

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

ENTERED

JUN - 5 2003

SAMUEL L. KAY, CLERK
U.S. District & Bankruptcy Courts
Southern District of West Virginia

IN RE: SERZONE PRODUCTS
LIABILITY LITIGATION

MDL NO. 1477

THIS DOCUMENT RELATES TO ALL CASES

PRETRIAL ORDER # 7

Representatives, Discovery, Motion and Hearing for Class Certification

1. **Dismissal of Class Action Complaints.** Other than those class action claims specifically set forth in the matters of *Susan K. Kyle v. Bristol-Myers Squibb Company*, Northern District of West Virginia, Civil Action No. 2:03-22, and *Chastity L. Flowers and Sheila G. Rhodes v. Bristol-Myers Squibb Company*, Southern District of West Virginia, Civil Action No. 2:03-0254, all class action claims transferred to *In Re: Serzone Products Liability Litigation*, MDL 1477 and/or currently pending before this Court are hereby dismissed. The class action claims dismissed by this Order include, but are not limited to, the class action claims set forth in: (1) *Andrea Cheramie, Rhonda Bovia, Carol Marcel, Hermaine Lewis v. Bristol-Myers Squibb Company*, Eastern District of Louisiana, Civil Action No. 02-0910 and transferred to the Southern District of West Virginia, Civil Action No. 2:02-1030; (2) *Melva Duplessie, Robin Debate, Deborah Turner, Julian Harmon and Troy Gros v. Bristol-Myers Squibb Company*, Middle District of Louisiana, Civil Action No. 02-322 and transferred to the Southern District of West Virginia, Civil Action No. 2:02-1031; (3) *Sherry Hayden, Effie Conrad, and Bonnie Littleton v. Bristol-Myers Squibb Company*, Northern District of

Mississippi, Civil Action No. 4:02-86 and transferred to the Southern District of West Virginia, Civil Action No. 2:02-1035; (4) *Judy Owens, Susan Marie Francois, Carl Alpough, Viola Bell and Clinton Tate v. Bristol-Myers Squibb Company*, Western District of Louisiana, Civil Action No. 02-0680 and transferred to the Southern District of West Virginia, Civil Action No. 2:02-1034; (5) *Patty Boe v. Bristol-Myers Squibb Company*, District of Minnesota, Civil Action No. 02-0812 and transferred to the Southern District of West Virginia, Civil Action No. 2:02-1200; (6) *Rita Ortiz v. Bristol-Myers Squibb Company*, Northern District of Ohio, Civil Action No. 1:02-0806 and transferred to the Southern District of West Virginia, Civil Action No. 2:02-1202; (7) *Michael Anthony Lawrence v. Bristol-Myers Squibb Company*, Middle District of Louisiana, Civil Action No. 02-0386 and transferred to the Southern District of West Virginia, Civil Action No. 2:02-1199; (8) *Joseph M. Lekas v. Bristol-Myers Squibb Company*, Northern District of Illinois, Civil Action No. 02C-3203 and transferred to the Southern District of West Virginia, Civil Action No. 2:02-1195; (9) *Jadwiga M. Lewandoski v. Bristol-Myers Squibb Company*, Southern District of New York, Civil Action No. 02-CV-3395 and transferred to the Southern District of West Virginia, Civil Action No. 2:02-1201; (10) *Rosalyn Ann Boudreaux, Michael Broussard, Hazel Eugene, Mona Fontenot, Sandra Granger, Marian Ledoux, John LeBlanc, Jr. and Ruth Vincent v. Bristol-Myers Squibb Company*, Eastern District of Louisiana, Civil Action No. 02-1641 and transferred to the Southern District of West Virginia, Civil Action No. 2:02-1197; (11) *Joseph I. Viator, Nerrel W. Guillory and Donna S. Simon v. Bristol-Myers Squibb Company*, Western District of Louisiana, Civil Action No. CV02-0637 and transferred to the Southern District of West Virginia, Civil Action No. 2:02-1033; and (12) *Chrissy Ann Galyean, James A. Johnson, and Edward L. Warren v. Bristol-Myers Squibb Company*, Northern District of Illinois, Civil Action No. 02-2748 and transferred to the Southern District of West Virginia, Civil Action No. 2:02-1194.

