

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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In re: FLUOROQUINOLONE PRODUCTS  
LIABILITY LITIGATION

MDL No. 15-2642 (JRT)

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This Document Relates to All Actions

**PRETRIAL ORDER NO. 14  
REGARDING STREAM-  
LINED SERVICE ON BAYER  
PHARMA AG**

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**I. SCOPE OF THE ORDER**

A. This Stipulated Order shall govern (1) cases transferred to this Court by the Judicial Panel on Multidistrict Litigation, pursuant to its Order of August 17, 2015; (2) any tag-along actions subsequently transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to Rule 7.1 of the Rules of Procedure of that Panel; and (3) all related cases originally filed in this Court or transferred or removed to this Court.

B. These procedures for informal service of process are not available in cases in which the plaintiff seeks remand to state court unless and until remand is denied. For plaintiffs seeking remand, all deadlines set forth in this Order run from the date on which remand is denied.

C. The Order applies only to claims brought by a U.S. citizen or resident based on usage or purchase of one or more fluoroquinolone product(s) in the United States.

D. Nothing herein shall be deemed consent by any defendant to use of these procedures in any other action.

## II. STREAMLINED SERVICE OF PROCESS FOR BAYER PHARMA AG

A. Bayer Pharma AG agrees to waive formal service of process under Federal Rule of Civil Procedure 4 and to accept service of cases, subject to the terms herein. By waiving formal service of process, Bayer Pharma AG does not waive any rights or defenses available to it.

B. For plaintiffs whose cases already have been docketed in this MDL, plaintiffs shall have 60 days from the date of entry of this Order to serve the Complaint with a Summons.<sup>1</sup> For all other cases, plaintiffs shall have 60 days from docketing of the action in the MDL to serve the Complaint with a Summons. The Complaint and Summons shall be served as follows:

By REGISTERED Mail, Return Receipt Requested, upon Bayer Pharma AG:

Bayer Pharma AG  
Mullerstrasse 178  
D-13353 Berlin, Germany  
Attn: Matthias Steinbeck

Contemporaneous with mailing the pleading to the address above, plaintiffs shall provide, by electronic mail, notice of service, a copy of the Summons and Complaint, to the following address: FQstreamlinedservice@apks.com.

C. Service will be deemed effective only if addressed as above (including the notice of service provided via electronic mail). General mailing or use of other methods

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<sup>1</sup> Subject to the terms of Section I, *supra*, plaintiffs may utilize the streamlined service provisions of this Order for service of the original Complaint which initiates the action. Service of a short-form Complaint, filed pursuant to Pretrial Order No. 3, under the streamlined service provisions of this Order shall not constitute valid service of process on any defendant.

of transmission, including but not limited to Federal Express or electronic mail to addresses other than the one identified above, will not be sufficient to effect service. Service will be deemed effective 10 days after the date of delivery. Bayer Pharma AG agrees to provide 30 days' notice before moving to dismiss for a technical defect in the service process described in this section. Failure to serve a Complaint within the 60 days set forth in Section II.B above will be subject to the standards governing Fed. R. Civ. P. 4(m). Other than objections based on failure to serve formal service of process, as outlined in this Order, Bayer Pharma AG reserves all rights and defenses available to it under federal and/or state law and under applicable treaties and conventions.

D. Certain other corporate affiliates of (1) Bayer Pharma AG, (2) Bayer HealthCare Pharmaceuticals Inc. and (3) Bayer Corporation have been or may be named as defendants in these proceedings. The term "other Bayer entities" (excluding the three Bayer affiliates referenced in the prior sentence) as used in this Order includes, but is not limited to, Bayer AG. The other Bayer entities have not agreed to streamlined service and are relieved of any obligation to answer complaints until further order of this Court.

E. By entry of this Order, plaintiffs have not waived their rights to pursue discovery from other Bayer entities. If plaintiffs seek discovery from any other Bayer entities, plaintiffs shall meet and confer with defendants concerning (1) whether the discovery can be obtained through Bayer HealthCare Pharmaceuticals Inc., Bayer Corporation or Bayer Pharma AG, (2) the scope of the proposed discovery, and (3)

compliance with foreign data protection laws. If no agreement is reached, the parties shall seek the Court's guidance before plaintiffs commence any such discovery.

F. For cases in which plaintiffs have properly served Bayer Pharma AG pursuant to this Order or the Federal Rules of Civil Procedure and any applicable treaties, any applicable limitations in Fed. R. Civ. P. 4(m) are extended such that plaintiffs need not serve the other Bayer entities until further order of the Court after a meet and confer of the parties. Further, a motion to dismiss a complaint under Fed. R. Civ. P. 4(m) should not be made as to unserved other Bayer entities until further order of the Court after a meet and confer of the parties.

DATED: June 26, 2017  
at Minneapolis, Minnesota.

s/John R. Tunheim  
JOHN R. TUNHEIM  
Chief Judge  
United States District Court