

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: ACCUTANE (ISOTRETINOIN)
PRODUCTS LIABILITY LITIGATION**

MDL No. 1626

TRANSFER ORDER

Before the Panel:* Pursuant to Panel Rule 7.1, plaintiff in the Central District of California action (*Ashby*) listed on the attached Schedule A moves to vacate our order conditionally transferring her action to the Middle District of Florida for inclusion in MDL No. 1626. Responding defendants Hoffman-La Roche Inc. and Roche Laboratories Inc. oppose the motion.

In opposing transfer, plaintiff principally cites the pendency of a motion for remand to state court. As we frequently have held, however, the pendency of such a motion generally is not a sufficient reason to delay or deny transfer.¹ Under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date the Panel finalizes transfer of the action to the MDL, a court wishing to rule upon that motion generally has adequate time to do so. We further note that the record indicates that the transferee court has expeditiously ruled on other remand motions in this docket. *See, e.g.*, Order, No. 8:04-MD-2523 (M.D. Fla. July 31, 2012) (ECF No. 1081); Order, No. 8:04-MD-2523 (M.D. Fla. Feb. 2, 2012) (ECF No. 988).

After considering all argument of counsel, we find that *Ashby* involves common questions of fact with actions in this litigation previously transferred to MDL No. 1626, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Moreover, transfer is warranted for reasons set out in our original order directing centralization. In that order, we held that the Middle District of Florida was an appropriate Section 1407 forum for actions “present[ing] complex common questions of fact concerning, *inter alia*, i) the development, testing, manufacturing and marketing of Accutane [isotretinoin], and ii) defendants’ knowledge concerning the drug’s possible adverse effects.” *See In re Accutane Prods. Liab. Litig.*, 343 F. Supp. 2d 1382, 1383 (J.P.M.L. 2004). Like plaintiffs in many actions previously transferred to the MDL, the *Ashby* plaintiff alleges that she suffered gastrointestinal injury as a result of taking Accutane.

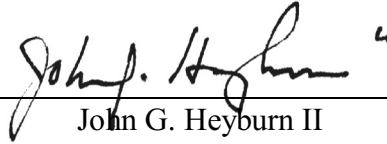
* Judge Ellen Segal Huvelle took no part in the decision of this matter.

¹ Although plaintiff also argues that her action belongs in a California Judicial Council Coordinating Proceeding involving Accutane, such an outcome depends, at a minimum, on a favorable ruling on her remand motion.

- 2 -

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the Middle District of Florida, and, with the consent of that court, assigned to the Honorable James S. Moody, Jr., for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, appearing to read "John G. Heyburn II", is written above a horizontal line.

John G. Heyburn II
Chairman

Marjorie O. Rendell
Lewis A. Kaplan
R. David Proctor

Charles R. Breyer
Sarah S. Vance

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SCHEDULE A

Central District of California

MELISSA ASHBY v. HOFFMANN-LA ROCHE, INC., ET AL., C.A. No. 2:14-05274