

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

STATUS CONFERENCE

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| In Re: Fluoroquinolone Products Liability |) | COURT MINUTES |
| Litigation, |) | BEFORE: John R. Tunheim |
| |) | U.S. District Judge |
| Plaintiff, |) | |
| |) | Case No: 15-2642 JRT |
| v. |) | Date: May 18, 2016 |
| |) | Deputy: Heather Arent-Zachary |
| |) | Court Reporter: Tim Willeete |
| |) | Time Commenced: 1:55 pm |
| Defendant. |) | Time Concluded: 2:46 pm |
| |) | Time in Court: 51 Minutes |

Hearing on: Status Conference

1. Status of Litigation

Counsel reported that there are currently 383 cases filed in the MDL, as well as a CTO filed with four additional cases. Counsel reported that there are currently 39 cases pending in Pennsylvania state court and 1 case in California state court. Counsel discussed the Pennsylvania proceedings, and stated that the state court judge handling those cases would be interested in coordinating with the MDL and open to speaking with the Court. The Court requested that the parties provide the contact information for the judges handling the Pennsylvania cases.

2. Status of Pre-Trial Orders

The Court noted that it would sign the proposed ESI Protocol order and an order addressing severance of the multi-plaintiff actions as soon as possible. Counsel reported that they were meeting and conferring on a pre-trial order addressing deposition protocol, and would submit a proposed order or competing proposals three days before the next status conference. Counsel reported that they were in the process of reaching an agreement on a proposed order addressing defense fact sheets, and would submit a proposed order or competing proposals; however, defense counsel reported that they may not submit a proposal until after the next status conference because of a remaining disagreement.

3. PSC's Proposal for Bellwether Selection Protocol

Plaintiffs' counsel noted that they submitted proposed bellwether selection protocol to the Court. Defense counsel stated that they would not be able to respond with a proposal until after reviewing the plaintiffs' fact sheets. The Court stated that the defendants' response would be due in September, giving them time to consider the plaintiffs' fact sheets.

4. Update on Recent FDA Action / Amendment to Master Complaint

Plaintiffs' counsel reported that the FDA recently issued a letter requiring manufacturers of Fluoroquinolones to update labels with a black box warning, including peripheral neuropathy, and also that Fluoroquinolones should no longer be prescribed for certain common conditions because of a risk of permanent injuries. Plaintiffs' counsel wishes to add this information into the master complaint so that the Court can consider it at the motion-to-dismiss stage. Plaintiffs' counsel stated that they had met and conferred with defense counsel, and requested a briefing schedule for a motion to amend the master complaint. Defense counsel responded that allowing this letter into the master complaint could broaden the MDL because it discusses other injuries, including tendon rupture, in addition to peripheral neuropathy – the subject of this MDL.

The Court set a briefing schedule for the plaintiffs' motion to amend the master complaint: the plaintiffs are to submit their motion and brief no later than May 23, the defendants may then respond no later than June 9, and the plaintiffs may file their reply no later than June 16. The motion will be considered at the June 21 status conference.

Plaintiffs' counsel also suggested several minor changes to the master complaint, including adding a Bayer entity as a defendant, changes to avoid redaction, and a citation to an additional case. Defense counsel did not object to these changes, and plaintiffs' counsel agreed to amend the complaint promptly.

5. Future Status Conferences

Upcoming Status Conferences:

- 1. Tuesday, June 21, 2016 at 1:30 PM**
- 2. Wednesday, July 13, 2016, OR Thursday, July 28, 2016, at 1:30 PM**
- 3. Tuesday, August 16, 2016, at 1:30 PM**

APPEARANCES:

Plaintiffs: Yvonne Flaherty, Russell Bud, Thomas Sims, David Wool, Bill Robbins III, R. Jason Richards, Andrea Hirsch, Christopher Nidel, Olga Viner, Tad Thomsa

Defendants: Cort Sylvester, Cicely Miltich, Andrew Solow, John Winter, James Murdica

On the phone: Ericka Downie, Katie Griffin, Ahmed Diab, Lauren Welling, Sarah Wolter, Dae Lee, Karen Allen, Elise Sanguinetti, Jenay Moshkovich, Dean Atyia, Michelle Cohen

s/Heather Arent-Zachary
Courtroom Deputy Clerk