

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

**Case No: 8:04-md-2523-T-30TBM
MDL: 1626**

IN RE:

AC CUTANE PRODUCTS LIABILITY

ORDER

THIS CAUSE is before the Court on Hoffmann-LaRoche Inc. and Roche Laboratories Inc.'s Motion for Summary Judgment on Causation (Dkt. 723), Plaintiffs' Response in Opposition to same (Dkt. 724), Plaintiffs' Motion for Leave to Supplement and to Submit Newly Discovered Evidence in Opposition to Hoffmann-LaRoche Inc. and Roche Laboratories Inc.'s Motion for Summary Judgment on Causation and Request to Defer Ruling (Dkt. 727), and Hoffmann-LaRoche Inc. and Roche Laboratories Inc.'s Response in Opposition to same (Dkt. 728).

The Court, having reviewed the motions, responses, and being otherwise advised in the premises, concludes that Plaintiffs' Motion for Leave to Supplement and to Submit Newly Discovered Evidence in Opposition to Hoffmann-LaRoche Inc. and Roche Laboratories Inc.'s Motion for Summary Judgment on Causation and Request to Defer Ruling (Dkt. 727) should be denied and Hoffmann-LaRoche Inc. and Roche Laboratories Inc.'s Motion for Summary Judgment on Causation (Dkt. 723) should be granted.

The Court previously granted Hoffmann-LaRoche Inc. and Roche Laboratories Inc.'s Motion to exclude the general causation testimony of Dr. Ronald Fogel, the Plaintiffs' only designated expert on the issue of general causation (Dkt. 721). Further, the Court denies Plaintiffs' Motion for Leave to Supplement and to Submit Newly Discovered Evidence in Opposition to Hoffmann-LaRoche Inc. and Roche Laboratories Inc.'s Motion for Summary Judgment on Causation and Request to Defer Ruling. Without expert testimony that Accutane can cause IBD, Plaintiffs are unable to prove liability in all cases in which Dr. Fogel has been designated as the expert on this issue. Those cases are as follows:

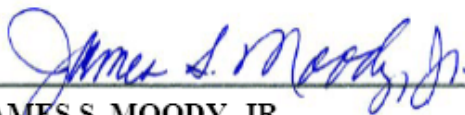
- | | | |
|----|-------------------------|----------------------|
| 1. | Eileen Baril | 8:04-cv-2768-T-30TBM |
| 2. | Kenneth Palmer | 8:04-cv-2769-T-30TBM |
| 3. | Christopher M. Perronne | 8:04-cv-2766-T-30TBM |
| 4. | Clay R. Seymour | 8:06-cv-1989-T-30TBM |
| 5. | Jason S. Adkins | 8:06-cv-2296-T-30TBM |

Accordingly, it is ORDERED and ADJUDGED that:

1. Plaintiffs' Motion for Leave to Supplement and to Submit Newly Discovered Evidence in Opposition to Hoffmann-LaRoche Inc. and Roche Laboratories Inc.'s Motion for Summary Judgment on Causation and Request to Defer Ruling (Dkt. 727) is hereby **DENIED**.
2. Hoffmann-LaRoche Inc. and Roche Laboratories Inc.'s Motion for Summary Judgment on Causation (Dkt. 723) is hereby **GRANTED**.

3. The Clerk is directed to close the above-referenced cases and terminate any pending motions in those cases.

DONE and **ORDERED** in Tampa, Florida on October 28, 2009.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record

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