2. Putative Class Representatives. The putative class representatives shall be limited to no more than fourteen (14) representatives and shall include Susan K. Kyle (the named representative in the matter of *Kyle v. Bristol-Myers Squibb Company*, Northern District of West Virginia, CA 2:03-22) and Chastity L. Flowers and Sheila G. Rhodes (the named representatives in the matter of *Flowers v. Bristol-Myers Squibb Company*, Southern District of West Virginia, CA 2:03-0254). In addition, Plaintiffs are granted leave to amend the Complaints in these two matters (*Kyle v. Bristol-Myers Squibb Company* and *Flowers v. Bristol-Myers Squibb Company*) for the sole purpose of adding no more than a total of eleven (11) additional putative class representatives, selected from the putative class representatives who are plaintiffs in the previously filed purported class actions identified in Paragraph 2 of this Order, as plaintiffs in either of those actions. These additional class representatives must be identified within ten (10) days of the date of the entry of this Order. Any plaintiff identified as a putative class representative pursuant to this Order shall be subject to the terms of this Order and his or her claims as a class representative shall be determined by the court in accordance with this Order. All other previously named putative class representatives shall be deemed withdrawn.

3. Fact Sheets. All putative class representatives must provide fully completed fact sheets and executed authorizations as anticipated by Discovery Order # 5 within ten (10) days of the date of the entry of this Order. Should any class representative fail to provide fully completed fact sheets and authorizations as required, the non-compliant putative class representative shall be deemed withdrawn.

4. Depositions of Putative Class Representatives. Depositions of all class representatives shall be completed by September 30, 2003.

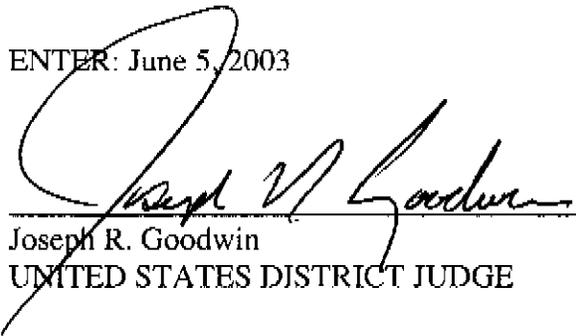
5. **Disclosure/Discovery of Plaintiffs' Experts.** Plaintiffs shall furnish to Defendants the identity and reports of all experts, if any, to be used in support of any Motion to Certify Class Action in accordance with Fed.R.Civ.P. 26(a)(2)(B) along with the dates each such expert is available for deposition by September 30, 2003. Defendants shall complete the depositions of Plaintiffs' experts by November 15, 2003.

6. **Disclosure/Discovery of Defendant's Experts.** Defendant shall furnish to Plaintiffs the identity and reports of all experts, if any, to be used in conjunction with class certification issues in accordance with Fed.R.Civ.P. 26(a)(2)(B) along with the dates each such expert is available for deposition by December 1, 2003. Plaintiffs shall complete the depositions of Defendant's experts by January 15, 2004.

7. **Class Certification Motions.** Plaintiffs' Lead Counsel shall file any Motion to Certify Class Action together with supporting Memoranda, exhibits and affidavits by January 30, 2004. Defendant shall file any Memorandum in Opposition to Plaintiffs' Motion to Class Certification, together with exhibits, affidavits and depositions by March 15, 2004. Plaintiffs' Lead Counsel shall file any Memorandum in Reply to Defendants' Opposition to Class Certification by March 31, 2004. The page limits set in Pretrial Order # 6 remain unchanged.

8. **Hearing.** The hearing on any Motion to Certify Class Action shall be on April 21, 2004 at 10:00 a.m.

ENTER: June 5, 2003



Joseph R. Goodwin
UNITED STATES DISTRICT JUDGE