

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: FOSAMAX (ALENDRONATE SODIUM)
PRODUCTS LIABILITY LITIGATION (NO. II)**

MDL No. 2243

TRANSFER ORDER

Before the Panel: Plaintiff in the Western District of Tennessee action listed on the attached Schedule A (*Hodge*) moves under Panel Rule 7.1 to vacate our order conditionally transferring the action to the District of New Jersey for inclusion in MDL No. 2243.¹ Defendant Merck Sharp & Dohme Corp. opposes the motion.

In support of her motion to vacate, the *Hodge* plaintiff, who is proceeding *pro se*, argues that she would be inconvenienced by transfer. But, in deciding issues of transfer under Section 1407, the Panel looks to the overall convenience of the parties and witnesses, not just those of a single plaintiff or defendant in isolation. *See, e.g., In re Watson Fentanyl Patch Prods. Liab. Litig.*, 883 F. Supp. 2d 1350, 1351-52 (J.P.M.L. 2012). Here, overall convenience will be served by transfer of *Hodge*, given the factual issues the case shares with other MDL cases. Moreover, we note that “since Section 1407 transfer is for pretrial proceedings only, there is usually no need for the parties and witnesses to travel to the transferee district for depositions or otherwise.” *See In re Cygnus Telecomms. Tech., LLC, Patent Litig.*, 177 F. Supp. 2d 1375, 1376 (J.P.M.L. 2001).

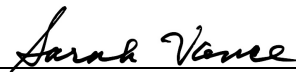
After considering the parties’ arguments, we find that the *Hodge* action involves common questions of fact with actions transferred to MDL No. 2243, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The actions in the MDL “share questions of fact arising from similar allegations that use of Fosamax or its generic equivalent caused femur fractures or similar bone injuries.” *In re Fosamax (Alendronate Sodium) Prods. Liab. Litig. (No. II)*, 787 F. Supp. 2d 1355, 1356 (J.P.M.L. 2011). The *Hodge* plaintiff does not dispute that her action implicates those same questions.

IT IS THEREFORE ORDERED that the *Hodge* action is transferred to the District of New Jersey, and, with the consent of that court, assigned to the Honorable Freda L. Wolfson for inclusion in the coordinated or consolidated pretrial proceedings.

¹ Plaintiff is proceeding *pro se*.

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PANEL ON MULTIDISTRICT LITIGATION



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SCHEDULE A

Western District of Tennessee

HODGE v. MERCK SHARP & DOHME CORP., C.A. No. 2:19-02185