

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In Re: LEVAQUIN PRODUCTS
LIABILITY LITIGATION

MDL No. 08-1943 (JRT)

This document also relates to:

“ALL CASES”

ORDER

On August 28, 2013, the Court held a status conference in this multidistrict litigation. There are currently 1,823 cases pending in the MDL. In approximately 800 of those cases, stipulations for dismissal are pending before the Court. At the status conference, counsel and the Court discussed the steps that must be taken to finalize the Levaquin litigation in this district with respect to the cases not subject to stipulations for dismissal, before any of those individual cases will be transferred or remanded to their respective districts. Pursuant to these discussions, the Court directed counsel to undertake certain actions, and set deadlines for those actions. The following order section contains all of the items discussed at the status conference requiring action, including those that counsel may already have completed since the date of the status conference.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiffs' Liaison Counsel, Ronald Goldser, will submit to the Court a proposed order to show cause regarding the approximately 266 cases in which either (1) plaintiffs are pro se; (2) motions to withdraw as counsel have been filed which, if granted, would render plaintiffs pro se; or (3) plaintiffs' counsel believe the claims are not meritorious and should be dismissed. The proposed order will require plaintiffs in such cases to provide Plaintiffs' Liaison Counsel with notice of their desire to pursue their claims to trial. Failure to provide such notice will result in dismissal of the cases for failure to prosecute.

2. On July 30, 2007, Defense Counsel submitted a proposed pretrial order and suggestion of remand to the Court, suggesting the remand of approximately seventy-seven (77) cases. Defense Counsel also filed a motion to transfer approximately forty-six (46) cases pursuant to 28 U.S.C. § 1404(a). (Mot. to Transfer, Aug. 14, 2013, Docket No. 6422.) With respect to the cases subject to the suggestion for remand order and the motion to transfer, Defense Counsel shall attempt to contact plaintiffs who have not responded to Defense Counsel's attempts to engage in settlement negotiations or offers to review plaintiffs' cases to assess settlement offers. After attempting contact, Defense Counsel will submit a proposed order to show cause to the Court regarding cases in which plaintiffs remain nonresponsive. The proposed order will request that the Court dismiss such cases, unless the plaintiffs respond to the order to show cause indicating a desire to move forward with their cases. The Court's goal in finalizing the pretrial portion of this MDL is to transfer or remand only bona fide cases in which settlement

possibilities have been exhausted and in which plaintiffs have expressed a desire and intent to move forward with their cases.

3. With respect to cases subject to transfer in which plaintiffs have been in contact with Defense Counsel and have affirmatively rejected settlement offers and consented to transfer, Defense Counsel shall file stipulations and consent to transfer.

4. Prior to the status conference, Defense Counsel filed a Motion to Dismiss 185 cases held by the Carey, Danis & Lowe law firm (“the Carey Danis firm”), in which plaintiff fact sheets had either not been served upon Defense Counsel, or the plaintiff fact sheets were deficient. (Mot. to Dismiss, Aug. 21, 2013, Docket No. 6432.) At the status conference, Corey Sullivan, indicated that he would agree to the dismissal of some of those cases. The parties have since filed a stipulation for dismissal of 142 of the cases sought to be dismissed in Defense Counsel’s August 21 motion. (Stipulation of Dismissal Without Prejudice, Aug. 29, 2013, Docket No. 6443.) Additionally, one of the cases subject to Defense Counsel’s motion had previously been dismissed. (*See* Civ. No. 10-2749, Order, Mar. 12, 2013, Docket No. 15.) The remaining forty-two (42) cases are listed below in Table 1. With respect to those cases, within thirty (30) days of the entry of this order, the Carey and Danis firm must provide Defense Counsel with sufficient information to cure the deficient plaintiff fact sheets. Within seven (7) days after the expiration of the time period for serving completed plaintiff fact sheets, Defense Counsel shall file either a stipulation for dismissal or, in the event the parties cannot reach a stipulation, shall file a renewed motion to dismiss those cases in which plaintiff fact

sheets have not been provided or remain deficient. The Court will provide no further extensions of time to the Carey and Danis firm to serve completed plaintiff fact sheets.

Table 1		
No.	Plaintiff	MDL Court File #
1	Blevins, Thomas	10-02702
2	Busch, Michelle	12-01718
3	Calvano, Salvatore	12-02358
4	Davis, Sherry	10-02957
5	Dickson, Karen Jo	10-02707
6	Dixon, Debbie	12-02288
7	Douglas, Susan	10-02708
8	Flinner, Nancy Jane	10-02683
9	Furto, Jan	10-02913
10	Goldstein, Nancy	12-02332
11	Hiner, Wilma	10-02875
12	Hudson, Linda Rose	12-02313
13	Jaeger, Sharon	11-00452
14	Keane, Judith	10-02908
15	Kerns, Larry	10-02716
16	Klassen, Sarah	10-02874
17	Klotz, Gloria	10-02717
18	Krajicek, Lisa	10-02873
19	Land, Dolores	12-02295
20	Luecking, Richard Kent	12-02281
21	Martini, Stephen	12-02360
22	Medina, Samuel	10-02961
23	Mutter, Beverly Ann	10-02962
24	Naber, Catherine	12-02284
25	Nabert, Vernon	12-02280
26	Napier, Charles	10-02894
27	Nordstrom, Michael	10-02657
28	Nuckols, Joanne	10-02688
29	Parker, Doris	12-02300
30	Peterson, Mary	12-02287
31	Powell, Suzanna	10-02871

32	Rathwell-Love, Lois	10-02689
33	Reese, Jack	12-02311
34	Sanders, Frances	12-02292
35	Scherer, Woodson	10-02754
36	Scobby, Carla	10-02756
37	Starrett, Peter	11-03013
38	Trimble, Melissa	10-02690
39	Troxtel, Jesse Ray	10-02662
40	Wood, Nellie	10-02916
41	Wright, Colleen	12-02352
42	Young, Sidney	10-02897

5. Prior to the status conference, Defense Counsel and Mr. Sullivan submitted a Proposed Order to Transfer Venue Pursuant to 28 U.S.C. § 1404(a) in 163 cases held by the Carey and Danis firm. Mr. Sullivan indicated at the status conference that some of those cases could be subject to a stipulation for dismissal. Mr. Sullivan agreed that reviewing the facts and contacting the plaintiffs in those cases is necessary to ascertain whether the cases should move forward. Within sixty (60) days of the entry of this Order, Mr. Sullivan is directed to provide Defense Counsel with a list of cases, if any, from the proposed order to transfer list in which the plaintiff will stipulate to its dismissal. Within seven (7) days after receipt of such a list, Defense Counsel shall provide the Court with a stipulation for dismissal of those cases.

6. The next status conference is set for October 15, 2013, at 11:00 a.m.

DATED: September 3, 2013
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
United States District Judge