

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE FLUOROQUINOLONE
PRODUCTS LIABILITY LITIGATION

Civil No. 15-md-2642-JRT

THIS DOCUMENT RELATES TO:
ALL CASES

**ORDER REGARDING
BELLWETHER TRIAL
CASES**

Before the Court are the parties' briefs proposing cases for bellwether trial selection. (Defs.' Report, Mar. 9, 2018, Docket No. 579; Pls.' Report, Mar. 9, 2018, Docket No. 580.) The parties present several issues for the Court.

I. Cipro Only Bellwether Trial Case Selection

The parties agree that the Cipro Only Bellwether Trial Case should be Suzanne Higley (15-cv-3288). As such, the Court will select the Higley case for trial.

II. Avelox Only Bellwether Trial Case Selection

There are six remaining Avelox Only Discovery Cases eligible for selection as Avelox Only Bellwether Trial Cases: Tina Cale (15-cv-3607); Heather Dodd (15-cv-4403); Stephanie Heller (15-cv-3292); Sherri Kellerman (15-cv-3285); Christina Morris (15-cv-3303); and Jerri Shepherd (15-cv-3579). Plaintiffs propose that the Court select Dodd, Heller, Kellerman, and Morris for trial. (Pls.' Report at 6.) Defendants propose that the parties engage in case-specific expert discovery in the six remaining Avelox Only cases, with trial selection to occur following decisions on any case-specific motions.

(Defs.' Report at 1.) In the alternative, Defendants propose that the Court select Cale, Dodd, Morris, and Shepherd for trial. (*Id.*)

The Court finds that case-specific expert discovery in the six remaining Avelox Only cases is appropriate and will order the parties to engage in case-specific expert discovery in the six remaining cases. Trial selection will occur following rulings on any case-specific motions. The Court will grant the parties a 15-day extension of the existing discovery deadlines for the Avelox Only cases to permit the parties adequate time to complete the additional discovery. Any further extension can be requested as the deadlines approach, if necessary.

The Court requests that the parties submit an amended pre-trial order setting forth all the amended deadlines prior to the April 2018 Case Management Conference (or by April 17, 2018, if no April 2018 conference is to be held).

III. Second Wave of Bellwether Discovery Cases

Defendants also propose that the Court establish a protocol for the selection of a second wave of bellwether discovery cases. (*Id.* at 2.) The Court will hear argument from both parties on this proposal at the next Case Management Conference.

ORDER

Based on the and the files, records, and proceedings herein, **IT IS HEREBY ORDERED** as follows:

1. Suzanne Higley (15-cv-3288) is selected as the Cipro Only Bellwether Trial Case.

2. The parties shall engage in expert discovery in the six remaining Avelox Only Discovery Cases: Tina Cale (15-cv-3607); Heather Dodd (15-cv-4403); Stephanie Heller (15-cv-3292); Sherri Kellerman (15-cv-3285); Christina Morris (15-cv-3303); and Jerri Shepherd (15-cv-3579).

3. Expert discovery deadlines in the Avelox Only Discovery Cases are extended by 15 days.

4. The parties shall file an amended pre-trial order setting forth all the amended deadlines on bellwether discovery and trials prior to the April 2018 Case Management Conference.

DATED: March 23, 2018
at Minneapolis, Minnesota.

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