IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

STATUS CONFERENCE

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In Re: Fluoroquinolone Products Liability Litigation,

Plaintiff.

Defendant.

v.

COURT MINUTES

BEFORE: John R. Tunheim U.S. District Judge

Case No:15-2642 JRTDate:January 17, 2018Deputy:Heather Arent-ZacharyCourt Reporter:Renee RoggeTime Commenced:5:25 pmTime Concluded:5:56 pmTime in Court:31 Minutes

Hearing on: Status Conference

1. Status of General Litigation

a. Federal Filing Update

293 Bayer cases are still pending, with a few new ones filed this week. Some of the new cases have been transferred or will be transferred.

b. Philadelphia state court peripheral neuropathy litigation

Regarding the *Bryant* case, the parties had a conference call and hope to convert the trial ready date that has already been set into a firm trial date. The parties will reach out to Judge Younge to see if they can get a hearing and ask Judge Younge to move that date to one that better fits into the MDL schedule.

The *pro se* case, *Turner*, is still pending. There was a hearing today regarding plaintiff's failure to show, and plaintiff again did not show. Judge Younge took Defendants' Motion for Sanctions and Dismissal under advisement.

Two new cases have been filed in Philadelphia but the case management has not been set yet. Because they're 2017 filings, they should not be subject to end of 2018 deadline. The *Bryant* case was filed in 2015, which is why it needs to be tried before the end of 2018.

The Court recommended that the parties try to get in front of Judge Younge because he previously seemed concerned about the number of cases, and the fact that there is only one case might make his schedule more flexible. The Court asks that the parties keep him advised on this issue.

2. Discovery update

Written discovery is almost complete. There is one outstanding request.

a. Bayer/Merck depositions

Counsel reported that two Bayer A.G. depositions remain. One is scheduled for February 2, 2018, and the other is tentatively set for February 8, 2018. These fall past the discovery deadline, but parties have agreed to take the depositions after the deadline.

b. Treater depositions

Five treater depositions remain. Two have been set for next week. A third was served with a subpoena requiring appearance next week, but the deponent has some health issues and the parties are in agreement about pushing that off until after the discovery deadline if necessary. Two depositions remain that the parties have not been able to set dates for.

Defendants tried to get in touch with and served a subpoena on Dr. Deeds(?), a prescribing physician, but his attorney reached out objecting based on his health (recent surgery and still in recovery). The nurse practitioner, Ms. Gilbert, has not responded. The address the parties had was an old work address, and she had not worked there for two years. The parties just received a new address today. Mr. Simms thinks that they will not have a problem getting in touch with her soon at the new address and is happy to take the lead on that, even by having her served tomorrow. Plaintiffs are amenable to taking the deposition after the discovery deadline if necessary.

Sales representatives

c.

Five sales representative depositions remain but have been scheduled. One was scheduled for tomorrow but because of weather the deponent is unable to attend. Plaintiffs will seek to depose her shortly after the discovery deadline. The other four depositions are set for next week.

3. Update on Bellwether Trial Selection Process

The parties have agreed to take the three discussed cases out of the pool because of statutes of limitations motions that Defendants believe will be successful. The trial selection pool is down to seven – one Ciprofloxacin and six Avalox cases. The statute of limitations cases will proceed on the individual case motions schedule.

4. Status on December 21, 2017 Order to Show Cause

Only one plaintiff remains that has not turned in a plaintiff fact sheet. Plaintiffs' counsel seeks extension -120 days - to have the plaintiff serve the fact sheet. Defendants have no position on this request and defer to the court. The Court will grant the extension of 120 days but notes that this will be the final extension.

5. Motions to Establish Qualified Settlement Fund

There is one pending unopposed motion regarding this issue. The Court notes that it was filed yesterday and will take a look.

Upcoming Status Conference: Thursday, March 1, 2018, at 4:00 p.m.

APPEARANCES:

All parties appeared by telephone for this status conference.

Plaintiffs: Bill Robins III, Russell Budd, Thomas Sims, Yvonne Flaherty, Andrea Hirsch, Christopher Nidel, Olga Viner, Tad Thomas, Katie Griffin, Barbara Nevin Defendants: Lori Leskin, Andrew Solow, Michelle Tessier, Michael Suffern

> s/Heather Arent-Zachary Courtroom Deputy Clerk