

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

STATUS CONFERENCE

In Re: Fluoroquinolone Products Liability
Litigation,

Plaintiff,

v.

Defendant

COURT MINUTES

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

Case No:	15-2642 JRT
Date:	May 30, 2018
Deputy:	Heather Arent-Zachary
Court Reporter:	Kristine Mousseau
Time Commenced:	10:20 am
Time Concluded:	10:40 am
Time in Court:	20 Minutes

Hearing on: Status Conference

I. Status of Litigation

a. Federal Filing Update

348 cases remain in the MDL.

b. Philadelphia State Court Peripheral Neuropathy Litigation, including report on Bryant trial setting

In Philadelphia, there are 5 cases pending. In *Bryant*, the parties met with Judge Younge. Jury selection will begin September 28, 2018, and trial will begin October 1, 2018. Judge Younge wants *Bryant* tried by the end of the calendar year and before the MDL. A trial judge will likely be assigned only just before the trial.

Defendants have asked the Court to hold a hearing on the *Daubert* motions. Plaintiffs' opposition to the motion and to their letter requesting a hearing is due June 19, 2018. Defendants' reply will be due July 2, 2018. Defendants ask that the Court invite Judge Younge or the assigned trial judge to attend the *Daubert* hearing. Plaintiffs note that Judge Younge is not likely to be the trial judge and that he indicated that he would not be inclined to participate in a joint hearing.

The Court indicated that it is inclined to hold a live *Daubert* hearing because it is best practice in MDLs. The Court will not decide the issue until it receives the parties' response and reply briefs. Should the Court decide to hold a live *Daubert* hearing, it will invite Judge Younge or the assigned trial judge to participate.

II. Discovery Update

a. Case-specific Expert Discovery

For the cases that are still active in the bellwether pool, all case-specific expert depositions have been scheduled. Depositions for Plaintiffs' cases will likely be completed by July 11, 2018.

III. Report on MDL bellwether dismissals

Two cases in the pool were voluntarily dismissed recently: 2 cases in pool were voluntarily DMed recently. *Cale* (15-3607) and *Dodd* (15-4403). Four Avelox cases and one Cipro case remain. Assuming all these cases go forward, they are sufficient to populate the trial dates. The parties agree that additional cases should not be worked up now and that the issue of a second round of bellwether cases should be discussed. Plaintiffs' response is due June 4, 2018. Defendants note that, if a second round is selected, some might be ready to populate the later trial dates set for the first round's cases. While the Court has not yet decided whether to proceed with a second round of bellwether cases, the parties should be talking about it.

IV. Order to Show Cause on failure to provide PFSs

Defendants have seen no response to the Court's latest Order to Show Cause. After confirming with all Plaintiffs' attorneys, Defendants will file for dismissal of those cases. Three new cases may be ready for an order to show cause: *Eppinger* (18-319); *Schriner* (18-119); and *Phillips* (17-1593). They have overdue Plaintiff Fact Sheets. After confirming with Plaintiffs' attorneys, Defendants will submit another proposed Order to Show Cause. Several other Plaintiff Fact Sheets are late, but the parties are in the meet and confer process.

V. Scheduling of Next Status Conference

The next status conference is scheduled for Thursday, July 12, at 3:00pm.

APPEARANCES:

Plaintiffs: Bill Robins III, Yvonne Flaherty, R. Jason Richards, David Wool

Defendants: Lori Leskin, Andrew Solow, Michelle Tessier

On the phone: John Ipsaro, Katie Griffin, Kristen Barton

s/Heather Arent-Zachary
Courtroom Deputy Clerk