

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

**In re: MIRAPEX PRODUCTS
LIABILITY LITIGATION**

MDL No. 07-1836 JMR/FLN

This Document Relates To:

Karen R. Parr,

Case No. 10-CV-468 (JMR/FLN)

Ann M. Krusinsky,

Case No. 10-CV-106 (JMR/FLN)

Robert A. Neuls and Marilyn H. Neuls,

Case No. 10-CV-123 (JMR/FLN)

Gregory M. Naquin,

Case No. 10-CV-124 (JMR/FLN)

William Meyers and Pamela Myers,

Case No. 10-CV-168 (JMR/FLN)

Kenneth O. Eide and Judy M. Eide,

Case No. 10-CV-169 (JMR/FLN)

John C. Bladzinski and Patricia A. Bladzinski,

Case No. 10-CV-207 (JMR/FLN)

Plaintiffs,

v.

**PLAINTIFF'S
MEMORANDUM
IN OPPOSITION TO
SUGGESTION OF REMAND**

BOEHRINGER INGELHEIM
PHARMACEUTICALS, INC., a Delaware
corporation, PFIZER INC., a Delaware
corporation, PHARMACIA CORPORATION,
a Delaware Corporation and
PHARMACIA & UPJOHN COMPANY LLC,

ELECTRONICALLY FILED

Defendants.

Pursuant to Local Rule 7.1 Plaintiff's Karen R. Parr, Ann M. Krusinsky, Robert
and Marilyn Neuls, Gregory Naquin, William and Pamela Myers, Kenneth and Judy Eide,

John and Patricia Bladzinski (collectively, “Teplinsky Plaintiffs”) file this Memorandum in Opposition to Suggestion of Remand in Response to Court’s Order to Show Cause.

I. INTRODUCTION

The Teplinsky Plaintiffs oppose the dissolution of MDL 1836 and the remand of their individual cases to other District Courts. In the alternative, the Teplinsky Plaintiffs request that the court refrain from issuing a Suggestion of Remand of their cases until such time as bellwether cases regarding plaintiffs who took Mirapex *after* the March, 2005 change to the drug’s warning label can be tried, and after the parties have had an opportunity to participate in settlement conferences, currently scheduled for October 21-22, 2010.

II. MDL 1863 SHOULD NOT BE DISSOLVED AND THE TEPLINSKY PLAINTIFFS’ CASES SHOULD NOT BE REMANDED

Remand should be refused when individual settlement negotiations will be more efficiently conducted within the confines of the MDL. *In re: Joann Patenaude, et al.*, 210 F. 3d 135, 144-45 (3rd Cir. 2000). MDL 1836 has not yet fulfilled its objectives and it will continue to serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation.

A. Remand and Dissolution Do Not Serve the Interest of Judicial Economy

This Court has unique expertise in Mirapex litigation. Through its oversight of

discovery, motion practice, and the July 2008 conduct of bellwether cases involving claims arising from *before* the March 2005 warning label change (e.g. *Charbonneau*), the District of Minnesota and the Honorable Franklin Noel and the Honorable James Rosenbaum have developed a broader and deeper understanding of the issues specific to Mirapex litigation than has been available to other courts. Upon remand, these other courts will be forced to expend judicial resources in an attempt to replicate the knowledge and expertise of this Court.

The twenty-two cases remaining in MDL 1836 involve scores of Plaintiffs (Attorney William D Nefzger is representing fifty to sixty individuals alone). If MDL 1836 is dissolved, these cases will be remanded to numerous geographically dispersed districts. In many of these cases, the parties have not completed the MDL process of exchanging fact sheets, much less completing formal discovery and other pretrial matters. As such pretrial proceedings are still ongoing, the remand of all these cases raises a serious risk of duplicative discovery, inconsistent pretrial rulings, and the squandering of parties' resources. These risks can be avoided through the continued consolidation and coordination that the multidistrict litigation process provides. Centralization has, and will continue to, serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation.

Further, this Court is yet to conduct any bellwether cases involving claims from plaintiffs who took Mirapex *after* the March 2005 warning label changes. Such cases are

substantially different from those tried in July 2008, with different legal issues (such as the learned intermediary defense). Consolidated pretrial proceedings have not yet run their course, and that maintenance of this MDL will continue to serve the interest of efficient and consistent adjudication of Mirapex products liability claims.

