

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
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: BEXTRA AND CELEBREX
MARKETING SALES PRACTICES AND
PRODUCT LIABILITY LITIGATION

CASE NO. 05-CV-01699 CRB
MDL No. 1699

This Document Relates To:

| | |
|-----------------------------|-------------|
| John Bolwell | 05-3902 CRB |
| Alane Davis | 05-3902 CRB |
| Charles C. Foti, Jr. et al. | 06-0157 CRB |
| Health Care Service Corp. | 11-0310 CRB |

**ORDER SETTING HEARINGS &
FURTHER CASE MANAGEMENT
CONFERENCE**

The Court previously scheduled a case management conference (“CMC”) and a number of hearings for January 27, 2012, which the Court then rescheduled for February 10, 2012. Based on the availability of counsel for the parties and the Court, the Court hereby ORDERS as follows:

1. John Bolwell & Alane Davis, Case No. 05-3902 CRB – OSC Continued

On August 24, 2011, this Court issued an Order to Show Cause Why Plaintiffs Should Not Be Dismissed for Lack of Prosecution (“the OSC”). The OSC required counsel for the above-captioned Plaintiffs (or Plaintiffs themselves, if they are pro se) to: (1) notify the Court in writing on or before October 4, 2011 of the reasons the case should not be dismissed and to provide a copy of any such communication to counsel for the Pfizer Defendants and Plaintiffs’ Liaison Counsel; and (2) appear in person at a CMC on October 14 to show cause as to why Plaintiffs’ lawsuits should not be dismissed with prejudice for a lack of prosecution.

1 Plaintiffs John Bolwell and Alane Davis were subject to the OSC. Counsel for
2 Mr. Bolwell and Ms. Davis filed a written response to the OSC, appeared in person at the October
3 14 CMC, and requested a 60-day continuance of the OSC, which he represented would be
4 sufficient time to complete the settlement process. Pfizer did not oppose that request at that time.
5 As of the date of this order, however, Plaintiffs still have not yet provided Pfizer with a signed
6 settlement agreement, release, dismissal, or other paperwork necessary for settlement, even
7 though the parties have had an agreement in principle for more than one year and Plaintiffs have
8 had more than 90 days since the October 14 CMC.

9 Accordingly, counsel for the above-captioned Plaintiffs must: (1) notify the Court in
10 writing on or before March 9, 2012 of the reasons the case should not be dismissed and provide a
11 copy of any such communication to counsel for the Pfizer Defendants and Plaintiffs' Liaison
12 Counsel; and (2) appear in person at the continued hearing on the OSC on Friday, March 16, 2012
13 at 10:00 a.m. to show cause as to why Plaintiffs' lawsuits should not be dismissed with prejudice
14 for a lack of prosecution. *See* Fed. R. Civ. P. 41. Failure to submit an explanation in writing and
15 appear at the CMC will result in dismissal with prejudice.

16 **2. Health Care Service Corporation, Case No. 11-0310 CRB – Briefing Schedule**

17 Pending before the Court is a motion to dismiss filed by the Pfizer defendants. The Court
18 will hear oral argument on that motion on Friday, March 16 at 10:00 a.m.

19 **3. Charles C. Foti, Jr. et al., Case No. 06-0157 CRB – Parties to Meet & Confer**

20 The parties shall be prepared to discuss the remaining discovery that may be necessary for
21 pretrial purposes, including but not limited to discovery needed in advance of motions for
22 summary judgment, at the next CMC in this litigation, which the Court hereby sets for March 16
23 at 10:00 a.m.

24 **4. All Other Matters**

25 In addition to the above-captioned matters, Plaintiffs' Liaison Counsel and Defendants'
26 Liaison Counsel shall be prepared to advise the Court on any other matters remaining in the
27 litigation, including: (1) the status of the settlement for Plaintiff Louise Porac (Case No. 06-6779
28 CRB), whose case recently was dismissed with prejudice pending this Court's ruling on her

1 petition for relief from the common benefit assessment; and (2) the status of any other purchase
2 claim or personal injury litigation pending in other federal or state courts relating to Bextra or
3 Celebrex, such as any cases awaiting transfer to these MDL proceedings.

4 **IT IS SO ORDERED.**

5

6 Dated: February 8, 2012

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

