

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: LEVAQUIN PRODUCTS LIABILITY
LITIGATION

Anthony Zannella, et al. v. Johnson & Johnson, et al.,)
E.D. Missouri, C.A. No. 4:12-1407) MDL No. 1943

TRANSFER ORDER

Before the Panel: Pursuant to Panel Rule 7.1, plaintiffs move to vacate our order conditionally transferring this action (*Zannella*) to MDL No. 1943. Defendants Johnson & Johnson; Janssen Pharmaceuticals, Inc.; and Johnson & Johnson Pharmaceutical Research & Development, LLC oppose the motion.

After considering all argument of counsel, we find that *Zannella* shares questions of fact with actions in this litigation previously transferred to the District of Minnesota, and that transfer of this action to MDL No. 1943 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Plaintiffs do not dispute that this action shares questions of fact with MDL No. 1943. Like many of the already-centralized actions, *Zannella* involves factual questions arising from allegations that the antibiotic Levaquin causes tendon rupture and that the warnings provided by defendants informing Levaquin users of this risk were inadequate. *See In re: Levaquin Prods. Liab. Litig.*, 560 F. Supp. 2d 1384 (J.P.M.L. 2008).

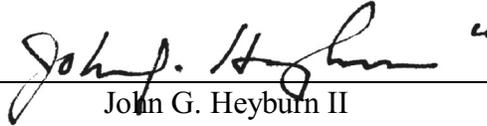
In support of their motion to vacate, plaintiffs argue that this action was improperly removed and plaintiffs' motion to remand to state court is pending. The Panel has often held that jurisdictional issues do not present an impediment to transfer, as plaintiffs can present such arguments to the transferee judge.¹ *See, e.g., In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

¹ Moreover, 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 or other 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.

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IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the District of Minnesota and, with the consent of that court, assigned to the Honorable John R. Tunheim for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

PANEL ON MULTIDISTRICT LITIGATION



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