

MDL 1829

MAY - 2 2007

RELEASED FOR PUBLICATION

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BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE VISION SERVICE PLAN TAX LITIGATION

BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL, DAVID R. HANSEN AND ANTHONY J. SCIRICA,* JUDGES OF THE PANEL

TRANSFER ORDER

This litigation currently consists of five actions listed on the attached Schedule A and pending in four districts as follows: two actions in the District of Connecticut and an action each in the District of Nevada, the Northern District of New York and the Southern District of Ohio. The parties jointly move the Panel, pursuant to 28 U.S.C. § 1407, for an order centralizing this litigation in the Southern District of Ohio.

On the basis of the papers filed and hearing session held (without oral argument), the Panel finds that these five actions involve common questions of fact, and that centralization under Section 1407 in the Southern District of Ohio will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share questions of fact regarding whether the respective plaintiffs, who are affiliates of Vision Service Plan, Inc., operate primarily for the promotion of social welfare, or are operating in a manner similar to organizations which are operated for profit. Further, the actions involve identical legal questions regarding whether the respective plaintiffs are social welfare organizations within the meaning of section 26 U.S.C. § 501(c)(4). Centralization under Section 1407 is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel and the judiciary.

We are persuaded that the Southern District of Ohio is an appropriate transferee forum for this litigation. The Southern District of Ohio enjoys the support of all parties and provides a relatively geographically central forum for this litigation. In selecting Judge James L. Graham to serve as transferee judge in this docket, we are assigning this litigation to an experienced jurist with the ability to steer this litigation on a prudent course.

* Judge Scirica took no part in the decision of this matter.

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IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions pending outside the Southern District of Ohio are transferred to the Southern District of Ohio and, with the consent of that court, assigned to the Honorable James L. Graham for coordinated or consolidated pretrial proceedings with the action already pending in that district.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

SCHEDULE A

MDL-1829 -- In re Vision Service Plan Tax Litigation

District of Connecticut

Vision Service Plan Insurance Co. v. United States of America, C.A. No. 3:06-959

Vision Service Plan Insurance Co. v. Unites States of America, C.A. No. 3:06-960

District of Nevada

Vision Service Plan, Inc. v. United States of America, C.A. No. 3:06-349

Northern District of New York

Eastern Vision Service Plan, Inc. v. United States of America, C.A. No. 1:06-776

Southern District of Ohio

Vision Service Plan v. United States of America, C.A. No. 2:06-501