

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

STATUS CONFERENCE

In Re: Fluoroquinolone Products Liability	)	COURT MINUTES
Litigation,	)	BEFORE: John R. Tunheim
	)	U.S. District Judge
Plaintiff,)	
	)	Case No: 15-2642 JRT
v.	)	Date: July 13, 2016
	)	Deputy: Heather Arent-Zachary
	)	Court Reporter: Kristine Mousseau
	)	Time Commenced: 1:51 pm
Defendant.	)	Time Concluded: 3:01 pm
	)	Time in Court: 1 Hour & 10 Minutes

Hearing on: Status Conference

1. Status of Litigation

Counsel reported that there are currently 488 total pending cases in the MDL: 366 naming Janssen Defendants and 176 naming Bayer Defendants, including 54 cases that involve both defendants. There are also 30 cases involving Janssen Defendants and 16 cases involving Bayer Defendants pending in Pennsylvania State Court. Counsel reported that the state court judge presiding over many of the state court cases issued a case management order setting a trial schedule for December 2017.

2. PTO-3 Update re Outstanding Deficiencies

Counsel for Bayer reported that in their view 33 cases were either deficient in complying with PTO 3 or should be dismissed based on the PTO 3 filing. Defendants have sent correspondence to Plaintiffs whom they believe fall into one of those categories. In response, Bayer has seen 19 dismissals and Janssen has seen 12. Counsel acknowledged that they had not been copying Plaintiffs' co-lead counsel on those correspondence, and they agreed to provide co-lead counsel with two weeks to speak with Plaintiffs' counsel, after which Defendants would propose a show cause order to the Court for any remaining cases in which the plaintiff did not adequately responded. Plaintiffs' counsel agreed with the proposal. Counsel for Bayer also noted that the disputes over PTO 3 compliance did not affect the deadline for Plaintiffs' Fact Sheets.

3. Defense Fact Sheet Pretrial Order

The Court heard argument regarding the disputed portions of the proposed pretrial order addressing Defense Fact Sheets. The disputes discussed included: the length of time Defendants would have to complete the fact sheets; whether Defendants could refer to documents provided rather than filling out charts; whether Defendants had to provide prescribing practices data regarding antibiotics generally or just fluoroquinolones; and, the primary dispute, whether or not Defendants would have to process and search custodial data, such as emails, or if they could just search existing databases. The Court stated that it will consider the parties' arguments and issue a written order soon.

4. Science Day

The parties discussed the format of Science Day, currently scheduled for September 23, 2016. Defendants' prefer to present expert testimony, without cross-examination, discussing the applicable science; whereas, Plaintiffs prefer attorney presentation about the parties' positions and some discussion of the regulatory background of the case. Plaintiffs' counsel were directed to discuss among themselves whether it would be difficult to obtain an expert for two hours of testimony, possibly at a later date if necessary, and the subject will be discussed further at the next status conference.

5. Miscellaneous

The Parties stated that they would meet and confer regarding Plaintiffs' proposed Common Benefit Order.

Bayer Defendants followed up on a case discussed in a prior status conference, DeSalvo v. Bayer HealthCare Pharmaceuticals, Inc., in which counsel had withdrawn prior to transfer to the MDL. DeSalvo's prior counsel agreed to provide his last-known contact information, and the Court will then issue a show cause order.

The Court noted a conflict with the next scheduled conference date, and provided that a new date would be agreed upon after the status conference.

APPEARANCES:

Plaintiffs: Russell Budd, Yvonne Flaherty, Thomas Sims, David Wool, Andrea Hirsch, Christopher Nidel, Olga Viner, Tad Thomas

Defendants: Tracy Van Steenburgh, Cicely Miltich, Andrew Solow, James Murdica

On the phone: Ericka Downie, Randi Kassan, Kathy Lee, Lindsay Stevens, Christopher Nidel, Kristen Barton, Katie Griffin, Ahmed Diab, Sarah Wolter, Elise Sanguinetti, John Winter, Jenay Moshkovich,

s/Heather Arent-Zachary
Courtroom Deputy Clerk