

United States District Court
Northern District of Illinois – **CM/ECF LIVE, Ver 4.0.3 (Chicago)**
CIVIL DOCKET FOR CASE #: 1:95-cv-03574

Gaspar v. Linvatec Corp, et al
Assigned to: Hon. James H. Alesia
Demand: \$0
Case in other court: 97-01502
Cause: 29:1002 E.R.I.S.A.: Employee Retirement

Date Filed: 06/19/1995
Date Terminated: 02/07/1997
Jury Demand: Both
Nature of Suit: 790 Labor: Other
Jurisdiction: Federal Question

Plaintiff

Larry Gaspar
*for himself and all others similarly
situated*

represented by **H. Candace Gorman**
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V.

Defendant

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Defendant

Bristol-Myers Squibb Company

represented by **Edward C. Jepson , Jr.**
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Ann Margaret McHale
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Defendant

**Bristol-Myers Squibb Company Pension
Committee**

represented by **Edward C. Jepson , Jr.**
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Ann Margaret McHale
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Defendant

**Bristol-Myers Squibb Company
Retirement Income Plan**

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Defendant**Bristol-Myers Squibb Company
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*ATTORNEY TO BE NOTICED***Ann Margaret McHale**
(See above for address)**Michael Warren Sculnick**
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Date Filed	#	Docket Text
06/19/1995	1	COMPLAINT; jury demand – Civil cover sheet – Appearance(s) of Paul William Mollica, Thomas R. Meites, H. Candace Gorman as attorney(s) for plaintiff with Rule 39 affidavits (no summons(es) issued.) (Documents: 1-1 through 1-6) (fce) (Entered: 06/20/1995)
06/19/1995		RECEIPT regarding payment of filing fee paid; on 6/19/95 in the amount of \$ 120.00, receipt # 456621. (fce) (Entered: 06/20/1995)
06/28/1995		SIX ORIGINAL SUMMONS and six copies issued as to defendants (fce) (Entered: 06/28/1995)
07/06/1995	2	RETURN OF SERVICE executed upon defendant Bristol-Myers Squibb on 7/3/95 (fce) (Entered: 07/07/1995)
07/06/1995	3	RETURN OF SERVICE executed upon defendant Bristol-Myers Squibb on 7/3/95 (fce) (Entered: 07/07/1995)
07/06/1995	4	RETURN OF SERVICE executed upon defendant Bristol-Myers Squib on 7/3/95 (fce) (Entered: 07/07/1995)
07/06/1995	5	RETURN OF SERVICE executed upon defendant Bristol-Myers on 7/3/95 (fce) (Entered: 07/07/1995)
07/10/1995	6	RETURN OF SERVICE executed upon defendant Linvatec Corp on 7/3/95 (fce) (Entered: 07/11/1995)
07/13/1995	7	ATTORNEY APPEARANCE for defendants by Edward C. Jepson Jr., Michael Warren Sculnick, Thomas G. Hancuch and Ann Margaret Schlaffman (fce) (Entered: 07/14/1995)
07/13/1995	8	RULE 39 Affidavit of Edward C. Jepson Jr. (fce) (Entered: 07/14/1995)
07/13/1995	9	RULE 39 Affidavit of Michael Warren Sculnick (fce) (Entered: 07/14/1995)
07/13/1995	10	RULE 39 Affidavit of Thomas G. Hancuch (fce) (Entered: 07/14/1995)
07/13/1995	11	RULE 39 Affidavit of Ann Margaret Schlaffman (fce) (Entered: 07/14/1995)
07/19/1995	12	MOTION by defendants Linvatec Corp, Bristol-Myers Squibb, Bristol-Myers Squibb, Bristol-Myers Squib, Bristol-Myers for enlargement of time to answer or otherwise plead ; Notice of motion. (smm) (Entered: 07/20/1995)
07/19/1995	13	MINUTE ORDER of 7/19/95 by Hon. James H. Alesia : Status hearing set for 8/14/95 at 9:30 a.m. Defendants' motion for enlargement of time to 8/11/95 to answer or otherwise plead is granted [12-1]. Mailed notice. (smm) (Entered: 07/20/1995)
08/04/1995		SCHEDULE set on 8/4/95 by Hon. James H. Alesia : Status hearing reset to 9:30 8/18/95 . Mailed notice (clw) (Entered: 08/04/1995)

