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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

ORTHO EVRA PLAINTIFF(S), - Case No. 1:06-cv-40000  
-  
Plaintiffs, -  
-  
v. - Toledo, Ohio  
- January 24, 2011  
- Status Conference  
-  
JOHNSON & JOHNSON, et al., -  
-  
Defendants. -  
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TRANSCRIPT OF STATUS CONFERENCE  
BEFORE THE HONORABLE DAVID A. KATZ  
UNITED STATES DISTRICT JUDGE.

APPEARANCES:

For the Plaintiffs: Jensen Belew & Gonzalez  
By: Bryan Ballew  
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For the Defendants: Tucker, Ellis & West  
By: Julie A. Callsen  
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Proceedings recorded by mechanical stenography,  
transcript produced by notereading.

1 (Commenced at 9:30 a.m.)

2 THE COURT: Good morning.

00:00:08 3 MS. CALLSEN: Good morning, Judge Katz.

00:00:11 4 THE COURT: Good morning, Julie. Good  
00:00:14 5 morning, Bryan.

00:00:14 6 MR. BALLEW: Good morning, Judge. How are  
00:00:16 7 you doing today?

00:00:18 8 THE COURT: Well, I'm taking nourishment.

00:00:30 9 These cases were each the subject of an  
00:00:40 10 order to show cause which was docketed on November 22.  
00:00:53 11 That order was to show why the case should not be  
00:00:56 12 dismissed for failure to comply with Case Management  
00:01:03 13 Order 4 requiring the delivery of a PFS, or Plaintiff  
00:01:10 14 Fact Sheet. I believe this was the same order that went  
00:01:17 15 on in each of the four cases. And that is the subject  
00:01:28 16 of this morning's telephonic hearing. There had been,  
00:01:41 17 if not in each of the cases, there had been motions to  
00:01:46 18 compel the filing of such a fact sheet that were filed.  
00:01:56 19 So that's where we are at this juncture.

00:02:02 20 Julie, on behalf of the defendants, the  
00:02:04 21 floor is yours first.

00:02:07 22 MS. CALLSEN: Okay. Thank you, Your Honor.  
00:02:08 23 Yes, you've properly recited the procedural history,  
00:02:12 24 Judge Katz. For Olander --

00:02:17 25 THE COURT: Which is case number 10-40042.

00:02:28 1 MS. CALLSEN: Correct. A plaintiff fact  
00:02:30 2 sheet was sent to me via e-mail yesterday. I have not  
00:02:33 3 even looked at it yet, so I can't speak to whether it is  
00:02:40 4 compliant with CM-04 or not at this point. That is a  
00:02:47 5 case that was filed in Minnesota alleging that she is a  
00:02:51 6 citizen of West Virginia, and the event was 11-22-04.  
00:02:57 7 In that particular event the West Virginia two-year  
00:03:01 8 statute of limitations will apply. So obviously there  
00:03:04 9 are other issues with that being filed in 2010. But  
00:03:09 10 with respect to CM-04 and the PFS, I did receive it. I  
00:03:14 11 do not know yet if it is compliant or not.

00:03:17 12 THE COURT: Well, then let us do this. Let  
00:03:19 13 us, unless there is an objection by Bryan Ballew on  
00:03:25 14 behalf of Ms. Olander, we will continue this matter with  
00:03:35 15 regard to the pending order until advised by counsel for  
00:03:44 16 the defendant that the fact sheet either complies or  
00:03:52 17 does not comply. If it complies with CM-04, then we  
00:03:57 18 will forthwith withdraw the order.

00:04:03 19 MR. BALLEW: No objection, Your Honor.

00:04:04 20 MS. CALLSEN: I will file a notice of  
00:04:06 21 compliance if it is compliant.

00:04:10 22 With respect to Krogstad, 10-40044, we did  
00:04:15 23 receive the PFS on the 21st.

00:04:25 24 THE COURT: Okay.

00:04:27 25 MS. CALLSEN: But we do need to confirm the

00:04:30 1 date of birth. There are two different dates of birth  
00:04:32 2 noted in that PFS. So I can follow up separately with  
00:04:37 3 Mr. Ballew on that matter.

