

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00119-WDM-MEH

RAE ANN SCHMALTZ,

Plaintiff,

v.

SMITHKLINE BEECHAM CORPORATION d/b/a GLAXOSMITHKLINE, and
BLOCK DRUG COMPANY, INC.

Defendants.

**ORDER ON DEFENDANTS' MOTION TO STAY PROCEEDINGS PENDING THE
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION'S RULING ON TRANSFER**

Pending before the Court is Defendants' Motion to Stay Proceedings Pending the Judicial Panel on Multidistrict Litigation's Ruling on Transfer and Consolidation and Request for Expedited Briefing [[filed April 1, 2009; docket #77](#)]. The motion is fully briefed and referred to this Court. Oral argument would not materially assist the Court in its adjudication. For the reasons stated below, the Court **GRANTS IN PART** and **DENIES IN PART** Defendants' Motion.

Defendants seek to stay this case pending a decision by the Judicial Panel on Multidistrict Litigation (JPML) on whether to include this case for MDL treatment. Currently, the parties are briefing the transfer issue before the JPML. Defendants state that they expect a decision within 45-60 days from today. Plaintiff is seeking to either be excluded from any consolidation before the JPML, or to have the consolidated cases located in Colorado.

Fact discovery is set to close in this case on June 15, 2009. It appears that no depositions have occurred. The parties have issued and responded to written discovery, and documents are being provided by the Defendants on a staggered basis. Plaintiff requests that discovery go forward,

although Plaintiff does not state what discovery would occur. Defendants argue that duplicative discovery can be avoided by entering a stay.

The Court believes that a sixty-day hiatus on new discovery would not materially prejudice the Plaintiff and would hopefully decrease overall costs of litigation in the event the JPML approves the transfer. Therefore, the Court will grant the motion in part, entering a stay of any new discovery requests (depositions or written discovery) or discovery motions until June 15, 2009. The Court will hold a status conference on June 22, 2009 at 9:00 a.m. for the purpose of discussing and scheduling the remaining discovery in this case in the event the case is not transferred. If the case is transferred prior to that date, the Court will vacate the conference. Excluded from the stay are the parties' obligations to fully respond to all written discovery requests issued to date. In the event the parties have a dispute concerning compliance with discovery requests served prior to this date, the parties may contact the Court to discuss the dispute and receive informal direction from the Court, but no discovery motions may be filed.

Accordingly, the Court **GRANTS IN PART** and **DENIES IN PART** Defendants' Motion to Stay Proceedings Pending the Judicial Panel on Multidistrict Litigation's Ruling on Transfer and Consolidation and Request for Expedited Briefing [[filed April 1, 2009; docket #77](#)];

A sixty-day **stay on new discovery and discovery motions** is hereby implemented extending up to and including **June 15, 2009**, consistent with this Order;

A **status conference** is hereby set on Monday, **June 22, 2009, at 9:00 a.m.** in Courtroom 203 on the second floor of the Byron G. Rogers United States Courthouse located at 1929 Stout Street, Denver, Colorado; and

In the event of a discovery dispute regarding discovery already requested, the parties may

contact Chambers at (303) 844-4507 to discuss the dispute and receive informal direction from the Court.

Dated at Denver, Colorado, this 15th day of April, 2009.

BY THE COURT:

s/ Michael E. Hegarty
Michael E. Hegarty
United States Magistrate Judge