

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

In re:	:	MDL Docket No. 4:03CV1507-WRW
	:	4:08CV01765
PREMPRO PRODUCTS LIABILITY LITIGATION	:	
	:	
	:	
ELIZABETH WILKINS	:	PLAINTIFF
	:	
v.	:	
	:	
NOVARTIS PHARMACEUTICALS and CIBA-GEIGY CORPORATION	:	DEFENDANTS
	:	

ORDER

Pending is Novartis’s Motion to Dismiss Duplicate Case (Doc. No. 15). Plaintiff has responded.¹

Novartis asks that this case be dismissed because Plaintiff filed a similar case in the Eastern District of Texas. However, neither of the defendants in this case is a defendant in the Texas case. As Defendant recognized in its motion, “[t]he Court recently dismissed other plaintiffs’ second-filed duplicative cases when the defendants were identical in both cases.”² Since the Texas case and this case do not involve the same defendants, I do not believe the first-filed rule applies.³

It seems to me that the more appropriate remedy here would be to consolidate the cases. However, that decision rests with the transferor courts.

Accordingly, Novartis’s Motion to Dismiss Duplicate Case (Doc. No. 15) is DENIED.

IT IS SO ORDERED this 10th day of February, 2009.

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

¹Doc. No. 20.

²Doc. No. 16.

³The 8th Circuit Court of Appeals recognizes the first-filed rule when “a complaint involving the same parties and issues has already been filed in another district.” *Orthmann v. Apple River Campground, Inc.*, 765 F.2d 119, 121 (8th Cir. 1985) (emphasis added).