

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: PROPECIA (FINASTERIDE)
PRODUCTS LIABILITY LITIGATION**

MDL No. 2331

TRANSFER ORDER

Before the Panel:* Plaintiff in a Central District of California action (*Michelson*) moves under Panel Rule 7.1 to vacate the Panel's order conditionally transferring the action, which is listed on the attached Schedule A, to MDL No. 2331. Defendants Merck & Co., Inc., and Merck, Sharp & Dohme Corp. (collectively Merck) oppose the motion.

After considering the argument of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2331, and that transfer under 28 U.S.C. § 1407 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 set out in our order directing centralization, in which we held that the Eastern District of New York was an appropriate transferee forum for actions sharing allegations that use of finasteride, the active ingredient in Propecia and Proscar, causes persistent sexual dysfunction in a subset of male users, sometimes even after discontinuation of use of the drug. *See In re: Propecia (Finasteride) Products Liability Litig.*, 856 F. Supp. 2d 1334, 1335 (J.P.M.L. 2012). This action involves similar alleged injuries arising from the use of finasteride, and it clearly falls within the MDL's ambit.

Plaintiff does not dispute that his action shares questions of fact with actions pending in MDL No. 2331. Plaintiff instead bases his arguments against transfer primarily on the pendency of his motion to remand the action to state court. Plaintiff can present his motion for remand to the transferee judge.¹ *See, e.g., In re: Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

* Judge Lewis A. Kaplan did not participate in the decision of this matter.

¹ Panel Rule 2.1(d) expressly provides that 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 motion is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on a remand motion if it chooses to do so.

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IT IS THEREFORE ORDERED that this action is transferred to the Eastern District of New York and, with the consent of that court, assigned to the Honorable John Gleeson for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in cursive script, reading "Sarah S. Vance".

Sarah S. Vance
Chair

Marjorie O. Rendell
Ellen Segal Huvelle
Catherine D. Perry

Charles R. Breyer
R. David Proctor

**IN RE: PROPECIA (FINASTERIDE)
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SCHEDULE A

Central District of California

MICHELSON v. RICHARD RASSMAN, M.D., ET AL., C.A. No. 2:14-7486