

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**In Re: WATSON FENTANYL
PATCH LITIGATION**

) **Case No. 12-cv-06296**
)
) **MDL No. 2372**
)
) **Judge Matthew F. Kennelly**
)
) **This Document Relates To:**
) **All Cases**
)

JOINT STATUS REPORT

NOW COME Lead Counsel for Plaintiffs in MDL 2372 and Lead Counsel for Defendants in MDL 2372 (collectively “Parties”) and hereby file the following Joint Status Report in preparation for the status conference to be held with the Court on March 12, 2013.

A. HOP Settlement

There were twenty-eight (28) cases in MDL 2372 wherein Michael Heygood and Heygood, Orr & Pearson is lead counsel which recently settled. Of these twenty-eight (28) cases, in fourteen (14) such cases dismissal papers have been filed with the Court and this Court has entered an order dismissing such case.¹ In addition, in two other cases, dismissal papers have been filed with the Court but, as of the filing of this Joint Status Report, it appears to lead counsel that the Court had not yet entered an order dismissing the matter.² This leaves twelve (12) cases remaining that have been settled but in which no dismissal papers have been filed. These remaining twelve cases, fall into two (2) categories:

¹ See Exhibit “A” attached hereto with a complete listing, cause number-by-cause number, of each case and its current procedural status.

² *Rejeania Moore, et al. v. Watson Pharmaceuticals, Inc., et al.*, Case No. 1:12-cv-06307 and *Christy Ice v. Watson Pharmaceuticals, Inc., et al.*, Case No. 1:12-cv-08482 - case numbers 13 and 27 respectively on the status report attached hereto as Exhibit “A”.

1. Local Court Approval of Settlement: For six (6) of these cases, the proposed settlement must be approved by a court that is local to where the death occurred. In these six (6) cases, the settlement approval process has been started. In the chart attached hereto as Exhibit "A" is a brief status of each of these six (6) cases and when current expectation sets forth when dismissal papers will be filed with the Court.
2. MDL Court Approval of Settlement: For six (6) cases that, for various reasons, require court approval, it has been determined by the MDL Court that such approval process will take place before Judge Matthew Kennelly. At the last MDL Status hearing on January 30, 2013, the Court advised the Parties that the Court had sufficient time to conduct these hearings on March 28, 2013 at 1:30 p.m. The Parties are prepared to go forward with these six (6) hearings on March 28, 2013, if that date is still available and agreeable for the Court. If so, Plaintiffs will submit to the Court their Petition for Approval of Settlement and any necessary supporting documents in each case on or before March 21, 2013. Those six (6) cases are:
 1. *Gayle Wadsworth v. Watson Pharmaceuticals, Inc., et al.* – Cause No. 1:12-cv-06306; transferred from Western District of Missouri
 2. *Sharon Dennis v. Watson Pharmaceuticals, Inc., et al.*– Cause No. 1:12-cv-06314; transferred from Western District of Oklahoma
 3. *Monica Bowers, et al. v. Watson Pharmaceuticals, Inc., et al.* – Cause No. 1:12-cv-06316; transferred from Western District of Oklahoma

4. *Jackie Riegel, et al. v. Watson Pharmaceuticals, Inc., et al.*– Cause No. 1:12-cv-06880; transferred from District of South Carolina
5. *Kazim Mohammed, et al. v. Watson Pharmaceuticals, Inc., et al.*– Cause No. 1:12-cv-06320; transferred from Middle District of Tennessee
6. *Timothy Tonole, et al. v. Watson Pharmaceuticals, Inc., et al.* – Cause No. 1:12-cv-06322; transferred from Western District of Tennessee

B. Remaining MDL Cases

Apart from the HOP Cases that recently settled, there are three (3) cases currently pending in MDL 2372 that have not settled. They are:

1. *Eugene Landry v. Watson Pharmaceuticals, Inc., et al.*, transferred from United States District Court for the District of Hawaii³
2. *Jeanne Samanie, et al. v. Watson Pharmaceuticals, Inc., et al.*, Case No. 1:12-cv-09898, transferred from United States District Court for the Eastern District of Louisiana
3. *Rebecca Ross, et al. v. Watson Pharmaceuticals, Inc., et al.*, Case No. 1:12-cv-06878, transferred from United States District Court for the Northern District of Mississippi

³ The *Landry* case has not been assigned a case number in MDL 2372.

