

**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 defendants in MDL 2372 and counsel for certain plaintiffs in the cases that remain pending in MDL 2372 and hereby file the following Joint Status Report in preparation for the upcoming status conference to be held with the Court in MDL 2372 on October 15, 2013.

I. Status of Pending HOP Cases:

In MDL 2372, there are three (3) cases pending in which plaintiffs are represented by Michael Heygood of Heygood, Orr & Pearson (the "HOP cases"). The status of those cases is as follows:

1. *Orwig-Reihl v. Watson*, Cause No. 1:12-cv-06309:

The Court has approved the settlement in this case transferred from federal district court in New York. However, pursuant to the terms of the court orders appointing the representative of the Estate to pursue plaintiffs' claims, additional approval is necessary from the New York Surrogate Court. Plaintiffs are in the process of obtaining that approval. Once that approval is obtained, the parties will file a Rule 41 notice of dismissal.

2. *Borowicz v. Watson*, Cause No. 1:12-cv-06312:

Probate Court approval of this case is required in Ohio. Plaintiffs' Application to Approve Settlement and Distribution has been filed. A hearing on that Application has been scheduled for January 13, 2014. Once the Probate Court has entered an Order approving the settlement, the parties will file a Rule 41 notice of dismissal.

3. *Hayes v. Watson*, Cause No. 1:13-cv-03366:

Probate Court approval of this case is required in Ohio, as determined by this Court. Plaintiffs are in the process of obtaining approval of the settlement from the proper Ohio Probate Court. Once approval is obtained from the proper Ohio Probate Court, the parties will file a Rule 41 notice of dismissal.

II. Status of Appeals in *Bowers v. Watson*, Cause No. 1:12-cv-06316:

At the suggestion of Senior Conference Attorney for the Seventh Circuit Court of Appeals, Joel Shapiro, on October 8, 2013, Plaintiff-Appellee Monica Bowers and Appellant Jeffrey Geoppinger filed a Joint Motion Requesting Indicative Ruling on a Joint Motion for Entry of an Order Vacating Sanctions on Appellant Jeffrey Geoppinger pursuant to Fed. R. Civ. P. 62.1. Appellant Geoppinger's appeal from the portion of the June 11, 2013, Order issuing sanctions pursuant to 28 U.S.C. §1927 is the only appeal that remains pending. The parties have resolved the appeal from the portion of the Order granting Plaintiff-Appellee Bowers' motion for entry of an order approving the settlement, and that appeal has been voluntarily dismissed. If the Court indicates that a joint motion for entry of an order vacating the sanction on Appellant Geoppinger would be well taken and granted, Plaintiff-Appellee Bowers and Appellant Geoppinger intend to request the Seventh Circuit Court of Appeals remand the pending appeal of the sanction order to allow the parties to file such a joint motion.

III. Status of *Ross, Landry, and Samanie* Cases:

1. *Ross v. Watson Pharmaceuticals, Inc., et al.*, Cause No. 1:12-cv-06878:

The parties continue to exchange settlement proposals for this matter and have made substantial progress in that regard. The parties are aware of the upcoming fact discovery deadline of December 21, 2013, and have identified the discovery that needs to be completed. However, because conducting discovery would impede the settlement discussions and lessen the chance of a negotiated resolution, that discovery has remained on hold while meaningful settlement negotiations have continued. In the event those settlement negotiations stall, or it otherwise becomes clear that settlement cannot be reached, the parties will resume fact discovery and work diligently to complete it. In the event that happens, the parties will ask the Court for an extension of the discovery deadline only if it becomes necessary.

