

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

In re:	:	MDL Docket No. 4:03CV01507-WRW
	:	4:07CV00506-WRW
PREMPRO PRODUCTS LIABILITY LITIGATION	:	
	:	
RACHEL FLEEGER	:	PLAINTIFF
	:	
v.	:	
	:	
WYETH, et al.	:	DEFENDANTS

CERTIFICATION ORDER

I. INTRODUCTION

Based on Minnesota Statutes Section 480.065, subdivisions 5 and 6, the Court certifies the following question of law to be forwarded to the Supreme Court of Minnesota:

Should a Minnesota court apply the Minnesota statute of limitations to the personal injury claims of a non-Minnesota resident, where the events giving rise to the claims did not occur in Minnesota but took place before August 1, 2004?

The Supreme Court of Minnesota, acting as the receiving court, may reformulate the above legal question.¹

II. STATEMENT OF FACTS

1. Plaintiff Rachel Fleeger is and was at all relevant times a resident and citizen of Pennsylvania.

2. Defendant Wyeth is and was a Delaware corporation with its principal place of business in New Jersey.

¹Minn. Stat. § 480.065(6)(a)(3).

3. Defendant Greenstone Ltd. (n/k/a Greenstone LLC) (“Greenstone”) is currently a Delaware limited liability company with its principal place of business in New Jersey. At the time that Plaintiff allegedly was treated with Greenstone’s medication, Greenstone’s principal place of business was in Michigan.

4. For purposes of this motion, personal jurisdiction and venue are not at issue.

5. Plaintiff was prescribed and treated with two Wyeth medications, Premarin, and Prempro, from 1995 to 2001 in Pennsylvania.

6. Plaintiff was prescribed and treated with generic medroxyprogesterone, a medication that she alleges was manufactured and distributed by Greenstone, from 1995 to 1996 in Pennsylvania.

7. Plaintiff’s prescribing and treating physicians, as well as the pharmacy at which she filled prescriptions for the medications are all located in Pennsylvania.

8. Plaintiff was diagnosed with breast cancer on April 10, 2001. The diagnosis and all subsequent treatment occurred in Pennsylvania.

9. Plaintiff filed a complaint in the United States District Court for the District of Minnesota on April 6, 2007. A copy of the complaint is attached as Exhibit 1.

10. The complaint asserts claims against Wyeth and Greenstone for negligence, strict liability: design defect, strict liability: failure to warn, and breach of implied warranty based on her allegations that she was injured due to her treatment with hormone therapy medications manufactured and distributed by defendants. Specifically, Plaintiff alleges that her breast cancer was caused by her treatment with Premarin, Prempro, and medroxyprogesterone.

11. The case was transferred to MDL 1507 pursuant to 28 U.S.C. § 1407.

12. All of Plaintiff's claims would be barred by the Pennsylvania statute of limitations but not by the Minnesota statute of limitations.²

13. Approximately 4,000 non-resident plaintiffs in *In re Prempro* MDL 1507, have filed cases in Minnesota.

III. NAMES AND ADDRESSES OF COUNSEL FOR THE PARTIES

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²42 Pa. Cons. Stat. § 5524, Minn. Stat. § 541.05.

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CONCLUSION

The Clerk of the Court for the United States District Court of the Eastern District of Arkansas is directed to forward this Certification Order to the Minnesota Supreme Court.

IT IS SO ORDERED this 1st day of December, 2008.

/s/ Wm. R. Wilson, Jr.
UNITED STATES DISTRICT JUDGE