UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

IN RE: PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY LITIGATION, This document relates to: The cases listed on Exhibit A.	MDL NO. 1407 ORDER OVERRULING BAYER CORPORATION'S OBJECTION TO ORDER TO SHOW CAUSE WHY THESE MATTERS SHOULD NOT BE REMANDED

On January 12, 2005, the court issued an order to show cause why each of the cases listed on Exhibit A should not be remanded.[1] Defendant Bayer Corporation objects to remand in each case. Instead, Bayer requests that the court stay remand of the cases for six months. Having reviewed Bayer's briefs in support of its objection to remand, and having reviewed plaintiffs' responses to Bayer's objection,[2] the court hereby finds and rules as follows:

[1] The order to show cause was issued on January 25, 2005 in the Lacey v. Bayer Corporation, et al., No. 2-cv-2148 case.

[2] Plaintiffs Fannie Mae Jamerson and Robert Smith did not file a response to Bayer's objection.

Bayer urges the court to stay the remand of each of the above-referenced cases in order to relieve the corporation and its counsel of the hardships and scheduling conflicts that it claims will result if these cases are remanded to Louisiana. Bayer asserts that if the court remands these cases, 47 total cases against Bayer will have been (or shortly will be) remanded back to Federal Courts in Louisiana. Bayer requests that the court delay remand of these cases in order to allow the cases involving Bayer that have already been remanded to work their way through the Louisiana Federal Court system. In support of its request, Bayer points to the final paragraph of Case Management Order 17C ("CMO 17C") which states that the remand process is flexible and may be adjusted as needed to "lesson the burden on any participant in [the remand] process."[3]

Plaintiffs respond that a six month delay is both unnecessary and unjustified by any existing burden on the parties and/or the transferor courts. The court agrees. The court has set up a system for remand and both the plaintiff and defendants in each of these cases agree that the case is ripe for remand. While CMO 17C does allow the court to adjust the flow of remanded

[3] In addition, with regard to Lacey v. Bayer Corporation, et al., Bayer argues that because two motions had not yet been ruled on in that case, the case was not ripe for remand when it was included by plaintiff on the January 3, 2005 list of cases ready for remand. Bayer asserts that at the earliest, the case should have been included on the March, 2005 list. Bayer's argument is now moot as all outstanding motions in the Lacey case have been ruled on.

cases, the present record does not warrant such action. If the number of remanded cases to date has indeed placed a burden on the Louisiana Federal Court system, that is something for those courts to handle. If Bayer's counsel is feeling burdened by the number of remanded cases, counsel should raise the issue with the remand judge during the scheduling conference. Simply put, Bayer's assertions of undue burden are too vague to warrant a six month delay of remand in cases where all parties agree that the case is ripe for remand.

Based on the foregoing, the court OVERRULES Bayer's objection to the order to show cause why these matters should not be remanded. The above-referenced seven cases will be included on the court's April, 2005 list of cases for suggestion of remand.

DATED at Seattle, Washington this 29th day of March, 2005.

BARBARA JACOBS ROTHSTEIN
UNITED STATES DISTRICT COURT
JUDGE

EXHIBIT A

Fannie Mae Jamerson v. Bayer Corporation, No. 1-cv-2161,

Betty Lacey v. Bayer Corporation, et al., No. 2-cv-2148,

Robert Nichols v. Bayer Corporation, et al., No. 2-cv-25,

David West v. Bayer Corporation, et al., No. 2-1764,

Robert Smith v. Bayer Corporation, et al., No. 2-cv-1770,

Norman Evans v. Bayer Corporation, et al., No. 2-cv-1776,

Barbara Specht v. Bayer Corporation, et al., No. 2-cv-1777.