B. Remand and Dissolution Do Not Serve the Interests of the Parties

Remand will impose substantial burdens and unjust delays upon the Teplinsky Plaintiffs and other parties to this MDL.

At the request and direction of this Court, and in lieu of initiating formal discovery, the Teplinsky Plaintiffs have participated in an informal discovery process by providing Defendants with Fact Sheets and supporting documentation. This involved responding in detail to approximately two hundred fifty written inquiries for each plaintiff, providing extensive releases, and producing tens of thousands of documents. Teplinsky Plaintiffs, to date, have delayed formal discovery in accordance with the MDL procedures established by this court. However, it is unclear whether these time-intensive efforts will be of any use if these cases are remanded to individual transferor districts, which may not utilize such informal discovery approaches. Remand raises the specter that the Teplinsky Plaintiffs will be forced to duplicate their efforts before other courts.

Remand will also expose Defendants to duplicative efforts and expense. As an example, expert depositions would need to be replicated within each district to which a

case has been remanded, rather being conducted through the streamlined MDL process.

Remand will impose the burden and delay on all parties of selecting, retaining, and bringing up to speed, local counsel in each district to which cases are remanded.

Upon remand, it is doubtful whether the individual transferor courts will be able to accommodate the current Pretrial Schedule set by this Court. It is entirely plausible that the individual transferee Courts will send the Teplinsky Plaintiffs “back to square one,” with discovery, motion, and trial dates significantly further in the future than under the current Pretrial Schedule.

The Teplinsky Plaintiffs are undergoing significant personal hardship due to their compulsive behaviors caused by Mirapex. For example: John Bladzinski, Karen Parr, and William Meyers have filed for bankruptcy protection; those who have not sought bankruptcy protection continue to experience dire financial difficulties; Kenneth Eide became so despondent over his financial situation that he was placed on a seventy-two hour suicide watch; and all of the Teplinsky Plaintiffs are reporting depression and strain in their personal relationships.

The depleted financial state of the Teplinsky Plaintiffs has left them with dwindling options. A slow-down in the resolution of their claims will aggravate their hardship. Outstanding debts will continue to accrue interest and additional health care bills will be incurred due to the progressive nature of Parkinson's and Restless Leg Syndrome symptoms. Furthermore, many of the Teplinsky Plaintiffs now lack solid

support networks because their compulsive behavior has led many friends and family members to question their trustworthiness.

III. ALTERNATELY, THIS COURT SHOULD DELAY SUGGESTING REMAND

Should this Court chose to issue a Suggestion of Remand to the Panel, it should postpone doing so until after bellwether cases involving Plaintiffs who took Mirapex *after* the warning label changes have been tried and/or until after the October 21-22, 2010 settlement conferences have occurred.

As discussed above, the cases taken to trial as part of this MDL have all involved Plaintiffs who took Mirapex *before* Defendants made substantive changes to the drug's warning labels. Such cases are distinguishable from those now before this Court, which involve Plaintiffs whose use of Mirapex began or continued *after* the warning label changes. The cases tried to date lack the measure of representativeness necessary to serve as bellwether trials for the cases remaining in MDL 1836.

This court should refrain from issuing a Suggestion of Remand until after the parties can have the benefit of a bellwether trial of claims arising from post-warning label changes Mirapex intake. The results of such trials can be beneficial by providing information on the value of cases as reflected by the jury verdicts.

This Court has ordered the parties to MDL 1836 to appear for Settlement Conferences on October 21 and 22, 2010. A premature Remand and Dissolution of MDL

1836 will deprive the parties of the opportunity to attend these conferences, which have the potential to resolve many current claims, and will occur in just over two months.

IV. CONCLUSION

For the foregoing reasons, the Teplinsky Plaintiffs humbly request that the Court refrain from issuing a Suggestion of Remand for MDL 1836. In the alternative, these Plaintiffs request that the Court delay issuing such a Suggestion until such time as the parties have had the opportunity to attend scheduled Settlement Conferences and/or until trials of bellwether cases for post-warning label changes Mirapex intake have been conducted.

KATZ MANKA TEPLINSKY
GRAVES & SOBOL, LTD.

DATED: August 3, 2010

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