

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
NORTHERN DIVISION
(at Covington)

)
) Master File No. 2: 11-md-2226-DCR
) MDL Docket No. 2226
) ALL CASES
)
IN RE: DARVOCET, DARVON AND)
PROPOXYPHENE PRODUCTS)
LIABILITY LITIGATION) **ORDER**
)
)

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The parties having submitted their proposed leadership structures, and the Court being sufficiently advised, it is hereby

ORDERED as follows:

(1) Terms of Appointment

The persons who accept the appointment to serve as Plaintiffs’ Co-Lead Counsel or on the Plaintiffs’ Executive Committee or Steering Committee agree to serve for the duration of the litigation or until such time as the Court determines that a change in the duration of service shall be made. The Court may decide from time-to-time to change the membership of the Plaintiffs’ Executive Committee, Steering Committee, or Co-Lead Counsel, or to appoint Plaintiffs’ Liaison Counsel or additional committees, depending upon the needs of the litigation.

The Court appoints the following named persons to leadership roles because of the expectation of their personal commitment and contribution to the work of the successful

management of the MDL proceeding. For this reason, the Court will look to individual members to satisfy the goals that the Court expects the committees to achieve, including successful coordination of the MDL proceedings with any proceedings in related state court cases. While the Court contemplates that committee members will require the assistance of colleagues, paralegals, support staff, and others in the fulfillment of their committee assignments, the Court expects the individual members to be responsible for the ultimate outcome of the activities performed.

(2) Plaintiffs' Co-Lead Counsel

The Court appoints the following counsel as Plaintiffs' Co-Lead Counsel:

Richard W. Schulte
Behnke, Martin & Schulte, LLC
812 E. National Rd.
Dayton, OH 45377
(937) 435-7500
rschulte@legaldayton.com

Dianne Nast
RodaNast P.C.
801 Estelle Drive
Lancaster, PA 17601
(717) 892-3000
dnast@rodanast.com

Defendants' counsel may rely upon all agreements made with Plaintiffs' Co-Lead Counsel, including agreements as to discovery scheduling, and such agreements shall be binding on all plaintiffs whose cases are subject to the Court's jurisdiction. Plaintiffs' Co-Lead Counsel shall discharge the following duties:

- (a) To be lead spokespersons before the Court for plaintiffs;
- (b) To coordinate, determine, and present (in briefs, oral argument, or such other fashion as may be appropriate) the positions of plaintiffs on all matters arising during all pretrial proceedings;

(c) To coordinate for plaintiffs the initiation and conduct of discovery consistent with the requirements of Federal Rules of Civil Procedure 26(b)(1)-(2) and 26(g), including the preparation of joint interrogatories and requests for production of documents and the examination of witnesses in depositions;

(d) To direct and coordinate the work of all plaintiffs' counsel, including the Plaintiffs' Executive Committee, and to make assignments of work to be performed in the prosecution of the case in a manner to assure that pretrial preparation is conducted effectively, efficiently, and economically;

(e) To monitor the activities of plaintiffs' counsel to assure that deadlines are met and that unnecessary expenditures of time and expense are avoided;

(f) To enter into stipulations with opposing counsel necessary for the conduct of the litigation;

(g) To communicate with all plaintiffs' counsel information concerning the status of any developments in this proceeding;

(h) To call meetings of other plaintiffs' counsel to effectuate these provisions;

(i) To prepare and distribute to the parties and to the counsel in coordinated state court cases periodic status reports;

(j) To receive orders and notices from the MDL Panel on behalf of plaintiffs, and to prepare and transmit copies of orders and notices to plaintiffs; and

(k) To perform such other duties as may be incidental to proper coordination of plaintiffs' pretrial activities or as may be authorized or directed by order of the Court.

