

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

IN RE ACTOS (PIOGLITAZONE)
PRODUCTS LIABILITY LITIGATION

MDL No. 6:11-md-2299

JUDGE DOHERTY

This Document Applies To:
All Cases

MAGISTRATE JUDGE HANNA

ORDER:
SEPTEMBER, 2013 STATUS CONFERENCE

The next monthly status conference in this matter is scheduled to be held September 26, 2013. This Court is aware that counsel have been tasked with complying with the deadlines and requirements established by this Court as well as those established by numerous state courts where Actos®-related cases are pending. Counsel have contacted this Court (through the Special Masters) requesting leave to participate by telephone or to inform the Court of other limitations on their attendance. However, this Court has been reluctant to consider making any scheduling change, for the following reasons.

For 18 months, the parties have been on notice that this Court expects trial counsel to participate in all significant interactions with this Court.¹ Once a trial schedule was set in this matter (in early 2013), this Court began reminding the parties, at each monthly status conference, of its expectation that trial counsel for both sides would attend all substantive pre-trial interactions with this Court, except if excused by this Court (directly or through the Special Masters). The PSC has complied with these instructions, identifying both Richard Arsenault and Mark Lanier as trial co-counsel and arranging for both to attend status conferences (and

¹ See First General Order – All Actions (Doc. 4).

obtaining leave for Mr. Lanier to refrain from attending those from which he has been absent). By contrast, the Defendants did not notify this Court that anyone other than defense lead counsel would seek leave to serve as trial counsel. Nonetheless, Ms. Gourley recently informed this Court (initially through the Special Masters and on September 13, 2013 to this Court directly during a telephone status conference) that lead counsel intended to have Mr. Bruce Parker serve as co-trial counsel in the bellwether pilot trials. However, this Court has yet to meet Mr. Parker; Mr. Parker has not attended a single status conference (in person or by telephone); this Court is unaware that Mr. Parker has sought leave even once to miss a monthly status conference (or any other conference); and this Court is unaware of a single action taken by the Defendants to comply with this Court's clearly-stated expectation that trial counsel in this matter would participate prior to trial.

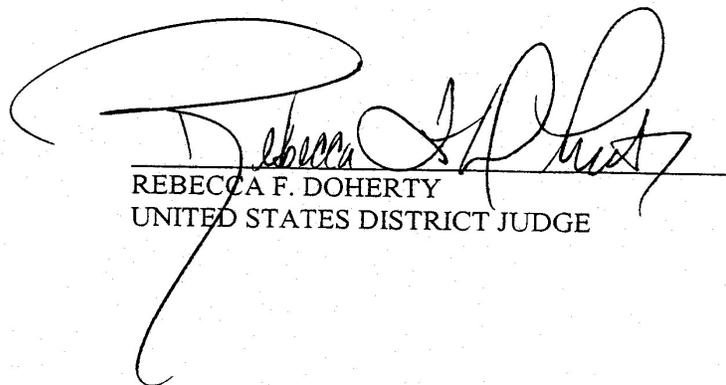
This development gives this Court grave concern. The small number of hearings currently scheduled to occur prior to the evidentiary hearing scheduled to begin on December 13, 2013, means that there is a strong likelihood that the Defendants will not be able to comply with this Court's instructions and are at significant risk of an order limiting them to only one trial counsel – specifically, Ms. Gourley – at both the evidentiary hearing and the bellwether pilot trials. This Court initially refused to change the schedule for the September status conference in any way, in an effort to preserve for the defense a full opportunity to comply with its instructions; but the Court has been assured that there is no reasonable expectation that Mr. Parker will have completed the An trial currently underway in Maryland by that date and, therefore, there is no reasonable expectation that Mr. Parker would be able to attend the September status conference under any circumstances. Therefore, this Court is convinced that it is not depriving Mr. Parker of a realistic opportunity to appear before this Court on September

26, 2013. Thus, no additional prejudice will accrue to the defense if the status conference does not proceed as scheduled.

In acknowledgment of the numerous scheduling conflicts associated with the September 26, 2013 status conference and in recognition of the fact that the defense will not suffer any further prejudice,

IT IS HEREBY ORDERED that COUNSEL WHO SEEK TO ATTEND the monthly status conference, as well as the working group meeting, ***SHALL ATTEND BY TELEPHONE RATHER THAN IN PERSON.*** *With regard to the status conference*, the Plaintiffs' Steering Committee is requested to arrange for the same conferencing service that has been in use every month, but is requested to provide dial-in information and instructions to the defense team, as well as plaintiffs' counsel. Counsel who have been appearing live in Court during the monthly status conferences will be given the ability to speak during the call; all other counsel, as has been the norm, will be limited to listening to the conference. *With regard to the working group meeting*, dial-in information will be provided to counsel by the Special Masters.

THUS DONE AND SIGNED in Lafayette, Louisiana, this 18th day of September, 2013.



REBECCA F. DOHERTY
UNITED STATES DISTRICT JUDGE