08/11/1995	14	ANSWER and defense to complain by defendants Linvatec Corp, Bristol-Myers Squibb, Bristol-Myers Squibb, Bristol-Myers Squib, Bristol-Myers; jury demand (smm) (Entered: 08/15/1995)
08/18/1995	15	MOTION by plaintiff Larry Gaspar to amend the class complaint (Attachment); Notice of motion. (smm) (Entered: 08/22/1995)
08/18/1995	16	MOTION by plaintiff Larry Gaspar for a schedule on discovery and , briefing of class certification ; Notice of motion. (smm) (Entered: 08/22/1995)
08/18/1995	17	AMENDED NOTICE of motion by plaintiff Larry Gaspar regarding motion for a schedule on discovery and [16-1], regarding motion briefing of class certification [16-2] (smm) (Entered: 08/22/1995)
08/18/1995	18	MINUTE ORDER of 8/18/95 by Hon. James H. Alesia : Status hearing held. Plaintiff's motion to amend the class complaint is granted [15-1]; all defendants are given to 9/1/95 to answer or otherwise plead. Plaintiff's motion for a schedule on discovery and [16-1], briefing of class certification is granted [16-2]. Discovery cut-off on class certification only is 10/16/95. Plaintiff's motion class certification due 11/6/95 at 9:30 a.m. in open court. No extensions will be granted. Mailed notice. (smm) (Entered: 08/22/1995)
08/18/1995	19	AMENDED class action and individual COMPLAINT [1-1] by plaintiff Larry Gaspar; jury demand (smm) (Entered: 08/22/1995)
08/31/1995	20	ANSWER and defenses to amended complaint by defendants Linvatec Corp, Bristol-Myers Squibb, Bristol-Myers Squibb, Bristol-Myers Squib, Bristol-Myers; jury demand (smm) (Entered: 09/05/1995)
11/01/1995	27	AFFIDAVIT of H. Candace Gorman (smm) (Entered: 11/07/1995)
11/01/1995	28	AFFIDAVIT of Paul W. Mollica (smm) (Entered: 11/07/1995)
11/01/1995	29	AFFIDAVIT of Larry Gaspar (Attachment). (smm) (Entered: 11/07/1995)
11/02/1995	21	MEMORANDUM by plaintiff Larry Gaspar in support of motion to certify a class and for leave to give notice (Attachments). (smm) (Entered: 11/06/1995)
11/02/1995	22	AFFIDAVIT of Candace Gorman (smm) (Entered: 11/06/1995)
11/02/1995	23	AFFIDAVIT of Paul W. Mollica (Attachment). (smm) (Entered: 11/06/1995)
11/02/1995	24	AFFIDAVIT of Larry Gaspar (Attachment). (smm) Modified on 11/06/1995 (Entered: 11/06/1995)
11/06/1995	25	MOTION by plaintiff Larry Gaspar to certify a class action and , for leave to issue notice ; Notice of motion. (smm) (Entered: 11/07/1995)
11/06/1995	26	MEMORANDUM by plaintiff Larry Gaspar in support of motion to certify a class action and [25-1], leave to issue notice [25-2] (Attachments). (smm) (Entered: 11/07/1995)
11/06/1995	30	MINUTE ORDER of 11/6/95 by Hon. James H. Alesia : Plaintiff's motion to certify a class action and [25-1] for leave to issue notice [25-2]. Answer brief to motion due 11/27/95. Reply to answer brief due 12/11/95. Mailed notice. (smm) (Entered: 11/07/1995)
11/27/1995	31	MEMORANDUM by defendant in opposition to motion to certify a class action and [25-1], for leave to give notice [25-2] (Attachments). (smm) (Entered: 11/29/1995)
11/27/1995	32	AFFIDAVIT of Rhonda L. Gold (Exhibits). (smm) (Entered: 11/29/1995)
12/04/1995	33	REPLY memorandum by plaintiff Larry Gaspar in support of motion to certify a class action and [25-1], for leave to give notice [25-2] (Attachments). (smm) (Entered: 12/05/1995)
12/21/1995	34	MOTION by defendant for leave to file surreply memorandum in opposition to motion for class certification ; Notice of motion. (smm) (Entered: 12/22/1995)

