

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: PLAVIX MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION (NO. II)**

MDL No. 2418

TRANSFER ORDER

Before the Panel: Plaintiffs in the two District of Delaware actions (*Blair* and *Martin*) listed on the attached Schedule A move under Panel Rule 7.1 to vacate our order conditionally transferring the actions to the District of New Jersey for inclusion in MDL No. 2418. Responding defendants oppose the motions.¹

In support of their motion to vacate, the *Blair* and *Martin* plaintiffs argue that their actions were improperly removed, and motions for remand to state court are pending. More specifically, plaintiffs contend that a judge in the District of Delaware (but not the judge presiding over plaintiffs' actions) previously ordered remand of similar cases removed to that district on the same theory invoked by defendants here. The Panel often has held that jurisdictional issues do not present an impediment to transfer, as plaintiffs can present arguments regarding those issues to the transferee judge.² See, e.g., *In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001). The Panel does not have the authority to determine the applicability of one judge's remand ruling in one case to other arguably similar cases.³

After considering the argument of counsel, we find that the *Blair* and *Martin* actions involve common questions of fact with actions previously transferred to MDL No. 2418, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Plaintiffs do not dispute that their actions share questions of fact with the actions already in MDL No. 2418. See *In re: Plavix Mktg., Sales Practices & Prods. Liab. Litig. (No. II)*, 923 F. Supp. 2d 1376, 1379 (J.P.M.L. 2013) (describing the litigation as involving common factual issues "arising from allegations that the Bristol-Myers and Sanofi defendants falsely touted Plavix

¹ Responding defendants are Bristol-Myers Squibb Company, Sanofi-Aventis U.S. LLC, Sanofi-Aventis U.S. Services Inc., and Sanofi-Synthelabo LLC.

² Moreover, under Panel Rule 2.1(d), 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.

³ See *In re Ivy*, 901 F.2d 7, 9 (2d Cir. 1990) ("Section 1407 does not empower the MDL Panel to decide . . . issues relating to a motion to remand.").

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as providing superior cardiovascular benefits to those of aspirin, and knew or should have known, misrepresented, or failed to disclose various serious risks of taking Plavix (*e.g.*, heart attack, stroke, internal bleeding, or death)").

IT IS THEREFORE ORDERED that the *Blair* and *Martin* actions are transferred to the District of New Jersey, and, with the consent of that court, assigned to the Honorable Freda L. Wolfson for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Lewis A. Kaplan
R. David Proctor

Charles R. Breyer
Ellen Segal Huvelle
Catherine D. Perry

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MDL No. 2418

SCHEDULE A

District of Delaware

BLAIR v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:14-01470

MARTIN v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:14-01471