

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: WATSON FENTANYL PATCH
PRODUCTS LIABILITY LITIGATION**

Jeanne Samanie, etc. v. Dr. Karen Morgan, et al.,)
E.D. Louisiana, C.A. No. 2:12-453)
Eugene Landry v. Watson Laboratories, Inc., et al.,)
D. Hawaii, C.A. No. 1:11-97)

MDL No. 2372

TRANSFER ORDER

Before the Panel: Pursuant to Panel Rule 7.1, plaintiffs in several previously-centralized MDL No. 2372 actions move to vacate our order that conditionally transferred these two actions to MDL No. 2372. The Watson defendants¹ and plaintiff in the Eastern District of Louisiana *Samanie* action oppose the motions to vacate. Plaintiff in the District of Hawaii *Landry* action did not respond to the motion.

The two cases before us are personal injury actions in which plaintiffs claim injuries arising from their use of an allegedly defective Watson fentanyl patch. MDL plaintiffs' arguments against transfer primarily rest on their assertion that these non-fatal personal injury actions are significantly different from the previously-centralized actions, which are all wrongful death or survivor actions. We disagree that this distinction is sufficient to exclude these actions from the MDL. There is significant factual overlap among the discovery likely to be sought from the common Watson defendants in the MDL and these two actions. More broadly, all actions can be expected to focus on the effects of greater-than-anticipated concentrations of fentanyl gel coming into contact with a patient's skin.

We are of the opinion that transfer under Section 1407 carries the benefit of placing all current and future factually-related actions before a single judge who can: (1) allow discovery with respect to any individual issues to proceed concurrently with pretrial proceedings on common issues, *In re Ephedra Products Liability Litigation*, 314 F. Supp. 2d 1373, 1375 (J.P.M.L. 2004); and (2) ensure that pretrial proceedings are conducted in a streamlined manner leading to the just and expeditious resolution of all actions to the overall benefit of the parties. Because the two personal injury actions may present some unique issues, the transferee court can employ any number of pretrial techniques – such as establishing separate discovery and motion tracks for wrongful death and personal injury actions – to efficiently manage this litigation.

For these reasons, and after considering all argument of counsel, we find these actions involve common questions of fact with the actions previously transferred to MDL No. 2372, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the

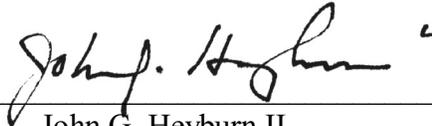
¹ Watson Laboratories, Inc., Watson Pharma, Inc., and Watson Pharmaceuticals, Inc.

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litigation. Moreover, transfer is warranted for reasons set out in our order directing centralization in which we held that the Northern District of Illinois was an appropriate Section 1407 forum for actions sharing factual questions “concerning alleged defects in the design, manufacture and marketing of the Watson fentanyl patch.” *In re: Watson Fentanyl Patch Prods. Liab. Litig.*, __ F.Supp.2d __, 2012 WL 3244183 at *1 (J.P.M.L. Aug. 7, 2012). Such alleged defects constitute the factual core of these two actions.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, these actions are transferred to the Northern District of Illinois and, with the consent of that court, assigned to the Honorable Matthew F. Kennelly for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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