

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE FLUOROQUINOLONE
PRODUCTS LIABILITY LITIGATION

Civil No. 15-md-2642-JRT

THIS DOCUMENT RELATES TO:
ALL CASES

**ORDER TO EXTEND THE
DEADLINE FOR BELLWETHER
TRIAL CASE SELECTION
SUBMISSIONS**

On February 7, 2018, the Court extended the deadline for bellwether trial case selection submission until Friday, February 16, 2018, based on the parties' stipulation. (Order, Feb. 7, 2018, Docket No. 555.) On February 14, the Plaintiffs' Steering Committee and the Bayer Defendants filed letters regarding a dispute over a further extension of this deadline. (Pls.' Letter, Feb. 14, 2018, Docket No. 558; Defs.' Letter, Feb. 14, 2018, Docket No. 557.) Plaintiffs seek an additional 30 days in order to depose a newly-identified treating physician. (Pls.' Letter at 2.) The Court will grant a 21-day extension.

Plaintiffs had been diligently seeking to depose Dr. Deeb since the summer of 2017 and were only able to depose him on February 9, 2018. (*Id.* at 1.) Deeb is a treating physician in Plaintiff Stephanie Heller's case, which Plaintiffs have selected as a bellwether case. (*Id.*) At his deposition, Deeb testified that he was supervising a resident during his visit with Heller, that the resident recommended prescribing Avelox, and that

Deeb approved the choice. (*Id.* at 2.) Plaintiffs have since identified the resident and now seek an additional 30 days to depose him. (*Id.*)

Defendants oppose the extension of the deadline, noting that Heller testified at her deposition in July 2017 that a resident had been in the room with Deeb during her visit, but she never identified him as a relevant physician. (Defs.' Letter at 1-2.)

The issue is a close one, but the Court will extend the deadline for an additional 21 days to allow Plaintiffs to seek deposition of the resident. Based on the parties' representations, it appears that – while Plaintiffs knew of the resident's existence prior to Deeb's deposition – they did not and could not have known about his role in prescribing Avalox to Heller. Thus, the Court will allow Plaintiffs an additional 21 days to depose the resident.

ORDER

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that the Parties may have until Friday, March 9, 2018, to submit their Bellwether Trial Case Selection Brief in this matter. This Order does not extend any other deadlines in PTO 13.

DATED: February 15, 2018
at Minneapolis, Minnesota.

s/John R. Tunheim
JOHN R. TUNHEIM
Chief Judge
United States District Court