

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In Re: Mirapex Products Liability Litigation,

Civil No. 07-MD-1836 JMR/FLN

This Document Relates to:

Barbara Goldman and Paul Goldman,
John Allen,
Jerome Welch,
Janet Risi and Carmain Risi,
Anne Gibson and Idus (Paul) GibsonCivil 06-4784 JMR/FLN
Civil 07-2684 JMR/FLN
Civil 07-3056 JMR/FLN
Civil 07-3058 JMR/FLN
Civil 07-3260 JMR/FLN and
Civil 07-3261 JMR/FLN

Plaintiffs,

v.

REPORT & RECOMMENDATION
AND ORDER

Boehringer Engelheim, et al.,

Defendants.

The above referenced cases were before the Court on April 6, 2009, for a hearing on the motion made by Plaintiffs' counsel to withdraw. [#892].

Following the hearing, counsel for Defendants brought to the Court's attention the failure of these Plaintiffs to comply with Amended Pretrial Order No. 5.

The Amended Pretrial Order No. 5 [#821], provides that:

“Service of process has not been completed in several of the cases. In any case in which service (or waiver of service) of process has not been completed by March 1, 2009, Plaintiffs' counsel shall show cause in writing on or before March 1, 2009, why the case should not be dismissed.”

The Order further provides:

“Plaintiffs shall disclose to Defendants forthwith the Plaintiff Fact Sheet, which shall include executed authorizations. In any event, all such Fact Sheets and Authorizations shall be served on Defendants no later than March 1, 2009. Counsel

for any Plaintiff who has not served Fact Sheets and Authorizations, shall on or before March 1, 2009, show cause in writing why that case should not be dismissed.”

Plaintiff John Allen, Civil 07-2684, has failed to complete Service of Process by March 1, 2009, and also failed to show cause in writing on or before that date why the case should not be dismissed. John Allen’s claim should be dismissed.

Plaintiffs Barbara Goldman, Paul Goldman, John Allen, Jerome Welch, Janet Risi, Carmain Risi, Anne Gibson, and Idus (Paul) Gibson have neither served the Fact Sheets and Authorizations required by Amended Pretrial Order No. 5, nor have they shown cause in writing why their claims should not be dismissed for failing to serve the required Fact Sheets and Authorizations. Indeed, their attorney has in fact sought to withdraw from the cases because each of the aforementioned Plaintiffs have failed to respond to repeated efforts to communicate. Each of the claims of the aforementioned Plaintiffs should be dismissed.

Based upon all of the files, records and proceedings herein, IT IS HEREBY RECOMMENDED that Civil Action Nos. 06-4784, 07-2684, 07-3056, 07-3058, 07-3260, 07-3261 be dismissed.

IT IS HEREBY ORDERED that if and when the foregoing recommendation is adopted by the District Judge, the motion of Plaintiffs’ counsel to withdraw [#892] is GRANTED.

DATED: April 20, 2009.

s/ Franklin L. Noel
FRANKLIN L. NOEL
United States Magistrate Judge

Pursuant to the Local Rules, any party may object to this Report and Recommendation by filing with the Clerk of Court and serving on all parties, on or before **May 7, 2009**, written objections which specifically identify the portions of the proposed findings or recommendations to which objection is being made, and a brief in support thereof. A party may respond to the objecting party’s brief within ten days after service thereof. All briefs filed under the rules shall be limited to 3500 words. A judge shall make a de novo determination of those portions to which objection

is made.

This Report and Recommendation does not constitute an order or judgment of the District Court, and it is, therefore, not appealable to the Circuit Court of Appeals.