

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: BENICAR (OLMESARTAN)
PRODUCTS LIABILITY LITIGATION

MDL No. 2606

TRANSFER ORDER

Before the Panel:* Defendants Daiichi Sankyo, Inc., and Daiichi Sankyo US Holdings, Inc., move under 28 U.S.C. § 1407(c) to transfer the Western District of Oklahoma action listed on the attached Schedule A (*Handley*) to the District of New Jersey for inclusion in MDL No. 2606. The *Handley* plaintiffs oppose the motion.

After considering the argument of counsel, we find that the *Handley* action involves common questions of fact with actions previously transferred to MDL No. 2606, 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 factual issues arising from allegations that taking Benicar, Benicar HCT, or Azor may cause serious gastrointestinal injury.” *In re Benicar (Olmesartan) Prods. Liab. Litig.*, 96 F. Supp. 3d 1381, 1382 (J.P.M.L. 2015). A review of the 90+ page “Class Action Petition” filed in *Handley* leaves no doubt that the action shares multiple factual issues with the previously-centralized actions.¹

In opposition to transfer, the *Handley* plaintiffs argue that the MDL is essentially over. This argument is unavailing. Although the litigation is undeniably nearing its end, more than a dozen actions remain pending. Transfer will inure to the *Handley* plaintiffs’ benefit, as it will place their action before a judge uniquely familiar with claims involving the subject drugs. Transfer also should facilitate plaintiffs’ access to the enormous amount of discovery taken in the MDL, as well as avoid the possibility of unnecessarily duplicative and burdensome discovery and other pretrial proceedings taking place in the Western District of Oklahoma court.

* Judge Karen K. Caldwell took no part in the decision of this matter.

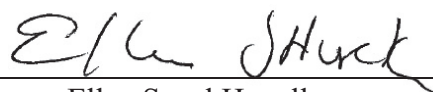
¹ *E.g.*, *Handley* Class Action Pet. ¶ 2 (alleging that the action is brought for personal injuries and/or wrongful death which were “a proximate result of the Plaintiffs being prescribed and ingesting the defective and unreasonably dangerous prescription olmesartan medoxomil drug products including Benicar®, Benicar HCT®, Azor®, and Tribenzor®,” that defendants “knew or should have known that use of olmesartan medoxomil products increased the risk of developing multiple injuries, including serious gastrointestinal issues,” and that the labels and marketing documents for the drugs “failed to include such risks and misrepresented the safety of the drugs, and continue to inadequately and inaccurately disclose those risks today”).

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The *Handley* plaintiffs' suggestion that transfer somehow will infringe on their due process rights also is not well taken. Section 1407 transfer does not alter, much less diminish, the character of a transferred action, or impinge on a plaintiff's ability to fully and fairly litigate his or her claims. See *In re Volkswagen "Clean Diesel" Mktg., Sales Practices, & Prods. Liab. Litig.* (MDL No. 2672), Transfer Order at 1 (J.P.M.L. Aug. 2, 2017) (ECF No. 2450) (rejecting plaintiff's arguments that transfer would violate its due process rights by denying it the right to propound unique discovery requests and slow the progress of its action).

IT IS THEREFORE ORDERED that the *Handley* action is transferred to the District of New Jersey, and, with the consent of that court, assigned to the Honorable Robert B. Kugler for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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Catherine D. Perry
Matthew F. Kennelly

**IN RE: BENICAR (OLMESARTAN)
PRODUCTS LIABILITY LITIGATION**

MDL No. 2606

SCHEDULE A

Western District of Oklahoma

HANDLEY, ET AL. v. DAIICHI SANKYO, INC., ET AL., C.A. No. 5:20-00067