

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

LIRLENE GARDLEY-STARKS

PLAINTIFF

v.

No. 4:10CV99-WAP-DAS

PFIZER, INC., ET AL.

DEFENDANTS

ORDER

Before the court is Defendant Actavis Elizabeth LLC's Motion to Stay All Proceedings (# 29). Essentially, Actavis seeks a stay of these proceedings until the Supreme Court decides the "generic preemption issues" raised in *Demahy v. Actavis, Inc.*, 593 F.3d 428 (5th Cir. 2010), *certiorari granted* No. 09-1501 and *Mensing v. Wyeth, Inc.*, 588 F.3d 603 (8th Cir. 2009), *certiorari granted* Nos. 09-993 and 09-1039. The court has considered the record, the applicable law, and the submissions of the parties and is of the opinion that the motion should be granted.

The plaintiff opposes the motion on the grounds that a stay would impede the progress of this case and--because of her age and poor health--jeopardize her "chance to see justice done." Additionally, while the Pfizer, Wyeth, and Schwarz defendants do not oppose a stay, they request leave to conduct written discovery regarding product identification and to file dispositive motions arising under Mississippi law. However, after balancing the interests of the parties, the court finds that no party will be unduly prejudiced by a brief stay of all proceedings in this case. *Demahy* and *Mensing* are scheduled for oral argument before the Supreme Court on March 30, 2011, and a decision is expected sometime in July 2011. Accordingly, it would be imprudent to enter a scheduling order and proceed with this case, considering that the Supreme Court's decision could require dismissal of all of the plaintiff's claims or narrow the issues before the court.

THEREFORE, IT IS ORDERED:

1. That the defendant's motion to stay is hereby **GRANTED**, and all proceedings in this case are **STAYED** until the Supreme Court has rendered a decision in the above identified cases.

2. Should the Supreme Court fail to render a decision before August 3, 2011, a case management conference will be held on that date.

This 28th day of February, 2011.

/s/ David A. Sanders
U. S. Magistrate Judge