

*40*

U. S. DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
FILED

AUG 15 2003

ROBERT H. SCHMIDT, CLERK  
BY RAM DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAKE CHARLES DIVISION

MICHAEL T. DIAMOND, ET AL : DOCKET NO. 2:03 CV 564  
VERSUS : JUDGE TRIMBLE  
IMMUNEX CORPORATION, ET AL : MAGISTRATE JUDGE WILSON

ORDER

A telephone scheduling/status conference was held this date. This matter is fixed for a jury trial before Judge Trimble beginning January 10, 2005, at 9:00 a.m.

Plaintiffs' motion for leave to file a third amending complaint adding the treating physician is DENIED. Counsel for plaintiffs concedes that the claim against the physician has not been presented to the medical review panel. Therefore, suit against the physician is premature. La.R.S. 40:1299.47(B)(1)(a)(i). Accordingly, the motion to remand is DENIED as moot. The motion for a stay is also DENIED.

The court will sua sponte consider granting a summary judgment on the issue of whether Enbrel caused the problems, injuries and death allegedly suffered by Michael A. Diamond. The burden is on plaintiffs to present competent summary judgment evidence showing a causal relationship to Enbrel. Plaintiffs shall file their summary judgment evidence and a memorandum in opposition to summary judgment on or before November 13, 2003. Defendants shall file any response that they wish to file on or before December 1, 2003. The matter will be considered submitted on December 2, 2003.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 15<sup>th</sup> day of

August, 2003.

COPY SENT:  
DATE: 08/19/03  
BY: [Signature]  
TO: Bryson

[Signature]  
ALONZO P. WILSON  
UNITED STATES MAGISTRATE JUDGE

COPY SENT  
DATE 8/15/03  
BY RAM  
TO APW/BB JP

42

Jarnet Kidney  
Gately Servino