

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**IN RE: IMPULSE MONITORING, INC., AETNA  
INTRAOPERATIVE MONITORING SERVICES  
CLAIMS AND EMPLOYEE RETIREMENT INCOME  
SECURITY ACT (ERISA) LITIGATION**

MDL No. 2571

**TRANSFER ORDER**

**Before the Panel:**\* Defendants<sup>1</sup> in 22 actions seek centralization, pursuant to 28 U.S.C. § 1407, of this litigation concerning the denial of payment for health benefit reimbursement for intraoperative neuromonitoring services in the Eastern District of Pennsylvania. Common plaintiff Impulse Monitoring, Inc. (Impulse) opposes centralization and, alternatively, suggests centralization in the District of South Carolina or the District of Maryland. This litigation currently consists of 22 actions listed on Schedule A<sup>2</sup> and pending in twelve districts.

After considering all argument of counsel, we find that the actions in this litigation involve common questions of fact, and that centralization under Section 1407 in the Eastern District of Pennsylvania will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. All actions involve common factual questions surrounding Aetna's denial of Impulse's claims for the costs of intraoperative neuromonitoring services. Centralization will eliminate duplicative discovery; avoid inconsistent pretrial rulings; and conserve the resources of the parties, their counsel and the judiciary.

Impulse opposes centralization in large part because it argues that individual facts as to the denial of each patient's claims will overwhelm any common facts. We respectfully disagree. Even though the claims are based upon different patients who had different plans, Aetna administered all health plans, and the denials were informed by at least two common Clinical Policy Bulletins, which purportedly establish Aetna's limits on reimbursements for intraoperative neuromonitoring services.

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\* Judge Ellen Segal Huvelle did not participate in the decision of this matter.

<sup>1</sup> Aetna Health, Inc., Aetna Life Insurance Company, and Aetna Health of California, Inc. (collectively Aetna).

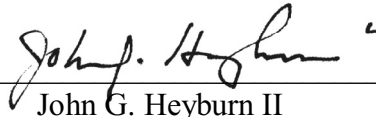
<sup>2</sup> The Panel has been notified of thirteen potentially related actions filed in various districts. These and any other related actions are potential tag-along actions. *See* Panel Rules 1.1(h), 7.1 and 7.2.

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We are persuaded that the Eastern District of Pennsylvania is an appropriate transferee district for this litigation. Three actions are already pending in this readily accessible district. Further, this district is where Aetna's potentially relevant operational office is located in Blue Bell, Pennsylvania, which is also where potential witnesses may be found. Finally, Impulse is based nearby in Maryland.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the Eastern District of Pennsylvania are transferred to the Eastern District of Pennsylvania and, with the consent of that court, assigned to the Honorable Edward G. Smith for coordinated or consolidated pretrial proceedings with the action pending there and listed on Schedule A.

PANEL ON MULTIDISTRICT LITIGATION



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John G. Heyburn II  
Chairman

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

Charles R. Breyer  
Sarah S. Vance

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**SCHEDULE A**

Central District of California

IMPULSE MONITORING, INC. v. AETNA HEALTH OF CALIFORNIA, INC.,  
C.A. No. 2:14-4361

Northern District of Georgia

IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 1:14-2290  
IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 1:14-2291  
IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 1:14-2294  
IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 1:14-2295  
IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 1:14-2300

Eastern District of Louisiana

IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 2:14-1399

District of New Jersey

IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 3:14-3639

District of New Mexico

JEFF WITTMAN OF IMPULSE MONITORING, INC. v. AETNA HEALTH, INC.,  
C.A. No. 1:14-613

Southern District of Ohio

JEFF WITTMAN OF IMPULSE MONITORING, INC. v. AETNA HEALTH INC.,  
C.A. No. 2:14-494

Eastern District of Pennsylvania

IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 2:14-4088  
IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 5:14-2972  
IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 5:14-3266

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Middle District of Pennsylvania

IMPULSE MONITORING, INC. v. AETNA LIFE INSURANCE COMPANY,  
C.A. No. 3:14-1022

District of South Carolina

IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 3:14-2041

Middle District of Tennessee

IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 3:14-1236  
IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 3:14-1237  
IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 3:14-1238

Western District of Texas

IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 1:14-500  
IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 3:14-192  
IMPULSE MONITORING, INC. v. AETNA HEALTH, INC., C.A. No. 3:14-202

Western District of Virginia

WITTMAN v. AETNA HEALTH, INC., C.A. No. 3:14-28