

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: TESTOSTERONE REPLACEMENT
THERAPY PRODUCTS LIABILITY LITIGATION**

MDL No. 2545

TRANSFER ORDER

Before the Panel:* Plaintiffs in an action in the Eastern District of Missouri (*Tompkins*) move under Panel Rule 7.1 to vacate the Panel's order conditionally transferring the action, which is listed on the attached Schedule A, to MDL No. 2545. Defendants Abbott Laboratories, Inc., and Abbvie Inc. oppose the motion.

After considering the argument of counsel, we find that this action involves common questions of fact with the actions previously transferred to MDL No. 2545, 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. Moreover, transfer is warranted for the reasons discussed in our order directing centralization. In that order, we held that the Northern District of Illinois was an appropriate Section 1407 forum for actions sharing factual questions arising from allegations that the use of one or more testosterone replacement therapies caused plaintiffs or their decedent to suffer injuries such as heart attack, stroke, deep vein thrombosis, or pulmonary embolism. *See In re: Androgel Prods. Liab. Litig.*, 24 F. Supp. 3d 1378 (J.P.M.L. 2014). This action involves allegations that use of AndroGel caused plaintiffs' cardiovascular or cerebrovascular injuries, and it clearly falls within the MDL's ambit.

Plaintiffs do not significantly dispute that this action shares questions of fact with actions pending in MDL No. 2545. Plaintiffs instead base their arguments against transfer primarily on their assertion that federal jurisdiction is lacking over their action and their preference that the transferor court rule on their motion to remand. As we have stated in transferring other cases in similar circumstances, plaintiffs can present their motion for remand to the transferee judge.¹ *See, e.g., In re: Ivy*, 901 F.2d 7, 9 (2nd Cir. 1990); *In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

* Judges Charles R. Breyer and Ellen Segal Huvelle did not participate in the decision of this matter.

¹ Panel Rule 2.1(d) expressly provides that 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 this action is 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

A handwritten signature in cursive script, reading "Sarah S. Vance", positioned above a horizontal line.

Sarah S. Vance
Chair

Marjorie O. Rendell
R. David Proctor

Lewis A. Kaplan
Catherine D. Perry

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THERAPY PRODUCTS LIABILITY LITIGATION**

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SCHEDULE A

Eastern District of Missouri

TOMPKINS, ET AL. v. ABBVIE, INC., ET AL., C.A. No. 4:15-01606