12/21/1995	35	MINUTE ORDER of 12/21/95 by Hon. James H. Alesia : Status hearing set for 1/17/96 at 9:30 a.m. Defendant's motion for leave to file surreply memorandum in opposition to motion for class certification is denied [34-1]. Discovery cut-off date is 4/30/96. Final pretrial order is to be submitted in open court on 5/30/96 at 9:30 a.m. Mailed notice. (smm) (Entered: 12/22/1995)
01/17/1996		SCHEDULE set on 1/17/96 by Hon. James H. Alesia : Status hearing held. No notice (clw) (Entered: 01/17/1996)
05/16/1996		SCHEDULE set on 5/16/96 by Hon. James H. Alesia : Pretrial order is reset to 9:30 6/17/96 . Mailed notice (clw) (Entered: 05/16/1996)
05/23/1996	36	MEMORANDUM, OPINION, AND ORDER (fce) (Entered: 05/23/1996)
05/23/1996	37	MINUTE ORDER of 5/23/96 by Hon. James H. Alesia : Enter memorandum opinion and order. The court grants plaintiff Larry Gaspar's motion to certify a class action and [25-1] and for leave to issue notice [25-2] Mailed notice (fce) (Entered: 05/23/1996)
06/03/1996	38	MOTION by defendants to amend class notice (Exhibit); Notice of filing (eav) (Entered: 06/04/1996)
06/17/1996	39	JOINT MOTION by parties to set a briefing schedule for summary judgment and postpone joint pretrial order ; Notice of motion (eav) (Entered: 06/18/1996)
06/17/1996	40	MINUTE ORDER of 6/17/96 by Hon. James H. Alesia : Parties' joint motion to set a briefing schedule for summary judgment and [39-1], postpone joint pretrial order [39-2] is denied. Date for submission of the final pretrial order in open court is reset to 07/15/96 at 9:30 a.m. This is a final date. Mailed notice (eav) (Entered: 06/18/1996)
06/18/1996	41	NOTICE of motion by defendants regarding motion to amend class notice [38-1] (eav) (Entered: 06/19/1996)
06/18/1996	42	MINUTE ORDER of 6/18/96 by Hon. James H. Alesia : Defendants' [38-1] motion to amend class notice is continued to 07/09/96 at 9:30 a.m. Date for submission of the final pretrial order in open court is reset to 07/31/96 at 9:30 a.m. Mailed notice (eav) (Entered: 06/19/1996)
06/21/1996	43	RESPONSE by plaintiff to Linvatec's motion to amend class notice [38-1] (Exhibits) (eav) (Entered: 06/24/1996)
06/26/1996	44	MINUTE ORDER of 6/26/96 by Hon. James H. Alesia : The court grants defendants' motion to amend the class notice to the extent that plaintiff should amend the notice in accordance with this court's findings set forth on the reverse of this order. [38-1] Telephoned notice (eav) (Entered: 06/28/1996)
06/26/1996		SCHEDULE set on 6/26/96 by Hon. James H. Alesia : Motion to amend class notice hearing is stricken. No notice (clw) (Entered: 07/01/1996)
07/16/1996	47	MOTION by defendants for summary judgment ; Notice of motion (Temporarily unavailable for docketing) (eav) (Entered: 07/25/1996)
07/16/1996	49	MEMORANDUM by defendants of law in support of motion for summary judgment [47-1] (Temporarily unavailable for docketing) (eav) (Entered: 07/25/1996)
07/16/1996	50	STATEMENT of undisputed material facts pursuant to General Rule 12(m) by defendants (Attachments) (Temporarily unavailable for docketing) (eav) (Entered: 07/25/1996)
07/16/1996	51	ATTACHMENT by defendants to statement of undisputed material facts pursuant to General Rule 12(m) (Exhibitis) (Temporarily unavailable for docketing) (eav) (Entered: 07/25/1996)
07/22/1996	45	LETTER from Mollica to Mr. Cunningham dated 07/22/96 (eav) (Entered: 07/23/1996)
07/22/1996	46	NOTICE by plaintiff's attorney Paul W. Mollica of change of address (eav) (Entered: 07/23/1996)

