

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: LIPITOR (ATORVASTATIN CALCIUM) MARKETING, SALES
PRACTICES AND PRODUCTS LIABILITY LITIGATION (NO. II)** MDL No. 2502

TRANSFER ORDER

Before the Panel: Plaintiffs in two Eastern District of Missouri actions (*Scotino* and *Allen*) listed on the attached Schedule A separately move under Panel Rule 7.1 to vacate our order conditionally transferring the actions to the District of South Carolina for inclusion in MDL No. 2502. Defendant Pfizer Inc. (Pfizer) opposes the motions.

In support of their motions to vacate, the *Scotino* and *Allen* plaintiffs principally argue that their actions were improperly removed, and motions for remand to state court are pending. The Panel often has held that jurisdictional issues do not present an impediment to transfer, as plaintiffs can present their arguments regarding those issues to the transferee judge.* *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).

After considering the argument of counsel, we find that these two actions involve common questions of fact with actions previously transferred to MDL No. 2502, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The actions in the MDL “share factual issues arising from common allegations that taking Lipitor can cause women to develop type 2 diabetes.” *See In re: Lipitor (Atorvastatin Calcium) Mktg., Sales Practices & Prods. Liab. Litig.*, 997 F. Supp. 2d 1354, 1357 (J.P.M.L. 2014). Plaintiffs do not dispute that their actions implicate those same issues.

* 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.

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IT IS THEREFORE ORDERED that the *Scotino* and *Allen* actions are transferred to the District of South Carolina, and, with the consent of that court, assigned to the Honorable Richard M. Gergel 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

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

MDL No. 2502

SCHEDULE A

Eastern District of Missouri

SCOTINO, ET AL. v. PFIZER, INC., C.A. No. 4:15-00540

ALLEN, ET AL. v. PFIZER, INC., C.A. No. 4:15-00544