Position of Plaintiffs:

One (1) of these cases is a wrongful death case⁴ and two (2) of these cases involve non-fatal injuries⁵. Lead Counsel for Plaintiffs has communicated with counsel for the plaintiffs in these three (3) cases. Having done so, combined with the discussions Lead Counsel for Plaintiffs has had with Defendants and Defendants' Lead Counsel, it appears to Plaintiffs' Lead Counsel that it would be fair to characterize each of these cases as follows:

Plaintiffs' counsel in each unsettled case is interested in engaging in efforts to resolve these matters via settlement and Defendants are agreeable to attempting to resolve the cases via mediation. However, because these cases are each in their infancy, it appears that these cases may not be in a position to proceed to mediation until the plaintiffs in each case have issued formal settlement demands and the Defendants are able to determine where such case falls in Defendants' insurance coverage. Each of these cases will need specific scheduling orders for the completion of fact and expert discovery.

In addition, it appears that, given the infancy of discovery in these three (3) remaining cases as well as the different nature of each the cases (i.e. death case vs. personal injury cases), there is some notion among remaining counsel in each of these three cases to potentially desiring these three cases remanded back to the Federal District Court from which they were transferred, as opposed to requiring such cases to remain in the Northern District of Illinois for pre-trial discovery.

⁴ *Rebecca Ross, et al. v. Watson Pharmaceuticals, Inc., et al.* Case No: 1:12-cv-06878, transferred from United States District Court, Northern District of Mississippi

⁵ *Jeanne Samanie, et al. v. Watson Pharmaceuticals, Inc., et al.*, Case No: 1:12-cv-09898, transferred from United States District Court for the Eastern District of Louisiana and *Eugene Landry v. Watson Pharmaceuticals, Inc., et al.*, transferred from United States District Court for the District of Hawaii

Lead Plaintiff's Counsel suggests the following related to MDL 2372:

April 12, 2013: Deadline for any party to file a motion to remand any case currently pending in MDL 2372

April 12, 2013: Deadline for plaintiffs in any case in MDL 2372 to file a brief with the Court (1) setting forth their position on whether MDL 2372 should continue AND (2) setting forth, if MDL 2372 does continue, their position on the structure of counsel representing the plaintiffs in MDL 2372 going forward.

April 26, 2013: Deadline for any party to file a response to any of the preceding briefs.

May 10, 2013: Status hearing in MDL 2372 whereby all attorneys may appear either in person or via telephone.

Position of the Defendants:

Defendants in MDL 2372 have no objection to the procedure suggested above for the handling of the *Landry*, *Samanie*, and *Ross* matters, including the proposal that the MDL Court entertain motions to remand those cases back to the transferor courts at this time. In the event the Court is inclined not to consider motions to remand in those cases at this time, Defendants request that the Court continue the status conference with respect to those three matters for a period of not less than 60 days. Defendants' counsel anticipates that such a continuance will provide Defendants sufficient time to confirm where each case falls in Defendants' insurance coverage and to potentially position those matters for a negotiated resolution via mediation, including soliciting and receiving formal demands from plaintiffs in each of those cases.⁶ Further, Defendants will be prepared to report on the progress of efforts to negotiate resolution of

⁶ Plaintiff's counsel in the *Ross* matter has made a formal demand for settlement.

those matters in the status report for the next scheduled status conference and/or propose a schedule for completion of fact and expert discovery in those cases, if requested by the Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2013, a copy of the foregoing document was electronically filed. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

*/s/ Michael Heygood*_____

General Information

Court	United States District Court for the Northern District of Illinois; United States District Court for the Northern District of Illinois
Federal Nature of Suit	Other Statutory Actions[890]
Docket Number	1:12-cv-06296
Status	CLOSED