

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

IN RE NUVARING PRODUCTS ) 4:08MD1964 RWS  
LIABILITY LITIGATION )  
 ) ALL CASES

**MEMORANDUM AND ORDER**

Defendants in this action (collectively referred to as Organon) filed a motion to require Plaintiffs to file a master consolidated complaint. Plaintiffs initially objected to the motion but eventually consented to file a master complaint. On November 7, 2008, I granted Organon's motion noting it was by consent. Plaintiffs filed a master consolidated complaint on February 6, 2009.

On March 31, 2009, Organon moved to dismiss the master complaint under Federal Rules of Civil Procedure 12(b)(6) and 9(b). On August 6, 2009, I denied Organon's motion to dismiss the master complaint because that document was never intended to be a substitution of all of the individual complaints consolidated in this matter. I concluded that the filing of the master consolidated complaint in this action was simply meant to be an administrative tool to place in one document all of the claims at issue in this litigation. Neither Plaintiffs when they consented to filing a master complaint, nor I when I entered the order directing a master complaint to be filed, contemplated that Rule 12(b) motion practice would be pursued by Organon against the master complaint.

On August 17, 2009, Organon filed a motion to pursue an interlocutory appeal of my order denying Organon's motion to dismiss the master complaint. This motion is misguided because it misconstrues my intent of ordering the filing of the master complaint. As stated in my

previous order, Plaintiffs and I viewed the filing of a master complaint as an administrative tool not as a substitute pleading upon which motion practice would be pursued.

I note that Organon has filed, and has expressed its intention to file, Fed. R. Civ. P. 12(b) and 12(c) motions challenging each of the individual complaints that are part of this litigation. Because the master complaint was never intended to be the subject of motion practice I will vacate my order directing Plaintiffs to file the master complaint and will strike the master complaint from this action. This will prevent this litigation from becoming sidetracked and will allow the parties and the Court to focus on the dismissal motions filed in the individual cases.

Accordingly,

**IT IS HEREBY ORDERED** that Defendants' motion to certify my order of August 6, 2009 for interlocutory appeal [#236] is **DENIED**.

**IT IS FURTHER ORDERED** that the section of my order of November 7, 2008 granting Organon's motion requiring Plaintiffs to file a master complaint [#54] is **VACATED**. The Clerk of Court shall stike the mater complaint filed on February 6, 2009 [#88].

  
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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 23rd day of October, 2009.