: Just 30 seconds. I'm in trial.

11 MR. MAGAZINER: Yes, I understand that, Your
12 Honor.

13 I have told Mr. Rothmann we will give him the
14 Bates numbers, if he wants them, of the training manuals and
15 of the promotional pieces. What we can't give him is the
16 answer to his question, which ones did a particular rep use
17 with this particular doctor, because we don't know that.
18 But we can show him the Bates numbers of the range of
19 promotional materials and the range of training manuals.

20 Mr. Rothmann wonders why this is of such interest
21 to me that I have asked for oral argument and come out to
22 Minneapolis if there's not something bad in these documents.
23 And the answer is there are about 2,800 plaintiffs still
24 suing us.

25 So it is of interest to me when a plaintiff's

1 lawyer says, wait a minute, I want this whole range of stuff
2 that's never been asked for before. I don't know if
3 Mr. Rothmann is in touch with other plaintiffs' lawyers, but
4 this is of interest to us because this would greatly expand
5 the scope of discovery.

6 And then finally, Mr. Rothmann persists in not
7 understanding something very basic that I hope Your Honor
8 does understand and I would be happy to brief this further
9 if you would like. The GSK reps were not permitted by law,
10 were not permitted by law to go say to Dr. Bailey we think
11 Baycol is more dangerous than other statins, we think there
12 are additional risks, et cetera.

13 The GSK reps were required to talk about those
14 benefits and those risks that were described in the FDA
15 approved package insert and nothing more. It would have
16 been unlawful for GSK reps to do what Mr. Rothmann hopes he
17 is going to prove the GSK reps didn't do.

18 I will stipulate that the GSK reps did not go to
19 Dr. Bailey and tell her of their own beliefs about the risks
20 involved with Baycol. They did not. It would have been
21 unlawful for them to do that. If that's what this discovery
22 is seeking, I will stipulate that they didn't do that.

23 THE COURT: Well, thank you for coming to visit
24 me.

25 MR. LOCKRIDGE: Can I have 30 seconds on a

1 separate issue, Your Honor, literally 30 seconds?

2 THE COURT: Sure.

3 MR. LOCKRIDGE: Your Honor, it's --

4 THE COURT: I haven't had a Baycol fix in a long
5 time.

6 MR. LOCKRIDGE: We'll try, then. It has been
7 about a year, I think, since we were back here and I think
8 it might -- from the PSC's view, it might be appropriate to
9 have a status conference sometime in the comparatively near
10 future.

11 THE COURT: All right. Why don't you e-mail my
12 clerk with some dates that are compatible with the
13 Defendants so we can get it on my calendar.

14 MR. LOCKRIDGE: Thank you.

15 THE COURT: The month of October is going to be
16 very difficult for me because I will be in trial, a trial
17 that I do not want to have interrupted. So the first part
18 of November looks good for me, I think.

19 MR. LOCKRIDGE: We'll talk to Katie then. Thank
20 you.

21 THE COURT: Thank you. I will take this matter
22 under advisement.

23 (Court adjourned at 2:00 p.m.)

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I, Lori A. Simpson, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Certified by: Lori A. Simpson, RMR-CRR