

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: HYDROXYCUT MARKETING AND SALES
PRACTICES LITIGATION

Shirley Clark LaBlanche v. Iovate Health Sciences USA, Inc.,)
et al., S.D. Texas, C.A. No. 4:11-4503) MDL No. 2087

ORDER DENYING MOTION FOR RECONSIDERATION

Before the entire Panel: Plaintiff moves to reconsider the Panel's June 8, 2012, order denying her motion to vacate the order conditionally transferring a Southern District of Texas action (*LaBlanche*) to the Southern District of California for inclusion in MDL No. 2087. Defendants¹ oppose the motion. Plaintiff did not respond to defendants' arguments.

After considering all argument of counsel, we find that the proponent of reconsideration has not presented sufficient circumstances that justify reconsideration of the Panel's order; indeed, plaintiff suggests reconsideration for many of the same reasons that she initially opposed transfer. We find that transfer remains appropriate for the reasons we stated in our initial transfer order. While we remain sympathetic to arguments regarding plaintiff's health conditions, we continue to hold the opinion that this action involves numerous factual issues arising in the MDL proceedings, and transfer to the Southern District of California 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. We note that, in deciding issues of transfer under Section 1407, we look to the overall convenience of the parties and witnesses, not just those of a single plaintiff or defendant in isolation. *See, e.g., In re ClassicStar Mare Lease Litig.*, 528 F. Supp. 2d 1345, 1347 (J.P.M.L. 2007). Further, because Section 1407 transfer is for pretrial proceedings only, there is usually no need for the parties and witnesses to travel to the transferee district for depositions or otherwise. *See, e.g., Fed.R.Civ. P.* 45(c). The availability of electronic filing in the transferee district further enhances plaintiff's access to the transferee district.

Plaintiff can present her arguments regarding her health conditions to the transferee judge, who can determine if *LaBlanche* warrants expedited treatment, or whether remand to the transferor court or other pretrial measures might be appropriate. If, after careful scrutiny, the transferee judge

¹ Iovate HC 2005 Formulations, Ltd, Iovate Health Sciences International, Inc., Iovate Health Sciences Research, Inc., Iovate Health Sciences USA, Inc, Kerr Investment Holding Corp. f/k/a Iovate Health Sciences Group Inc., MuscleTech Research and Development Inc.

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deems remand of this or any other actions appropriate, then he may accomplish this by filing a suggestion of remand to the Panel. *See* Panel Rule 10.1.

IT IS THEREFORE ORDERED that the motion for reconsideration is denied.

PANEL ON MULTIDISTRICT LITIGATION



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