

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

STATUS CONFERENCE

In Re: Fluoroquinolone Products Liability	)	COURT MINUTES
Litigation,	)	BEFORE: John R. Tunheim
	)	U.S. District Judge
Plaintiff,)	
	)	Case No: 15-2642 JRT
v.	)	Date: June 21, 2016
	)	Deputy: Heather Arent-Zachary
	)	Court Reporter: Kristine Mousseau
	)	Time Commenced: 2:15 pm
Defendant.	)	Time Concluded: 3:29 pm
	)	Time in Court: 1 Hour & 14 Minutes

Hearing on: Status Conference

1. Status of Litigation

Counsel reported that there are currently 484 cases pending in the MDL. There are also 40 cases pending in Pennsylvania state court and 1 case in California state court. The parties discussed the Pennsylvania proceedings, stating that they had submitted proposed case management orders. The parties provided contact information for the state court judge presiding over the Pennsylvania proceedings.

2. Plaintiffs' Short-Form Complaints

Counsel reported that the filing of short-form complaints resulted in dismissal of many cases against both defendants. Janssen Defendants reported that only one pro se case remained without a short-form complaint or dismissal, but that they were working with the Plaintiffs' counsel to get the short-form complaint filed. Bayer Defendants reported that there were two outstanding cases against them in which the plaintiffs had not filed a short-form complaint or dismissal. Janssen Defendants also reported that there are 88 cases in which the plaintiffs would need to file proof of branded use, which may result in further dismissals.

3. Status of Pre-Trial Orders

The parties reported that they submitted a proposed deposition protocol with one disagreement over the number of depositions, and the Court heard argument on the dispute. Plaintiffs' counsel requested 40 depositions for Janssen Defendants, 35 for Bayer, and 10 for Merck. Defense counsel argued for 20 depositions for Janssen Defendants and 20 for Bayer and Merck combined. The Court accepted the Plaintiffs' proposal with a slight modification: 40 depositions for Janssen Defendants and 40 for Bayer and Merck combined.

The parties reported that they had not reached an agreement on the defense fact sheets. The parties agreed to submit a joint proposal or competing proposals by July 5 at 5:00 p.m., with supporting briefs of 12 pages or less submitted the next day, July 6. The issue will then be addressed at the July 13 status conference.

Plaintiffs' counsel stated that the Plaintiffs' Steering Committee will submit a proposed common benefit order three days prior to the next status conference. Plaintiffs' counsel also discussed service waiver agreements, reporting that they were near an agreement with respect to German Bayer defendants, and would report back at the next status conference. Plaintiffs' counsel reported that they were unable to reach an agreement with two Janssen, Johnson & Johnson defendants, and would pursue waiver under Rule 4 of the Federal Rules of Civil Procedure. Plaintiffs will raise the issue again, if necessary, at the August status conference.

4. Plaintiffs' Motion to Amend

The Court heard argument on the plaintiffs' pending motion to amend the master complaint. Plaintiffs sought to add two additional paragraphs related to a May 2016 safety announcement and label change. Defendants opposed the amendment arguing that it was unnecessary and that it would be used to broaden the scope of the MDL.

The Court granted Plaintiffs' motion, finding that they had shown good cause under Rule 16(b) and that Defendants were not likely to be prejudiced by the amendment. The Court did not view the amendment as expanding the scope of the proceeding, and noted that Plaintiffs acted diligently in bringing the motion as soon as possible after the announcement and label change. The Court directed Defendants inform the Court if they needed additional time to address the impact of the amendment or additional time to file their motions to dismiss due to the amendment.

5. Scheduling

Following discussion, the Court stated that science day will occur on Friday, September 23, 2016, at 10:00 a.m.

6. Future Status Conferences

Upcoming Status Conferences:

- 1. Wednesday, July 13, 2016, at 1:30 p.m.**
- 2. Tuesday, August 16, 2016, at 1:30 p.m.**

APPEARANCES:

Plaintiffs: Bill Robbins III, Yvonne Flaherty, Thomas Sims, David Wool, R. Jason Richards, Vance Andrus, Olga Viner, Tad Thomas

Defendants: Tracy Van Steenburgh, Cort Sylvester, Cicely Miltich, Andrew Solow, John Winter, James Murdica, Lori Leskin

On the phone: Ericka Downie, Tom Antunovich for Jamie Goldstein, Kathy Lee, Lindsay Stevens, Christopher Nidel, Kristen Barton, Katie Griffin, Ahmed Diab, Lauren Welling, Jenay Moshkovich,

s/Heather Arent-Zachary
Courtroom Deputy Clerk