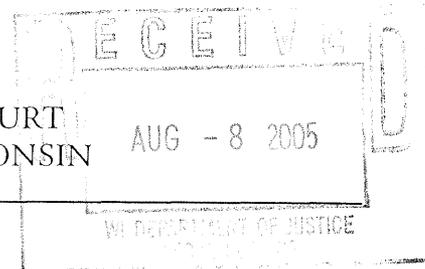


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN



THE STATE OF WISCONSIN,

Plaintiff,

05-C-408-C

v.

ABBOTT LABORATORIES, INC., et al.,

Defendants.

This case is on hold in this court until September 19, 2005, while the MDL panel determines whether to take jurisdiction as part of *In re Pharmaceutical Industry Average Wholesale Price Litigation*, MDL No. 1456, pending in the United States District Court for the District of Massachusetts. One reason this court put this case on the shelf for 60 days was "to avoid potentially unnecessary work." See July 20, 2005 order, dkt. 33.

The next day, the state moved for remand to state court. See dkt. 29. The clerk of this court set up the usual briefing schedule, with defendants' response due August 11 and the state's reply due August 22. On July 29, 2005, defendants filed their motion to stay action on the motion until the MDL determination has been made. See dkt. 41. The state demurs, seeking a substantive decision on its motion.

There is no reason to suspend briefing on the state's motion, since *some* federal court will have to decide it. The state offers some interesting arguments as to why removal is inappropriate in this case at this time, arguments that are unique to this case, or at least not

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by C.A. Korth
C.A. Korth, Secretary to
Magistrate Judge Crocker

shared with most of the cases that defendants have removed and seek to transfer. Accordingly, the usual concern for consistent rulings is at least muted if not obviated.

That said, if the MDL panel transfers this lawsuit before this court has an opportunity to rule on the state's remand motion, then perforce this court will defer to the MDL court. If, however, this court has the time to address the remand dispute before the MDL panel acts, it would be more efficient for the parties and the judicial system as a whole for this court to rule on the state's motion.

Therefore, defendants motion to stay briefing on the state's motion to remand is DENIED.

Entered this 4th day of August, 2005.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Stephen L. Crocker", written over a horizontal line.

STEPHEN L. CROCKER
Magistrate Judge