(3) Plaintiffs' Executive Committee

The Court appoints the following attorneys to the Plaintiffs' Executive Committee ("PEC"):

Martin Crump

Davis & Crump
1712 15th St.
Gulfport, MS 39501
(800) 277-0300
martincrump@daviscrump.com

Stephen Randall

Pearson, Randall & Schumacher, PA
100 South Fifth Street, Ste. 1025
Minneapolis, MN 55402
(612) 767-7500
srandall@prslegal.com

Matt Sill

Sill & Medley
14005 N. Eastern Ave.
Edmond, OK 73013
(405) 509-6300
matt@sill-law.com

Andy Williams

The Simmons Firm
One Court Street
Alton, IL 62002
(618) 259-2222
awilliams@simmonsfirm.com

The PEC shall organize itself and agree on a plan for conducting the litigation. The PEC may, as requested by the Plaintiffs' Co-Lead Counsel, brief and argue motions, and conduct pretrial proceedings with Plaintiffs' Co-Lead Counsel. The PEC shall discharge the following duties:

- (a) To designate persons to brief and argue motions;
- (b) To initiate and coordinate written and oral discovery proceedings;
- (c) To provide general coordination of the activities of plaintiffs' counsel, as may be required;
- (d) To coordinate this matter with any other related litigation not otherwise referred to herein;
- (e) To designate the order of questioning of any witness or deponent;

(f) To bind the Plaintiffs' Steering Committee in scheduling depositions, setting agendas, and otherwise interacting with defense counsel;

(g) To assess and collect money from all plaintiffs for a common litigation expense fund and to authorize expenditures from said fund; and

(h) To perform such other functions as may be authorized or directed by order of the Court.

(4) Plaintiffs' Steering Committee

Prosecution of the liability pretrial aspects of this litigation on behalf of plaintiffs shall be undertaken by the Plaintiffs' Steering Committee ("PSC"), although managed by the Co-Lead Counsel. Subject to further orders of the Court, the Plaintiffs' Steering Committee Members are identified as follows:

Joey Diaz

The Diaz Law Firm
208 Waterford Square, Ste. 300
Madison, MS 39110
(601) 607-3456
jdiazjr@msattorneys.com

Tracy Rezvani

Finkelstein Thompson LLP
1050 30th Street NW
Washington, DC 20007
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Eric Allan Koch

The Koch Law Firm PC
520 North Walnut Street
Bloomington, IN 47404
(812) 337-3120
eric@thekochlawfirm.com

Jay Urban

Urban & Taylor S.C.
4701 N. Port Washington Road
Milwaukee, WI 53212
(414) 906-1700
jurban@wisconsininjury.com

Daniel Becnel
Becnel Law Firm, LLC
P.O. Drawer H
106 West 7th Street
Reserve, LA 70084
(985) 536-1186
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Robert Piper
Piper & Associates
624 Pierre Ave
Shreveport, LA 71103
(318) 226-0826
piper@mnss.com

Alan Lazar
Marlin & Saltzman, LLP
29229 Canwood Street, Ste. 208
Agoura Hills, CA 91301
(866) 779-1410
alazar@marlinsaltzman.com

Mark Zamora
Bunch, James & Zamora
P.O. Box 660216
Atlanta, GA 30366
(405) 509-6300
mark@markzamora.com

The PSC shall discharge the following duties:

- (a) To advance the common interests of plaintiffs in the prosecution of the issues of liability in the actions against defendants and any other parties hereafter joined or added as defendants;
- (b) To conduct the examination of witnesses in depositions as it deems appropriate through the designated examining plaintiffs' attorneys, subject to the right of non-PSC members to attend and submit questions to the examining plaintiffs' attorneys; and
- (c) To perform such other functions as may be authorized or directed by order of the Court.

(5) Defendants' Steering Committee

The Court appoints the following firms to the Defendants' Steering Committee:

Greenberg Traurig, LLP
Ice Miller LLP

Skadden, Arps, Slate, Meagher & Flom LLP
Ulmer & Berne LLP

The Defendants' Steering Committee members shall serve leadership roles in addressing, as necessary, the distinct interests of certain groups of defendants in this proceeding.

This 4th day of October, 2011.



Signed By:

Danny C. Reeves DCR

United States District Judge