

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: ELIQUIS (APIXABAN) PRODUCTS
LIABILITY LITIGATION**

MDL No. 2754

TRANSFER ORDER

Before the Panel: Plaintiffs in the 22 actions listed on Schedule A move under Panel Rule 7.1 to vacate our orders conditionally transferring their actions to MDL No. 2754. Defendants Bristol-Myers Squibb Company and Pfizer Inc. oppose the motions to vacate and support transfer.

After considering the argument of counsel, we find that these actions involve common questions of fact with the actions transferred to MDL No. 2754 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. Like many of the actions in the MDL, these actions involve common factual questions arising from allegations that Eliquis (apixaban) caused plaintiffs to suffer severe bleeding and related injuries, that defendants failed to conduct sufficient testing of the drug, and that defendants' warnings and instructions as to the alleged risks were inadequate. *See In re: Eliquis (Apixaban) Prods. Liab. Litig.*, — F. Supp. 3d —, 2017 WL 490702 (J.P.M.L. Feb. 7, 2017).

Plaintiffs in 20 actions argue that their actions were improperly removed, subject matter jurisdiction is absent, and the jurisdictional challenges raised in their pending motions for remand to state court are distinct from the issues in the MDL. Jurisdictional issues do not present an impediment to transfer, as plaintiffs can present these arguments 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). Although plaintiffs contend that they have raised a jurisdictional issue unique to their actions, their complaints undeniably present the same factual and legal issues concerning Eliquis as all actions in the MDL.

Plaintiffs in two actions (*Melzer* and *Fegley*) argue that informal coordination is a preferable alternative to transfer because the overwhelming majority of the actions in the MDL have been dismissed, there are few involved plaintiffs' counsel and a single defense counsel, and each of the involved courts already is coordinating the actions before a single judge. In response, defendants contend that transfer is superior to informal coordination because the transferee court has developed expertise in complex issues of general applicability to the litigation. In these circumstances, they assert transfer will prevent duplicative pretrial proceedings and inconsistent rulings and conserve the resources of the parties, their counsel, and the judiciary.

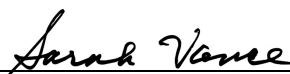
We recently considered and rejected plaintiffs' arguments concerning informal coordination in ordering transfer of substantially similar Eliquis actions to MDL No. 2754. *See Transfer Order (Niessner, et al.)*, Doc. No. 263, at 2 (J.P.M.L. Oct. 4, 2017). We explained that "transfer is

-2-

preferable to informal coordination,” observing that “[t]he transferee court has presided over substantial pretrial proceedings and issued significant rulings on dispositive motions, which currently are on appeal,” and “has established a case management process for determining the applicability of its rulings to new cases transferred to the MDL.” *See id.* at 2. Plaintiffs provide no reason to reach a different conclusion here. We find that transfer of these indistinguishable actions will serve the just and efficient conduct of the litigation.

IT IS THEREFORE ORDERED that the actions listed on Schedule A are transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Denise L. Cote 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: ELIQUIS (APIXABAN) PRODUCTS
LIABILITY LITIGATION**

MDL No. 2754

SCHEDULE A

District of Delaware

MELZER, ET AL. v. BRISTOL-MYERS SQUIBB COMPANY, ET AL.,

C.A. No. 1:17-01094

FEGLEY, ET AL. v. BRISTOL-MYERS SQUIBB COMPANY, ET AL.,

C.A. No. 1:17-01095

CARTER v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01505

HAWKINS v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01506

BOOKER v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01507

MARKS v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01508

VOWELL v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01509

LEONARD v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01510

THOMAS v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01533

SMITH v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01556

HOLBROOKS v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01557

HALL v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01558

DAVIS v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01559

WELLINGTON v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01560

SMITH v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01561

SHOWERS v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01562

LITTLEFIELD v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01563

CUTSINGER v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01564

LOMBARDO v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01565

MILLER v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01566

MCDOUGLE v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01567

CARR v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-01568