

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: ORTHO EVRA PRODUCTS
LIABILITY LITIGATION**

Nicole Lynn Johnson Archuleta v. Johnson & Johnson,)	
et al., D. Colorado, C.A. 1:12-226)	
Tiffani Brown v. Janssen Pharmaceuticals, Inc., et al.,)	MDL No. 1742
W.D. Tennessee, C.A. No. 2:11-3062)	

TRANSFER ORDER

Before the Panel:* Pursuant to Section 1407(c)(ii), defendants¹ in actions pending, respectively, in the District of Colorado and the Western District of Tennessee move to transfer the actions to MDL No. 1742. No party opposes the motion.

We find that these actions involve common questions of fact with the actions previously transferred to MDL No. 1742, 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 that we set out in our original order directing centralization in this docket. In that order, we held that the Northern District of Ohio was a proper Section 1407 forum for actions involving allegations regarding the design of the Ortho Evra contraceptive patch and the adequacy of the warnings regarding Ortho Evra's side effects and safety profile. *See In re Ortho Evra Products Liability Litigation*, 422 F.Supp.2d 1379 (J.P.M.L. 2006). These actions involve injuries arising from the use of the Ortho Evra contraceptive patch and clearly fall within the MDL's ambit.

Based on our review of the progress of this litigation and in close consultation with the transferee judge, we conclude that inclusion of these actions in MDL No. 1742 continues to be necessary to achieve the just and efficient conduct of the litigation. *See* 28 U.S.C. § 1407(a). As we have previously observed, "multidistrict litigation is not static." *See* MDL No. 1769, *In re: Seroquel Prods. Liab. Litig.*, Order Vacating Conditional Transfer Order, at 1 (Feb. 5, 2010) (J.P.M.L. doc. no. 344). The relative merits of transferring new tag-along actions to an MDL can change over time as the transferee court completes its primary tasks, and the point at which the advantages of continuing to transfer tag-along actions outweigh the disadvantages is never absolutely clear. *See id.* After a certain point, however, the benefits of transfer should not be assumed to continue. *Id.* We are of the opinion that this MDL is close

* Judge Kathryn H. Vratil did not participate in the decision of this matter.

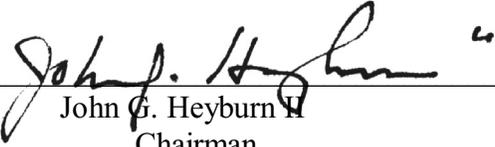
¹ Johnson & Johnson; Johnson & Johnson Pharmaceutical Research & Development, L.L.C.; Ortho-McNeil Pharmaceutical, Inc.; Alza Corp.; and Janssen Pharmaceuticals, Inc.

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to, but has not yet reached, that point. Thus, after considering all argument of counsel, we will grant defendants' motion to transfer.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, these actions are transferred to the Northern District of Ohio and, with the consent of that court, assigned to the Honorable David A. Katz for inclusion in the coordinated or consolidated pretrial proceedings in this docket.

PANEL ON MULTIDISTRICT LITIGATION



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