

UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION

IN RE: ZOLOFT (SERTRALINE HYDROCHLORIDE)  
PRODUCTS LIABILITY LITIGATION

Laura A. Plumlee v. Pfizer, Inc., )  
N.D. California, C.A. No. 5:13-414 ) MDL No. 2342

ORDER DENYING TRANSFER

**Before the Panel:** Pursuant to 28 U.S.C. § 1407(c), defendant Pfizer, Inc. (Pfizer) moves to transfer the present action (*Plumlee*) to MDL No. 2342. Plaintiff opposes the motion. Lead counsel for plaintiffs in MDL No. 2342 does not oppose the motion.

The *Plumlee* action is a putative nationwide class action in which plaintiff alleges that the labeling and consumer advertisements for Zoloft misrepresent the medication’s efficacy in treating depression and risk-benefit profile. Ms. Plumlee alleges that—relying on Zoloft’s drug label and Pfizer’s marketing—she believed that Zoloft would help her manage the symptoms of depression, but that it was not effective at treating her depression and she was misled into purchasing an “expensive and side-effect-ridden antidepressant.” The actions originally centralized in this MDL involve factual questions arising from allegations that plaintiffs’ children were born with birth defects as result of their mothers ingesting Zoloft during pregnancy. *See In re: Zoloft (Sertraline Hydrochloride) Prods. Liab. Litig.*, 856 F. Supp. 2d 1347 (J.P.M.L. 2012).

In support of transfer, defendant argues, *inter alia*, that (1) the claims in both *Plumlee* and MDL No. 2342 revolve around whether Zoloft’s FDA-approved labeling was adequate and whether prescribing physicians were provided accurate information about the product’s risk-benefit profile; (2) discovery will overlap between *Plumlee* and MDL No. 2342, regarding research and development of Zoloft and its submission of studies and other information to the FDA; and (3) in the past, the Panel has combined within a single MDL claims relating to sales and marketing of medications with actions involving personal injury claims from use of the same pharmaceutical products.

We cannot agree with Pfizer’s broad characterization of MDL No. 2342, which we centralized because all cases alleged that Zoloft “causes birth defects when their mothers ingest the drug while pregnant.” *In re Zoloft*, 856 F. Supp. 2d at 1347. While *Plumlee* alleges that she was not adequately informed of Zoloft’s side effects, her claims focus on its effectiveness. The *Plumlee* plaintiff does not allege that she was pregnant when she ingested Zoloft, nor does she seek to represent women who ingested Zoloft while pregnant, which is the factual core of MDL No. 2342. While the Panel previously has included consumer protection actions in MDLs involving products liability claims, it has done so only when all claims arise out of a common core of factual allegations. *See, e.g., In re Neurontin Mktg., Sales Practices & Prods. Liab. Litig.*, MDL No. 1629, at 1 (J.P.M.L. Apr. 19,

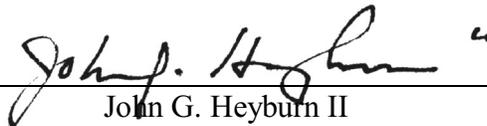
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2005) (stating that the conduct alleged in the consumer protection actions already in the MDL—the illegal promotion and sale of Neurontin for “off-label” use—“contributed to the personal injuries [plaintiffs] sustained as a result of ingestion of the drug”). Here, in contrast, transfer of *Plumlee* to MDL No. 2342 would serve to broaden the MDL’s scope to encompass actions alleging personal or economic injury of any kind arising from the drug Zoloft. We are not persuaded that such a change in scope would promote the just and efficient conduct of the litigation.

Accordingly, after considering all argument of counsel, we find that this action does not share sufficient questions of fact with previously centralized actions to warrant inclusion in MDL No. 2342, nor would inclusion serve the convenience of the parties and witnesses or promote the just and efficient conduct of the actions.

IT IS THEREFORE ORDERED that the motion, pursuant to 28 U.S.C. § 1407(c), for transfer of this action is denied.

PANEL ON MULTIDISTRICT LITIGATION



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