07/24/1996	48	MINUTE ORDER of 7/24/96 by Hon. James H. Alesia : Defendants' motion for summary judgment. Answer brief to motion due 08/07/96. [47-1] Reply to answer brief due 08/14/96. Date for submission of the final pretrial order in open court is reset to 08/12/96 at 9:30 a.m. Mailed notice (eav) (Entered: 07/25/1996)
08/07/1996	52	MOTION by plaintiffs for partial summary judgment ; Notice of motion (eav) (Entered: 08/13/1996)
08/07/1996	53	BRIEF IN RESPONSE by plaintiff to defendants' motion for summary judgment and [47-1] in support of plaintiff class's cross-motion for partial summary judgment [52-1] (eav) (Entered: 08/13/1996)
08/07/1996	54	RESPONSE by plaintiff to defendants' Rule 12(M) statement and with, plaintiffs' Rule 12(N) (eav) (Entered: 08/13/1996)
08/07/1996	54	RULE 12(N) Statement by plaintiff, with RESPONSE (eav) (Entered: 08/13/1996)
08/07/1996	55	RULE 12(M) Statement by plaintiff (eav) (Entered: 08/13/1996)
08/07/1996	56	APPENDIX to plaintiffs Local Rule 12(m) statement [55-1] (eav) (Entered: 08/13/1996)
08/08/1996	57	MOTION by defendants for extension of time for filing response/reply memorandum ; Notice of motion (eav) (Entered: 08/13/1996)
08/12/1996	58	MINUTE ORDER of 8/12/96 by Hon. James H. Alesia : Defendants motion for extension of time for filing response/reply memorandum is granted; [57-1] defendant's reply to its motion for summary judgment [47-1] is extended to 09/04/96. Mailed notice (eav) (Entered: 08/13/1996)
08/12/1996	59	FINAL JOINT PRE-TRIAL ORDER (Attachments) (eav) (Entered: 08/13/1996)
08/12/1996	60	MINUTE ORDER of 8/12/96 by Hon. James H. Alesia : Plaintiffs' motion for partial summary judgment. Answer brief to motion due 09/04/96. [52-1] Reply to answer brief due 09/11/96. Enter final joint pretrial order. Mailed notice (eav) (Entered: 08/13/1996)
09/03/1996	61	LETTER from Joseph J. Trinka to Sir dated 08/27/96 (eav) (Entered: 09/05/1996)
09/04/1996	62	REPLY by defendants memorandum in support of motion for summary judgment [49-1], with response (eav) (Entered: 09/05/1996)
09/04/1996	62	RESPONSE by defendants to plaintiffs' cross-motion, with reply memorandum (eav) (Entered: 09/05/1996)
09/04/1996	63	LOCAL RULE 12(n) RESPONSE by defendants to plaintiffs' Local Rule 12(m) statement (eav) (Entered: 09/05/1996)
09/04/1996	64	RESPONSE by defendants to plaintiffs' statement of facts pursuant to Rule 12(n) (Attachments) (eav) (Entered: 09/05/1996)
09/11/1996	65	REPLY by plaintiff in support of its cross-motion for summary judgment (Attachments); Notice of filing (eav) (Entered: 09/12/1996)
09/17/1996	66	LETTER from James A. Piper to Clerk dated 09/09/96 (eav) (Entered: 09/20/1996)
11/01/1996	67	STATEMENT by plaintiff concerning opt-outs (Attachments) (ar) (Entered: 11/04/1996)
02/07/1997	68	MEMORANDUM, OPINION, AND ORDER (eav) (Entered: 02/10/1997)
02/07/1997	69	MINUTE ORDER of 2/7/97 by Hon. James H. Alesia : Enter memorandum opinion and order. The court grants defendants' motion for summary judgment; [47-1] denies plaintiffs' motion for partial summary judgment; and [52-1] enters judgment in favor of defendants and against plaintiffs on all counts. Case closed. terminating case Mailed notice (eav) (Entered: 02/10/1997)
02/07/1997	70	ENTERED JUDGMENT (eav) (Entered: 02/10/1997)
03/05/1997	71	NOTICE OF APPEAL by plaintiff from motion minute order [69-2], from order [68-1], from judgment entered [70-1] (\$105.00 PAID); Notice of

