

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**IN RE: PFIZER INC. SECURITIES,  
DERIVATIVE & “ERISA” LITIGATION**

Ramon E. Cancel-Morales, et al. v. Pfizer Inc., et al., )  
D. Puerto Rico, C.A. No. 3:12-01050 )

MDL No. 1688

**TRANSFER ORDER**

**Before the Panel:**\* Pursuant to Rule 7.1, plaintiffs move to vacate our order conditionally transferring this action (*Cancel-Morales*) to MDL No. 1688. Defendants Pfizer Inc., et al. (Pfizer) oppose this motion.<sup>1</sup>

After considering all argument of counsel, we find that this action involves common questions of fact with actions in this litigation previously centralized in the MDL, and that transfer of this action to the Southern District of New York for inclusion in the centralized proceedings will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Like several of the already-centralized actions, this action is brought by participants in one or more Pfizer-sponsored retirement plans for company employees, alleging that Pfizer breached its fiduciary duties under ERISA as a result of its failure to disclose its knowledge of the risks associated with its COX-2 inhibitor drugs – Celebrex and Bextra – and allowing the retirement plans to purchase and hold Pfizer securities when it was allegedly imprudent to do so. *See In re Pfizer Inc. Sec., Derivative & “ERISA” Litig.*, 374 F. Supp. 2d 1348 (J.P.M.L. 2005).

In opposing transfer, plaintiffs argue that their claims in *Cancel-Morales* relate to retirement plans for Pfizer employees in Puerto Rico, and thus present insufficiently numerous or common questions of fact to merit transfer. We note, however, that these same Puerto Rico plans were part

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\* Judge Kathryn H. Vratil took no part in the decision of this matter.

<sup>1</sup> Defendants include Pfizer Inc.; Pfizer Pharmaceuticals, Inc.; Pfizer Pharmaceuticals, LLC; Pfizer Pharmaceuticals, Ltd.; Pfizer Corporation; Administrative Committee of the Pfizer Savings Plan for Employees Resident in Puerto Rico; Administrative Committee of the Pfizer Savings and Investment Plan for Employees Resident in Puerto Rico; Savings Plan Committee of Pfizer, Inc.; Plan Administrative Committee of the Searle Puerto Rico Savings Plan; Investment Committee of the Warner-Lambert Savings and Stock Plan for Colleagues in Puerto Rico; Robert N. Burt; Timothy L. Cowley; Teresa M. Holland; William R. Howell; Stanley O. Ikenberry; Yvonne R. Jackson; Sharon A. Kinsman; Alan G. Levin; George A. Lorch; Henry A. McKinnell; James J. Milano; Sylvia Montero; Rene Morales; Robert W. Norton; Richard A. Passov; Louis Prado; Franklin D. Raines; Carlos H. del Rio; William J. Robison; David L. Shedlarz; M.P. Tarnok; and Barry H. Westgate.

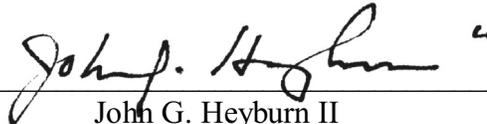
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of the MDL prior to dismissal in 2009 by the transferee court (because no named plaintiff at that time had participated in any of the Puerto Rico plans). *See In re Pfizer Inc. ERISA Litig.*, C.A. No. 04-10071, 2009 WL 749545, at \*5 (S.D.N.Y. Mar. 20, 2009). Plaintiffs' contention that the ERISA actions in the MDL are too procedurally advanced is also unavailing. The ERISA plaintiffs in the MDL have only recently filed an amended complaint and, while substantial discovery has been completed, additional fact and expert discovery remains, as does motion practice with regards to class certification and summary judgment. Accordingly, we are persuaded that the parties and the judiciary will continue to recognize efficiencies and benefits from transfer of this action to the MDL.

Plaintiffs alternatively request that the Panel order that *Cancel-Morales* only be coordinated, rather than consolidated, with the other ERISA actions in the MDL. We generally "leave the degree of coordination or consolidation of involved actions to the sound discretion of the transferee judge." *In re Bear Creek Techs., Inc., ('722) Patent Litig.*, MDL No. 2344, \_\_ F. Supp. 2d \_\_, 2012 WL 1523340, at \*1 (J.P.M.L. May 2, 2012). Therefore, we will deny this request. Plaintiffs may raise any concerns about the level of coordination or consolidation with the transferee court.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the Southern District of New York, and, with the consent of that court, assigned to the Honorable Laura Taylor Swain for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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