

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DEANNA CHESHER,

 Plaintiff,

 v.

ELI LILLY AND COMPANY, an
Indiana corporation,

 Defendant.

No. 1:14-cv-01265-GEB-SKO

RELATED CASE ORDER

CARL WOODRUFF and PENNY
WOODRUFF,

 Plaintiffs,

 v.

ELI LILLY AND COMPANY, an
Indiana corporation,

 Defendant.

No. 2:14-cv-01890-WBS-CKD

Defendant filed a "Notice of Related Cases" in which it states: "the [above-referenced] action[s] involve[] similar questions of fact and the same question of law . . . and [their] assignment to the same Judge or Magistrate Judge is likely to effect a substantial savings of judicial effort, either because the same result should follow in both actions or otherwise." (Notice of Related Cases 1:3-8, ECF No. 13.) Defendant further

1 states:

2 On August 11, 2014, plaintiff Deanna
3 Cheshier commenced [Case No. 1:14-cv-01265-
4 GEB-SKO] against Lilly. The operative
5 complaint alleges that plaintiff suffered
6 injuries as a result of her use of Cymbalta.
7 The complaint alleges causes of action for
8 (1) negligence; (2) strict product liability
9 - design defect; (3) strict product liability
10 - failure to warn; (4) strict product
11 liability; (5) negligent misrepresentation;
12 (6) fraud; (7) breach of implied warranty;
13 and (8) violation of Business and Professions
14 Code §§ 17200, et seq. The gravamen of the
15 claims is that defendant Lilly failed to warn
16 about the risks associated with cessation of
17 Cymbalta.

18 On August 11, 2014, plaintiffs Carl
19 Woodruff and Penny Woodruff commenced the
20 action styled Carl Woodruff, et al., v. Eli
21 Lilly and Company, (E.D. Cal. Case No. 2:14-
22 cv-01890-WBS-CKD) against Lilly. The
23 operative complaint alleges that plaintiffs
24 suffered injuries as a result of Carl
25 Woodruff's use of Cymbalta. The complaint
26 alleges causes of action for (1) negligence;
27 (2) strict product liability - design defect;
28 (3) strict product liability - failure to
warn; (4) strict product liability; (5)
negligent misrepresentation; (6) fraud; (7)
breach of implied warranty; (8) violation of
Business and Professions Code §§ 17200, et
seq., and (9) loss of consortium. The
gravamen of the claims is that Lilly failed
to warn about the risks associated with
cessation of Cymbalta. . . .

As evidenced above, both cases call for
a determination of the same or substantially
related or similar questions of law and fact.
As such, litigating these cases separately in
two different courtrooms will create
substantial duplication of labor for the
judges assigned to each respective case and
may result in inconsistent rulings.
Accordingly, the cases should be related and
transferred to a single judge for further
proceedings.

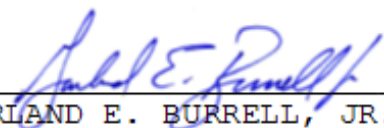
27 (Id. at 1:12-2:10.)

1 Examination of the above-entitled actions reveals they
2 are related within the meaning of Local Rule 123. Under the
3 regular practice of this Court, related cases are generally
4 assigned to the judge and magistrate judge to whom the first
5 filed action was assigned. Therefore, action 2:14-cv-01890-WBS-
6 CKD is reassigned to District Judge Garland E. Burrell, Jr. and
7 Magistrate Judge Sheila K. Oberto for all further proceedings,
8 and any date currently set in the reassigned case is VACATED.
9 Henceforth the caption on documents filed in the reassigned case
10 shall show the initials "GEB-SKO."

11 Further, a Status Conference is scheduled in 2:14-cv-
12 01890 before the undersigned judge on February 23, 2015, at 9:00
13 a.m. A joint status report shall be filed no later than fourteen
14 (14) days prior.¹

15 The Clerk of the Court shall make appropriate
16 adjustment in the assignment of civil cases to compensate for
17 this reassignment.

18 Dated: January 23, 2015

19
20
21 
22 GARIAND E. BURRELL, JR.
23 Senior United States District Judge
24

25
26 ¹ The failure of one or more of the parties to participate in the
27 preparation of the Joint Status Report does not excuse the other parties from
28 their obligation to timely file a status report in accordance with this Order.
In the event a party fails to participate as ordered, the party timely
submitting the status report shall include a declaration explaining why it was
unable to obtain the cooperation of the other party or parties.