		filing/Certificate of service. (fce) (Entered: 03/06/1997)
03/05/1997	72	DOCKETING STATEMENT by plaintiff regarding appeal [71-1] . (fce) (Entered: 03/06/1997)
03/06/1997		TRANSMITTED to the 7th Circuit the short record on appeal . Mailed notice to all counsel. (fce) (Entered: 03/06/1997)
03/07/1997	73	MEMORANDUM by defendants in support of defendants' bill of costs (Attachment) (fce) (Entered: 03/10/1997)
03/10/1997	75	ACKNOWLEDGEMENT of receipt of short record on appeal USCA 97-1502 (Attachment) (ar) (Entered: 03/13/1997)
03/12/1997	74	SEVENTH CIRCUIT transcript information sheet by plaintiff (eav) (Entered: 03/13/1997)
03/19/1997		TRANSMITTED to the 7th Circuit the long record on appeal no. 97-1502 consisting of one volume of pleadings, five volumes of loose pleadings (Item Nos. 32, 50, 51, 56 & 60/59) and certificates. Mailed notice to all counsel. (fce) (Entered: 03/19/1997)
03/26/1997	76	MINUTE ORDER of 3/26/97 by Hon. James H. Alesia : The Clerk is directed to file defendants' Bill of Costs taxing costs in the sum of \$1,919.00. Mailed notice (eav) (Entered: 03/27/1997)
03/26/1997	77	BILL OF COSTS submitted (eav) (Entered: 03/27/1997)
03/26/1997		COSTS taxed for defendants in the amount of \$1,919.00 against plaintiff (Attachments) (eav) (Entered: 03/27/1997)
04/15/1998	78	MOTION by plaintiff for Rule 60(b) relief from judgment and for entry of order preliminarily approving settlement agreement and ordering notice of proposed class action settlement ; Notice of motion (hp) (Entered: 05/06/1998)
04/15/1998	79	SETTLEMENT AGREEMENT by parties (Exhibits) (hp) (Entered: 05/06/1998)
05/07/1998	80	REFERRAL ORDER of 05/06/98: Case referred to Hon. Edward A. Bobrick. To conduct hearings and enter appropriate orders on the following pretrial motion/matter: Conduct necessary proceedings and issue report and recommendation on dispositive motion specified below (e.g., motion for injunction, for Social Security review, for class certification, to set aside judgment). Exceptions or additions: Plaintiff's motion for Rule 60(b) relief from judgment and for entry of order preliminarily approving settlement agreement and ordering notice of proposed class action settlement, and conduct the Fairness Hearing. (For further detail see order.) Mailed notice (hp) (Entered: 05/08/1998)
05/27/1998		SCHEDULE set on 5/27/98 by Hon. Edward A. Bobrick : Status hearing set before Magistrate Judge Bobrick in Courtroom 1812 for 10:00 6/8/98 . Mailed notice (tmh) (Entered: 05/27/1998)
06/08/1998	81	ORDER regarding motion for entry of order preliminarily approving settlement agreement [78-2] ordering notice of proposed class action settlement [78-3] (Attachment) (hp) (Entered: 06/10/1998)
06/08/1998	82	MINUTE ORDER of 6/8/98 by Hon. Edward A. Bobrick : Status hearing held. Plaintiff's Rule 60(b) motion for relief from judgment is entered and continued. [78-1] Plaintiff's motion for entry of order preliminarily approving settlement agreement is granted. [78-2] [78-3] Enter order. Fairness hearing set for 08/10/98 at 2:00 p.m. Mailed notice (hp) (Entered: 06/10/1998)
08/10/1998		SCHEDULE set on 8/10/98 by Hon. Edward A. Bobrick : Status hearing/Fairness hearing held. Detailed Order to Follow. Mailed notice (tmh) (Entered: 08/10/1998)
09/03/1998	83	REPORT AND RECOMMENDATION of Magistrate Judge Edward A. Bobrick concerning motion for Rule 60(b) relief from judgment [78-1] (hp) (Entered: 09/08/1998)