00:04:39 4 THE COURT: We'll handle that the same as we  
00:04:41 5 did Olander.

00:04:42 6 MS. CALLSEN: Okay.

00:04:43 7 MR. BALLEW: No objection.

00:04:45 8 MS. CALLSEN: With respect to Boutot,  
00:04:47 9 10-40043 --

00:04:51 10 THE COURT: Yes.

00:04:51 11 MS. CALLSEN: -- that, again, we received  
00:04:53 12 the PFS on the 20th as well. And while it is factually  
00:04:58 13 compliant, I would just point out to counsel Ms. Boutot  
00:05:03 14 previously had a complaint filed and dismissed in the  
00:05:06 15 New Jersey coordinated proceedings in front of Judge  
00:05:09 16 Mayer. That was filed in November of 2006, dismissed in  
00:05:14 17 October of 2008. And her Plaintiff Fact Sheet does not  
00:05:18 18 reflect that.

00:05:21 19 MR. BALLEW: Your Honor, this is the first  
00:05:22 20 that I've heard of that. I don't know if that was filed  
00:05:25 21 through this office or not. It took place before I even  
00:05:29 22 started working at this firm. So I will take a look at  
00:05:32 23 that. I was unaware of that to this point, and Ms.  
00:05:36 24 Boutot has never indicated that in any of my  
00:05:39 25 conversations with her. So that's something I will have

00:05:41 1 to take a look at.

00:05:44 2 THE COURT: Well, let me just think a  
00:05:47 3 minute. What was the date it was dismissed in New  
00:05:54 4 Jersey?

00:05:54 5 MS. CALLESEN: 10-21-08.

00:05:59 6 THE COURT: Is there a one- or two-year  
00:06:01 7 refiling?

00:06:03 8 MS. CALLESEN: One.

00:06:04 9 THE COURT: So that this did not meet the  
00:06:06 10 one-year refiling?

00:06:11 11 MS. CALLESEN: Correct.

00:06:12 12 THE COURT: All right. Why don't we do the  
00:06:15 13 same thing with regard to this as we did to the prior  
00:06:19 14 two cases.

00:06:21 15 MR. BALLEW: Certainly, Your Honor.

00:06:25 16 THE COURT: And if you conclude, Bryan, that  
00:06:37 17 Boutot did, in fact, have a prior case which was  
00:06:44 18 dismissed, and therefore if the statute has run, I would  
00:06:53 19 expect that you will either dismiss the case voluntarily  
00:06:58 20 or we will entertain a motion from defendants to do so.  
00:07:03 21 Okay?

00:07:04 22 MR. BALLEW: Understood, Your Honor.

00:07:07 23 THE COURT: Thank you.

00:07:08 24 MR. BALLEW: Before we move on, Julie, have  
00:07:11 25 you seen the complaint? I'm just trying to figure out

00:07:14 1 if it was filed by this office before I started working  
00:07:16 2 for it, and it slipped through the cracks, or if she had  
00:07:20 3 had another attorney.

00:07:21 4 MS. CALLESEN: She had another attorney in  
00:07:23 5 New Jersey.

00:07:23 6 THE COURT: Why don't you send him a copy of  
00:07:25 7 the complaint, Julie.

00:07:26 8 MS. CALLESEN: I will do that; and the  
00:07:28 9 dismissal, too.

00:07:29 10 MR. BALLEW: Thank you, Julie.

00:07:31 11 MS. CALLESEN: With respect to Dominguez,  
00:07:33 12 10-40004, we did receive the Plaintiff Fact Sheet on the  
00:07:41 13 20th, January 20th. However, there's no health care  
00:07:44 14 provider named in there; therefore, it's materially  
00:07:49 15 deficient in that we will not be able to provide a  
00:07:52 16 Defendant Fact Sheet.

00:07:57 17 MR. BALLEW: Healthcare provider for which?

00:07:59 18 MS. CALLESEN: The prescriber, the particular  
00:08:05 19 physician who prescribed Ms. Dominguez with Ortho Evra.

