

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
IN RE: NEURONTIN
PRODUCT LIABILITY LITIGATION
-----X

:
:
: Index No. 765000/06

-----X
THIS DOCUMENT APPLIES TO ALL CASES
-----X

: Hon. Marcy S. Friedman
: IAS Part 57
-----X

~~PROPOSED~~ CASE MANAGEMENT ORDER NO. 15

WHEREAS, the Court held a conference with all parties on October 4, 2010, to discuss the status of the cases. The Finkelstein & Partners, LLP law firm indicated that they have 19 cases where they are filing Stipulations of Dismissal. Additionally, the Finkelstein firm has 51 cases where they will move to withdrawal as counsel and another 34 cases where the firm seeks an extension of time to determine whether to file a Stipulation of Dismissal or a Motion to Withdraw as Counsel. The Finkelstein firm will have 49 cases remaining in the litigation and 5 cases, *Ballo*, *Wargo*, *Malsch*, *Balcer* and *Browarski*, involve New York resident plaintiffs.¹ The *Wargo* and *Malsch* cases are within the 100-mile radius of the court;

WHEREAS, the Pogust Braslow & Millrood, LLC law firm intends to file Stipulations of Dismissal in 3 cases. Additionally, the Pogust firm intends to move to withdraw as counsel in an additional 16 cases. The Pogust firm also seeks an extension of time in an additional 6 cases. The Pogust law firm will have 9 cases remaining in the litigation, with a possibility of 6 additional cases currently under review. None of the Pogust cases involve New York resident plaintiffs;

WHEREAS, the Westermann, Hamilton, Sheehy, Aydelott & Keenan, LLP law firm has moved to withdraw as counsel in 3 cases and seeks an extension of time in 1 case. The

¹ The parties have agreed to confer on whether the *Scott* case involves a New York resident.

Westerman firm has 4 cases, all within 100 miles of New York City: *Filion, Kahn, Novak* and *Vays*:

WHEREAS, the Brown Chiari, LLP firm sought additional time in 2 cases to determine whether to file a stipulation of dismissal or a motion to withdraw as counsel. The Brown Chiari firm has 1 case, the *Scheer* case, that remains. *Scheer* involves a New York resident plaintiff residing more than 100 miles outside of New York City;

IT IS HEREBY ORDERED that:

Plaintiffs' Counsel's request for extension of time to evaluate cases is granted and Plaintiffs' counsel has 30 days from the ~~entry~~ ^{date} of this Order to evaluate the remaining cases;

Defendants may seek security for costs under CPLR 8501(a) and CPLR 8503. Any filing should occur by Friday, October 8, 2010;

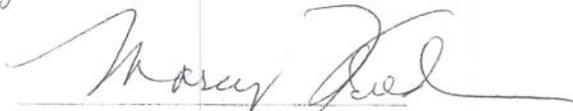
The *Wargo* case will be the first case to be tried in the New York Consolidated litigation. The parties will prepare the following New York cases for trial: *Balcer, Browarski, Filion, Kahn, Malsch, Novak, Vays*. The parties will confer on whether to consider the *Scott* case as a case involving a New York resident. The parties have 5 months from the ~~entry~~ ^{date} of this Order to complete fact discovery in the New York cases and this deadline is a "Federal Court-type deadline" — i.e., a final deadline.

On October 11, 2010, the parties will randomly select the trial order for the cases within the 100-mile radius of New York City: *Filion, Kahn, Malsch, Novak, and Vays*; and

^{and Wargo} Plaintiffs will file, by Order to Show Cause, a Motion to Amend the Complaint in the *Ballo* cases. The motion will be served ~~and received by the Court on~~ ^{by} October 15, 2010. Defendants' Opposition is due on October 25, 2010. Plaintiff's Reply is due on November 1, 2010, and the motion will be submitted by November 4, 2010. The Court has scheduled argument for November 9, 2010, at 2:30 pm.

→ All papers shall be served so received on the above dates. Two courtesy copies of each of the papers shall be filed with the Clerk of Part 57 on or before 11-4-10.

Dated: 10-12-10


Hon. Marcy S. Friedman
J.S.C.