09/03/1998	84	MINUTE ORDER of 9/3/98 by Hon. Edward A. Bobrick : Report and Recommendation regarding plaintiffs' motion for rule 60(b) relief from judgment, for entry of an order preliminarily approving settlement agreement, if determined appropriate, for ordering notice of proposed class settlement, and to conduct fairness hearing is hereby submitted to Judge Alesia. This Court recommends that the motion be granted and the proposed class settlement be approved. All matters relating to the referral of this action having been resolved, the case is returned to the assigned judge. Mailed notice (hp) (Entered: 09/08/1998)
09/08/1998	85	MINUTE ORDER of 9/8/98 by Hon. James H. Alesia : The parties are hereby advised that the court is inclined to grant the relief sought in plaintiffs' Rule 60(b) motion. [78-1] See Cir. Ct. R. 57. Mailed notice (hp) (Entered: 09/09/1998)
09/23/1998	86	COPY of Order dated 09/21/98 from the 7th Circuit. It is ordered that the motin is granted. In light of the district court's indication that it is inclined to grant relief pursuant to Fed. R. Civ. P. 60(b), this appeal is remanded pursuant to Circuit Rule 57. The parties are reminded that "[a]ny party dissatisfied with the judgment as modified must file a fresh notice of appeal." Cir. R. 37. ?The mandate shall issue forthwith. (97-1502). (For further detail see order.) (hp) (Entered: 09/24/1998)
10/14/1998	87	LETTER from the 7th Circuit returning the record on appeal no. 97-1502 consisting of 1 vol. pleadings &5 loose pleadings. (tlm) (Entered: 10/15/1998)
10/14/1998	88	CERTIFIED COPY of order from the 97-1502 Circuit: Upon consideration fotheunopposed motino for remand, filed on 09/15/98, by counsel for appellant, It is ordered that the motion is granted. In light of the district court's indication that it is inclined to grant relief pursuant to Fed. R. Civ.P. 60(b), this appeal is Remanded pursuant to Curcuit Rule 57. The parties are reminded that "[a]ny party dissatisfied with the judgment as modified must file a fresh notice of appeal". Cir. R. 57. The mandate shall issue forthwith. [Appeal [71-1] . (97-1502) (tlm) (Entered: 10/15/1998)
10/20/1998	89	MINUTE ORDER of 10/20/98 by Hon. James H. Alesia : For the reasons set forth on the reverse side of this order, the couret adopts in its entirety the report and recommendation of Magistrate Judge Edward Bobrick dated 09/03/98. Accordingly, the court (1) grants plaintiff's motion for relief from the judgment pursuant to Federal Rule of Civil Procedure 60(b) [78-1] and (2) finds that the proposed class settlement if fair, reasonable, and adequate and, thus approves its terms. This case is dismissed with prejudice. (See reverse of minute order.) Mailed notice (hp) (Entered: 10/21/1998)
12/10/1998	90	UNOPPOSED PETITION by plaintiff for attorneys' fees (Exhibits); Notice of motion (hp) (Entered: 12/16/1998)
12/15/1998	91	MINUTE ORDER of 12/15/98 by Hon. James H. Alesia : Plaintiff's unopposed petition for attorneys' fees is granted; [90-1] plaintiff is awarded attorneys' fees in the amount of \$11,000.00. Mailed notice (hp) (Entered: 12/16/1998)