2. *Landry v. Watson Pharmaceuticals, Inc., et al.*, Cause No. 1:12-cv-09901:

Defendants' Statement: Plaintiff has yet to make a settlement demand on Defendants. Defendants have scheduled depositions of Plaintiff's treating physicians in North Carolina and South Carolina, and are working to arrange depositions of additional fact witnesses in Las Vegas, Nevada and Honolulu, Hawaii. Defendants have been reluctant to pursue such costly discovery because,

once that is done, the hope of settling this matter will be substantially reduced. Defendants view this non-death case as a nuisance value case which does not merit the expense of such extensive discovery and subsequent dispositive motion practice. Unfortunately, Plaintiff's failure to make a demand, and thus to initiate settlement discussions, has forced Defendants to proceed along this route.

Plaintiff's Statement: On October 2, 2013, counsel for Mr. Landry, Charles H. Brower, received the medical records for Mr. Landry's recent kidney surgery in Las Vegas, Nevada. The records were reviewed for documentation that the kidney issues are related to the Fentanyl use. Mr. Brower discussed the records with Plaintiff, who is having complications from the surgery and may need to have a second kidney removed, in an effort to get a reasonable settlement demand based upon the facts of the case. Mr. Brower discussed the Plaintiff's settlement posture by phone on October 11, 2013, with Kenneth Craycraft, Esq. Given the fact that Defendant views the case at nuisance value, Mr. Brower will have further discussions this weekend with Mr. Landry and call Mr. Craycraft again on Monday to discuss the parties' respective settlement positions.

3. *Samanie v. Watson Pharmaceuticals, Inc.*, Cause No. 1:12-cv-09898:

Plaintiff has made a demand to settle, and defendants have responded. Defendants also have received written discovery responses from Plaintiff and have identified the fact discovery that they still need to complete in this matter. In that regard, plaintiff's deposition is scheduled for October 16, 2013, and the depositions of plaintiff's treating and prescribing physicians are in the process of being scheduled. At least two additional fact witnesses have been identified whose depositions will also be taken in the coming weeks. The parties are working toward completion of fact discovery by the December 21, 2013, deadline.

Respectfully submitted,

/s/ David E. Pitcher

Michael E. Heygood
David E. Pitcher
Heygood, Orr & Pearson
2331 W. Northwest Highway
Second Floor
Dallas, Texas 75220
(214) 237-9001
(214) 237-9002 FAX
michael@hop-law.com
david@hop-law.com

/s/ Stephen S. Stipelcovich

Stephen S. Stipelcovich
Law Offices of Michael J. Samanie
7836 Park Avenue
Houma, LA 70364
(985) 868-8223
(985) 868-2284 FAX

***Counsel for Plaintiff in
Samanie case***

***Counsel Plaintiffs in Orwig-Riehl,
Borowicz, and Hayes cases***

/s/ Nathan C. Van DerVeer

Richard A. Freese
Nathan C. Van DerVeer
2031 2nd Avenue North
Birmingham, AL 35203

Theodore A. Gulas
The Gulas Law Firm, PC
2031 2nd Avenue North
Birmingham, AL 35203

***Counsel for Plaintiffs in
Ross case***

/s/ Jeffrey D. Geoppinger

Joseph P. Thomas (ID# 0040379)
Jeffrey F. Peck (ID# 0007943)
K.C. Green (ID # 0005435)
Jeffrey D. Geoppinger (ID# 0073908)
Ulmer & Berne LLP
Vine Street, Suite 2800
Cincinnati, Ohio 45202-2409
(513) 698-5000
(513) 698-5001 FAX
jthomas@ulmer.com
jpeck@ulmer.com
kcgreen@ulmer.com
jgeoppinger@ulmer.com

***Lead Counsel for Defendants Watson
Pharmaceuticals, Inc., Watson Laboratories,
Inc., a Nevada corporation, Watson
Laboratories, Inc. a Delaware corporation,
and Watson Pharma, Inc.***

/s/ Charles H. Brower

Charles H. Brower
900 Fort Street, #1210
Honolulu, HI 96813
(808) 526-2688
(808) 526-0307 FAX
honlaw@lava.net

***Counsel for Plaintiff in
Eugene Landry case***

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 11, 2013, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to all attorneys of record registered with the Court's CM/ECF system.

/s/ Jeffrey D. Geoppinger