00:08:22 20 THE COURT: Well, then there's no way for  
00:08:24 21 the defendant to obtain copies of records showing  
00:08:30 22 the date and fact -- well, fact and date of the product  
00:08:44 23 being prescribed and therefore use.

00:08:48 24 MS. CALLESEN: Correct.

00:08:51 25 MR. BALLEW: Your Honor, in looking at the

00:08:54 1 fact sheet that we had sent, she was prescribed the  
00:09:00 2 Ortho Evra at a facility called Camelback Women's  
00:09:05 3 Facility or Women's Clinic. I believe the issue is that  
00:09:09 4 she doesn't remember the exact name of the doctor who  
00:09:12 5 prescribed that to her. There is a Dr. David Folkestad  
00:09:17 6 that is at that facility. So I think that that might be  
00:09:24 7 the issue if there's a confusion there is that she was  
00:09:29 8 prescribed it at Camelback but just didn't include the  
00:09:35 9 doctor's name when she put down a facility on there as  
00:09:37 10 to where she had been prescribed at. I can check that.

00:09:41 11 THE COURT: Why don't we give you two weeks  
00:09:43 12 within which to determine the name of the prescribing  
00:09:47 13 physician and supply that to Ms. Callsen.

00:09:53 14 MR. BALLEW: I absolutely will. I will try  
00:09:56 15 to get you that before the end of this week.

00:09:58 16 MS. CALLESEN: Thank you.

00:09:59 17 MR. BALLEW: You're very welcome.

00:10:00 18 MS. CALLESEN: And that's it from my  
00:10:02 19 perspective, Your Honor.

00:10:03 20 THE COURT: Okay. Anything else, Bryan?

00:10:09 21 MR. BALLEW: I have nothing, Your Honor.

00:10:11 22 THE COURT: I would presume that with  
00:10:13 23 respect to, in particular Olander, that if it has not  
00:10:25 24 been filed, there would be filed a statute of  
00:10:31 25 limitations based upon the position of the defendant

00:10:40 1 that the law of Virginia with regard to the statute of  
00:10:44 2 limitation controls, not the six-year statute which was  
00:10:48 3 in effect for non-residents of Minnesota. Am I correct?

00:10:57 4 MS. CALLSEN: That would be right.  
00:10:58 5 Actually, that's Boutot. Olander and Krogstad all are  
00:11:05 6 alleged to be citizens of West Virginia, and all of them  
00:11:08 7 would have a two-year statute of limitations applicable  
00:11:11 8 to their events.

00:11:13 9 THE COURT: Okay. All right. Let me make a  
00:11:25 10 note. And I would presume you should know, Bryan, that  
00:11:30 11 we've probably got how many of the Minnesota cases in  
00:11:41 12 total?

00:11:44 13 MR. BALLEW: I'm sorry, are you asking --

00:11:46 14 THE COURT: Julie, I'm sorry.

00:11:48 15 MS. CALLSEN: How many Minnesota cases in  
00:11:50 16 total that we have currently?

00:11:52 17 THE COURT: Yeah.

00:11:53 18 MS. CALLSEN: We have about 20.

00:11:55 19 THE COURT: So this issue for non-residents  
00:12:01 20 of Minnesota would be the subject of a series of  
00:12:09 21 motions, I would presume?

00:12:14 22 MS. CALLSEN: You're right.

00:12:15 23 THE COURT: All right. Thank you very much  
00:12:16 24 for being available. And I'll look to hear from you  
00:12:21 25 folks with regard to those matters where you're going to



00:12:25 1 get back to each other and ultimately to the Court.

00:12:30 2 MS. CALLSEN: Okay. Thank you, Your Honor.

00:12:31 3 THE COURT: Have a great week, all of you.

00:12:33 4 MS. CALLSEN: Thank you.

5 (Concluded at 9:44 a.m.)

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8 **C E R T I F I C A T E**

9

10 I certify that the foregoing is a correct transcript  
11 from the record of proceedings in the above-entitled  
12 matter.

13

14 /s Tracy L. Spore \_\_\_\_\_

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15 Tracy L. Spore, RMR, CRR

Date

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