

**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: October 10, 2017
	)	Deputy: Heather Arent-Zachary
	)	Court Reporter: Renee Rogge
	)	Time Commenced: 4:40 pm
Defendant.	)	Time Concluded: 4:53 pm
	)	Time in Court: 13 Minutes

Hearing on: Status Conference

1. Status of Litigation

Counsel reported that there has been no change to the federal filing numbers. There are about 270-280 cases pending in the MDL with about 1/3 combination Bayer-Janssen cases.

Counsel reported that only two related cases remain in Philadelphia, the *Bryant* case and the *Turner* case. The number is down from 16 cases previously. The *Turner* case is expected to be dismissed; plaintiff's attorneys recently withdrew and the plaintiff is proceeding *pro se*. Bayer is attempting to move forward with a deposition.

The *Bryant* case is currently set for June 2018. The amended Pretrial Order would put the MDL in direct conflict with the *Bryant* case schedule wise, thus the parties request that Judge Tunheim speak with Judge Young about possibly pushing the *Bryant* case off to December 2018 so that the MDL can proceed first with bellwether trials starting in November 2018. The new PTO includes deadlines for expert discovery, and the presumption is that the parties would use the same general causation experts for the Philadelphia case(s).

Judge Tunheim agreed to make contact with Judge Young about the schedule. He also agreed to inform the parties when that was done so that counsel could reach out to Judge Young as well.

2. Discovery Update

Plaintiffs reported that discovery continues as planned. They have received over 14.5 million pages of documents. The majority is from Bayer, but Bayer Pharma AG (the German entity) has also submitted about 5 million.

Plaintiffs report that they have taken 9 Bayer/Merck depositions, have scheduled 4, and are waiting on dates for 2 further witnesses. They anticipate completing those depositions this year.

Plaintiffs report that they have completed 17 treater depositions, have scheduled 16, and are attempting to schedule the remaining 9. They hoped to complete these depositions by the end of October, but it is looking like it will be November. The goal is to finish those within the next 6 weeks.

Plaintiffs have served written discovery seeking custodial files regarding sales representatives and district managers. Bayer and Merck collectively have identified 24 sales representatives and 9 district managers whose

files they will search for and produce. They have already begun to produce some. Plaintiffs will depose two sales representatives or district managers for each bellwether case, subject to good cause exception or agreement by parties.

3. Parties proposed order to amend PTO 13

The new PTO basically just pushed all the dates back by three months. The parties also added limitations regarding sales representatives and treaters. They also collapsed the deadlines for the Avalox cases so that they match the Cipro cases, but Avalox will proceed first.

4. Scheduling of November Status Conference

Upcoming Status Conference:

Tuesday, November 14, 2017, at 4:00 p.m.

APPEARANCES:

Plaintiffs: Yvonne Flaherty, Thomas Sims

Defendants: Andrew Solow, Lori Leskin, Cicely Miltich, Michelle Tessier

On the phone: Michael Suffern, Barbara Nevin, Kathy Lee, Chris Nidel, Jason Richards, Bradley Sears, Kristen Barton

s/Heather Arent-Zachary
Courtroom Deputy Clerk