

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: CHANTIX (VARENICLINE) PRODUCTS
LIABILITY LITIGATION**

Kelly Rutherford, et al. v. Pfizer Inc.,)
S.D. Iowa, C.A. No. 1:13-00024) MDL No. 2092

TRANSFER ORDER

Before the Panel: * Pursuant to 28 U.S.C. § 1407(c), defendant Pfizer Inc. moves to transfer this action (*Rutherford*) to the Northern District of Alabama for inclusion in MDL No. 2092. The *Rutherford* plaintiffs oppose the motion.

The initially-centralized actions in this MDL “share factual issues regarding, *inter alia*, Pfizer’s design, testing, manufacture, and marketing of Chantix (varenicline), a smoking cessation drug.” *In re Chantix (Varenicline) Prods. Liab. Litig.*, 655 F. Supp. 2d 1346, 1346 (J.P.M.L. 2009). Chantix is alleged to have numerous adverse side effects, including causing “suicidal ideation, depression, seizures, memory loss, and/or other mental or physical ailments.” *Id.*

In opposing transfer, plaintiffs principally argue that the only injuries suffered by the plaintiff husband as a result of taking Chantix were physical and not neuropsychiatric in nature. Plaintiffs also argue that pretrial proceedings in the MDL are too advanced to warrant transfer. After careful consideration, we are not persuaded by these arguments. Although a majority of the centralized actions involve allegations of neuropsychiatric injury, a significant number of cases involve, like *Rutherford*, allegations of physical injury. Furthermore, as Pfizer points out, the Master Consolidated Complaint filed in the MDL contains allegations of a wide variety of physical, non-neuropsychiatric injuries. Although pretrial proceedings in the MDL clearly are quite advanced, transfer of *Rutherford* will facilitate plaintiffs’ access to discovery produced in the MDL, as well as avoid the possible re-litigation of matters previously considered and decided by the transferee judge, the Honorable Inge P. Johnson, who is intimately familiar with the allegations, issues, parties, and counsel. *See In re Crown Life Ins. Premium Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001) (“The transferee judge’s familiarity with this docket furthers the expeditious resolution of the litigation taken as a whole.”).

After considering all argument of counsel, we find that *Rutherford* involves common questions of fact with actions in this litigation previously transferred to, or filed in, the Northern District of Alabama, 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 the reasons set out in our

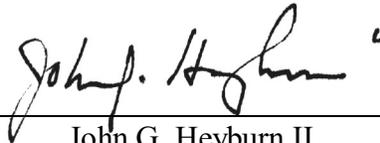
* Judge Paul J. Barbadoro, Judge Lewis A. Kaplan, and Judge Ellen Segal Huvelle took no part in the decision of this matter.

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original order directing centralization in this docket. As mentioned above, in that order, we held that the Northern District of Alabama was an appropriate Section 1407 forum for actions “shar[ing] factual issues regarding, *inter alia*, Pfizer’s design, testing, manufacture, and marketing of Chantix.” *See* 655 F. Supp. 2d at 1346. A review of the *Rutherford* complaint confirms that the action also implicates such issues.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the Northern District of Alabama, and, with the consent of that court, assigned to the Honorable Inge P. Johnson for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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