

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 IN RE: PHENYLPROPANOLAMINE
10 (PPA) PRODUCTS LIABILITY
11 LITIGATION,

MDL NO. 1407

12 This document relates to:

13 All cases

14 ORDER GRANTING
15 DEFENDANTS' MOTION TO ENJOIN
16 PLAINTIFFS FROM RE-FILING
17 DISMISSED MDL CASES IN STATE
18 COURT

19 **I. INTRODUCTION**

20 The manufacturing defendants in the Multi-district
21 litigation 1407 (the "MDL") request that the court enter an
22 injunction under the All Writs Act, 28 U.S.C. § 1651, barring
23 plaintiffs dismissed from the MDL from re-filing their claims in
24 state court. Having reviewed this motion, the court hereby finds
25 and rules as follows:¹

26 **II. BACKGROUND**

Over the past several months, the court has dismissed suits
against various defendants for a variety of reasons, including,
but not limited to: (1) plaintiffs' failure to complete their

27
28
29
30
31
32
33
34
35
36 No opposition to this motion was filed.

1 Plaintiff Fact Sheets or complete them in a timely fashion; (2)
2 plaintiffs' failure to identify the defendants' products that
3 allegedly caused their injuries; and (3) plaintiffs' failure to
4 file severed complaints or file them in a timely fashion. The
5 defendants are concerned that some plaintiffs--particularly given
6 the extensive efforts by some plaintiffs to defeat federal
7 jurisdiction--may attempt to re-file their dismissed claims in
8 state court venues, arguing that those courts should not give
9 claim-preclusion effect to this court's dismissals. Accordingly,
10 the defendants request that the court enter an injunction barring
11 the plaintiffs from taking such action.

12 III. DISCUSSION

13 The All Writs Act, 28 U.S.C. § 1651, gives federal courts
14 the power to "issue all writs necessary or appropriate in aid of
15 their respective jurisdictions and agreeable to the usages and
16 principles of the law." The "All Writs Act empowers courts to
17 issue extraordinary writs 'as may be necessary or appropriate to
18 effectuate and prevent the frustration of orders it has
19 previously issued.'" United States v. Int'l Brotherhood of
20 Teamsters, Chauffeurs, Warehousemen & Helpers of America, 907
21 F.2d 277, 280 (2d Cir. 1990) (quoting United States v. New York
22 Tel. Co., 434 U.S. 159, 172 (1977)). In addition, the Supreme
23 Court has acknowledged the "federal courts' interest in the
24 integrity of their own processes," including the right to "accord
25 claim-preclusive effect to dismissals for willful violations of
26 discovery orders." Semtek Int'l Inc. v. Lockheed Martin Corp.,

ORDER

Page - 2 -

1 531 U.S. 497, 509 (2001). Therefore, federal courts may issue
2 injunctions necessary to halt state litigation that might
3 undermine the *res judicata* or collateral estoppel effects of a
4 federal judgment. See Blue Cross of California v. SmithKline
5 Beecham Clinical Labs., Inc., 108 F. Supp. 2d 130, 136 (D. Conn.
6 2000).

7 Such injunctions have been utilized in other MDLs. In re
8 Rezulin Products Liability Litigation (MDL No. 1348), 2004 W.L.
9 1383549 (S.D.N.Y.) (June 21, 2004). The defendants in In re
10 Rezulin moved for the dismissal of various claims because the
11 plaintiffs had failed to comply with case management orders
12 regarding discovery. The defendants also expressed concern that
13 the plaintiffs might attempt to avoid the federal court's
14 dismissals, once entered, by re-filing their claims in state
15 court, and asked the court to enjoin the plaintiffs from doing
16 so. The Honorable Lewis A. Kaplan, after granting the
17 dismissals, ruled that he had the power to issue an injunction
18 under the All Writs Act and that he should in fact issue an
19 injunction:

20 The All Writs Act empowers a district court with authority
21 to issue writs "necessary or appropriate in aid of" its
22 jurisdiction. This phrase embraces such writs "as may be
23 necessary or appropriate to effectuate and prevent the
24 frustration of orders it has previously issued" and
injunctions to prevent the re-litigation of a federal
court's judgments, even if *res judicata* could be invoked
in a subsequent trial.

25 An injunction under the All Writs Act is appropriate in
26 this case. Absent an injunction, many of these plaintiffs
might well bring new state court actions, attempt to

1 prevent removal by joining non-diverse defendants, and
2 then seek to challenge in state courts the preclusive
3 effect of this court's judgment, thus multiplying and
4 fragmenting the litigation. In view of this extensive
5 efforts by some plaintiffs to defeat federal jurisdiction
6 in many of these cases, this is not a speculative concern.
7 This Court is not required to "stand idly by and hope that
8 [a] state court" accords preclusive effect to its rulings
9 before issuing an otherwise appropriate injunction.
10 Moreover, equity traditionally has sought to protect
11 litigants from being subjected to a needless multiplicity
12 of actions. Accordingly, the Court is persuaded that the
13 injunction sought here is necessary and appropriate in aid
14 of its jurisdiction so as to prevent the frustration of its
15 prior discovery orders, ensure the preclusive effect of
16 its order dismissing the actions of plaintiffs who
17 willfully disregarded those prior orders, and to prevent
18 a multiplicity of actions.

19 Id. at 9-10 (citations omitted).

20 The court finds Judge Kaplan's reasoning persuasive and
21 applicable to the present proceeding. Therefore, the court will
22 enter an injunction barring plaintiffs from re-filing claims that
23 have been dismissed with prejudice by this court's prior orders.

24 **IV. CONCLUSION**

25 For the foregoing reasons, the defendants' motion requesting
26 the court to enter an injunction under the All Writs Act barring
plaintiffs from re-filing claims that have been dismissed with
prejudice by court order, including, but not limited to, those
dismissed pursuant to Case Management Orders 6, 13, 13A, 15 and
15A is GRANTED. This injunction applies to all such claims that

1 have already been dismissed, and to all such dismissal orders, if
2 any, entered in the future.

3 DATED at Seattle, Washington this 15th day of September,
4 2004.

5 S/Barbara Jacobs Rothstein

6 _____
7 BARBARA JACOBS ROTHSTEIN

8 UNITED STATES DISTRICT JUDGE
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26