

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

STATUS CONFERENCE

In Re: Levaquin Products Liability)		
Litigation,)		
	)		COURT MINUTES
	)		BEFORE: John R. Tunheim
Plaintiff,	)		U.S. District Judge
	)	Case No:	08-1943 JRT
v.	)	Date:	June 11, 2012
	)	Deputy:	Holly McLelland
	)	Court Reporter:	Kristine Mousseau
	)	Time Commenced:	11:15 a.m.
Defendant.	)	Time Concluded:	12:35 p.m.
	)	Time in Court:	1 Hour and 20 Minutes

Hearing on: Status Conference + Motions

Straka v. Johnson & Johnson 08-5742

- Plaintiff's Motion for New Trial [Docket No. 244]
- Plaintiff's Motion to Alter or Amend Judgment [Docket No. 246]

Christensen v. Johnson & Johnson 07-3960

- Plaintiff's Motion Seeking Stay of Execution Pending Appeal without Supersedeas Bond [Docket No. 262]

1. Number of cases pending and anticipated in the MDL and state courts

Defendants state that there are 1787 cases pending in the MDL. The number of cases in New Jersey is fluctuating because of recent settlements. Five cases are currently pending in other state courts.

2. Federal/State Coordination

Several hundred of the New Jersey cases have settled, but Defendants have not yet disbursed any money. Because the same firms represent New Jersey and MDL plaintiffs, some MDL cases are expected to settle as part of these agreements.

Two cases in St. Clair County, Illinois have been consolidated and that trial is expected to commence in September 2012.

3. Rule 59 motion

The parties presented their arguments regarding the plaintiff's pending Rule 59 motion in *Straka v. Johnson & Johnson*. The motion is under advisement and a written order will be forthcoming.

4. Bond Motion

The parties presented their arguments regarding the defendants' pending motion for stay of execution without supersedeas bond in *Christensen v. Johnson & Johnson*. The motion is under advisement and a written order will be forthcoming.

5. Substitution of Party Upon Death

Defendants have now served more than sixty statements suggesting death of a party pursuant to Fed. R. Civ. P. 25. Plaintiff's Liaison Counsel noted that he is working to make sure those statements are responded to, and Defendants' Liaison Counsel noted Defendants' intent to object to any untimely motions for substitution.

6. Plaintiff Fact Sheet Deficiencies

Defendants noted for the Court that at least 143 plaintiffs have not provided Defendants with complete Plaintiff Fact Sheets. Defendants further noted that they may ask the Court to issue an order requiring those Fact Sheets to be filed by a certain date to prevent dismissal.

7. Final Pretrial Order and Suggestion of Remand

The parties submitted a draft version of a final pretrial order to the Court but noted there are still numerous contentious issues. The Court encouraged the parties to continue to meet and confer but noted that a hearing on specific issues could be arranged, if necessary.

a. Forum Non Conveniens Cases

Defendants proposed providing the Court with list of the potential forum non conveniens cases so that the Court could issue an order to show cause why the cases should not be transferred.

8. Next Minnesota Trial – Case Selection

Both parties will submit the names of possible plaintiffs for the October trial by early July. The Court will address the selection of a plaintiff at the next status conference.

9. Proposed Amended Pretrial Order 3

Plaintiffs previously submitted a proposed amended Pretrial Order Number 3 but withdrew that proposal in light of numerous objections by non-MDL counsel. MDL and non-MDL counsel have not yet reached a consensus regarding amendment to PTO 3. Plaintiff's counsel suggested briefing was a likely next step.

10. Settlement

A settlement conference was scheduled for immediately after the status conference before Magistrate Judge Boylan.

Next Status Conference: July 17 at 9:00 AM.

APPEARANCES:

Plaintiff: Ronald Goldser, Kevin Fitzgerald, Charles Zimmerman, Genevieve Zimmerman
Defendant: Tracy Van Steenburgh, Dana Lenahan
Phone: Bill Essig, James Irwin, Kristian Rasmussen, Elliot Olsen

s/Holly A. McLelland
Calendar Clerk