

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**IN RE: FRESENIUS GRANUFLO/NATURALYTE  
DIALYSATE PRODUCTS LIABILITY LITIGATION**

MDL No. 2428

**TRANSFER ORDER**

**Before the Panel:** Defendants Selma Nephrology Associates, P.A., Montgomery Kidney Specialists, LLP d/b/a Montgomery Kidney Specialists of Selma, Rafael A. Lopez, M.D., and Charles E. Thomas, M.D. (collectively, the clinic defendants) move under Panel Rule 7.1 to vacate our order that conditionally transferred the action listed on Schedule A (*Johnson*) to the District of Massachusetts for inclusion in MDL No. 2428. Plaintiff in *Johnson* did not respond to the motion. Defendants Fresenius Medical Care Holdings, Inc. d/b/a Fresenius Medical Care North America, and Bio-Medical Applications of Alabama, Inc. d/b/a Fresenius Medical Care Dallas County (collectively, Fresenius) oppose the motion.

In their motion to vacate, the clinic defendants principally argue that transfer of *Johnson* is not warranted because it involves medical malpractice claims against non-Fresenius defendants—specifically, the clinic defendants. This argument is not persuasive. Like all the actions in MDL No. 2428, *Johnson* involves allegations that GranuFlo Acid Concentrate (GranuFlo) and NaturaLyte Liquid Acid Concentrate (NaturaLyte) were defective and caused plaintiff’s injury. This action also involves allegations that Fresenius failed to provide adequate warnings about the risks associated with these products. Other actions pending in the MDL involve similar claims against dialysis centers and medical providers. In any event, transfer under Section 1407 does not require a complete identity or even a majority of common factual issues as a prerequisite to transfer. *See In re National Sec. Agency Telecomms. Records Litig.*, 444 F. Supp. 2d 1332, 1334 (J.P.M.L. 2006).

After considering the argument of counsel, we find that *Johnson* involves common questions of fact with the actions previously transferred to MDL No. 2428, 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. In our order centralizing this litigation, we held that the District of Massachusetts was an appropriate Section 1407 forum for actions sharing factual questions arising out of allegations that plaintiffs suffered injury or death caused by the use of GranuFlo or NaturaLyte during hemodialysis and that such use of these products may cause metabolic alkalosis in patients resulting in low blood pressure, hypokalemia, hypoxemia, hypercapnia, cardiac arrhythmia, or cardiopulmonary arrest. *See In re Fresenius GranuFlo/NaturaLyte Dialysate Prods. Liab. Litig.*, 935 F. Supp. 2d 1362 (J.P.M.L. 2013). *Johnson* involves similar allegations that plaintiff’s decedent suffered metabolic alkalosis as a result of the use of GranuFlo and/or NaturaLyte during hemodialysis. This action likewise involves factual questions relating to whether these products were defectively designed or manufactured, whether Fresenius, the manufacturer of these dialysate

-2-

products, knew or should have known of the alleged propensity of these products to cause injury, and whether it provided adequate instructions and warnings with these products.

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the District of Massachusetts and, with the consent of that court, assigned to the Honorable Douglas P. Woodlock for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

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

**IN RE: FRESENIUS GRANUFLO/NATURALYTE  
DIALYSATE PRODUCTS LIABILITY LITIGATION**

MDL No. 2428

**SCHEDULE A**

Southern District of Alabama

JOHNSON v. FRESENIUS MEDICAL CARE HOLDINGS, INC., ET AL.,  
C.A. No. 2:15-00088