

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 36 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 33 actions argue against transfer based on the assertion that their actions were improperly removed and subject matter jurisdiction is absent,¹ as set forth in their motions for remand to state court. 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). Moreover, after the filing of plaintiffs' motion to vacate, the transferor judge denied their remand motions, holding that removal based on diversity jurisdiction was appropriate, thus mooting the jurisdictional objections.

Plaintiffs in three other actions (*Klinkhammer*, *Keeble*, and *Waire*) contend 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 their respective jurisdictions.² In response, defendants contend that transfer is superior to informal coordination because the transferee court has developed an 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,

¹ *See* Pls.' Mot. to Vacate CTO-8, Doc. No. 183 (J.P.M.L. June 26, 2017).

² *See* Pls.' Mot. to Vacate CTO-10, Doc. No. 213 (J.P.M.L. July 31, 2017).

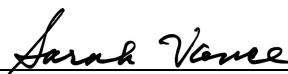
-2-

and the judiciary.

On the record before us, we find that transfer of these actions is preferable to informal coordination. The transferee court has presided over substantial pretrial proceedings and issued significant rulings on dispositive motions, which currently are on appeal. The court also has established a case management process for determining the applicability of its rulings to new cases transferred to the MDL. Moreover, the court is presiding over pending actions asserting the same jurisdictional issues as the movants before the Panel. These common pretrial proceedings in the MDL undoubtedly will serve the just and efficient conduct of the actions on Schedule A.

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

NIESSNER v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00609
HOLCOMB v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00610
PETERSON v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00611
KENNON v. BRISTOL-MEYERS SQUIBB CO., ET AL., C.A. No. 1:17-00612
YOUNG v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00613
TRACY v. BRISTOL-MEYERS SQUIBB CO., ET AL., C.A. No. 1:17-00614
STRICKLIN v. BRISTOL-MEYERS SQUIBB CO., ET AL., C.A. No. 1:17-00615
WHITE v. BRISTOL-MEYERS SQUIBB CO., ET AL., C.A. No. 1:17-00616
STETLER v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00617
SMALL, JR. v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00618
MUSICK v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00619
TANKERSLEY v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00620
KELLEY v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00621
MURRAY v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00622
REDDEN v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00623
BOOTH v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00624
JACKSON v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00625
FORTENBURY, ET AL. v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00626
LOFFREDO v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00627
EZELL v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00628
DIAZ, ET AL. v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00629
DEHN v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00630
GOMEZ v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00631
GREEN v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00632
VELLESES v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00633
MOTHERSHED v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00634
MCGRIF v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00635
SPANN v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00636
BAKER v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00637
HOOSER v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00638
PARKER v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00639
MESSER v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00640
JONES v. BRISTOL-MYERS SQUIBB CO., ET AL., C.A. No. 1:17-00641
KLINKHAMMER v. BRISTOL-MYERS SQUIBB COMPANY, ET AL.
C.A. No. 1:17-00891
KEEBLE v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-00892
WAIRE v. BRISTOL-MYERS SQUIBB COMPANY, ET AL., C.A. No. 1:17-00901