

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

STATUS CONFERENCE

In Re: Levaquin Products Liability)	COURT MINUTES
Litigation,)	BEFORE: John R. Tunheim
)	U.S. District Judge
)	
Plaintiff,)	
)	
v.)	Case No: 08-1943 JRT
)	Date: October 30, 2012
)	Deputy: Janet Midtbo
)	Court Reporter: Kristine Mousseau
)	Time Commenced: 2:45 p.m.
Defendant.)	Time Concluded: 3:30 p.m.
)	Time in Court: 45 minutes

Hearing on: Status Conference

1. Number of cases pending and Federal/State Coordination

Defendants state that there are 1923 cases currently pending in the MDL.

In the New Jersey mass tort litigation, 1509 cases are active. No trials are currently scheduled in the New Jersey litigation, but a status conference is scheduled for November 8, 2012, and plaintiffs for a June 2013 Bellwether trial are expected to be selected at that time.

Two cases are pending in Illinois. The trial that was scheduled to begin in September 2012 was postponed, and the cases have not been rescheduled for trial.

2. Status of Settlement

Settlement is currently proceeding in several groups.

The first settlement group involves approximately 845 plaintiffs represented by a small number of firms who reached a settlement in September 2012 pursuant to negotiations with Chief Magistrate Judge Boylan. The terms of that agreement are currently being drafted. Plaintiff anticipates the agreement will be finalized in the next 2 weeks.

The second settlement group involves a set of plaintiffs represented by another group of firms who are interested in participating in the settlement reached by the first group. So far this group involves approximately 130 plaintiffs who have submitted their cases for evaluation.

The third settlement group involves plaintiffs whose counsels have a small number of cases in the MDL. Plaintiffs are reaching out to all counsel who have cases in the MDL and are inviting them to participate in the settlement. This third group also involves plaintiffs who are not working through MDL counsel, but have instead reached out directly to defendants to discuss settlement options. Currently this group involves approximately 60 plaintiffs.

As part of reaching a settlement agreement, the parties are also working toward developing a standardized settlement protocol through which plaintiffs will submit cases for an evaluation of whether, and to what extent, their cases are compensable.

3. **Proposed Amendment to PTO 3**

Plaintiffs continue to work with New Jersey counsel to come to an agreement with respect to the assessment issue. Plaintiffs indicated that they are very close to reaching an agreement, and will report to the Court as soon as any agreement is reached.

In the event that an agreement cannot be reached, the parties have agreed to an extension of the briefing deadline, which the Court granted prior to the status conference. Any opposition to plaintiffs' brief on this issue and plaintiffs' proposed amended PTO 3 is to be filed by November 9, 2012. Any reply is then due by November 16, 2012.

Defense counsel anticipates that the New Jersey settlement may be funded within the next 60 days, and reiterated that defendants will advise the Court at least 2 weeks before the settlement is funded, to allow the Court time to resolve any remaining issues with the assessment.

4. **March 2013 Trial – Cases in Discovery**

Only three Minnesota filed/Minnesota resident cases remain unresolved. Mr. Karkosa's case is still active, and plaintiffs will have a decision soon regarding whether this case will be dismissed. Defendants continue to conduct updated discovery in the two other active Minnesota cases – Steven Krieser and Sharon Johnson – in anticipation of a March trial.

5. **Order on Defendants' Motion to Sever Multi-Plaintiff Complaints**

Defendants reported that 325 of the plaintiffs from the multi-plaintiff cases have not timely refiled their complaints, and pursuant to the Court's August 17, 2012 order are automatically dismissed without prejudice.

6. **Deficient PFSs – Order to Show Cause**

Defendants have completed sending second deficiency notices and approximately 60 plaintiff fact sheets remain outstanding. Defendants have submitted a proposed order to show cause in these cases. Any objections to or comments on the proposed order to show cause shall be submitted to the Court by Tuesday, November 6, 2012.

7. **Forum Non Conveniens & Cases for Remand**

The forum non conveniens and remand issues have been fully briefed by the parties. In light of the continuing settlement discussions and the potential for a substantial decrease in the number of cases affected by these procedural issues, the Court will continue to retain these matters under advisement until a time when the scope of these issues is subject to less fluctuation.

Next Status Conference: Monday, December 4, 2012 at 2:30 PM.

APPEARANCES:

Plaintiff:	Ronald Goldser, Susan Bieniek - Pro Se, Peter Krieser - Pro Se
Defendant:	Tracy Van Steenburgh, Dana Lenahan
Phone:	Charles Zimmerman, Kevin Fitzgerald, Robert Binxtock, Caia Johnson, Brian McCormick, Corey Sullivan, Eric Terry, Stacy Hauer, Kristian Rasmussen, Steven Sanders, Bill Essig, James Irwin, John Winter,

s/Janet Midtbo
Calendar Clerk