UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: FLUOROQUINOLONE PRODUCTS LIABILITY LITIGATION MDL No. 2642

TRANSFER ORDER

Before the Panel:[*] Defendants[1] move under 28 U.S.C. § 1407(c) for transfer of the action listed on Schedule A (*MSP Recovery*) to the District of Minnesota for inclusion in MDL No. 2642. Plaintiffs do not respond to the motion and, therefore, are deemed to acquiesce in the relief sought. *See* Panel Rule 6.1(c).

After considering the argument of counsel, we find that *MSP Recovery* involves common questions of fact with the actions transferred to MDL No. 2642, 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. No party disputes that, like many of the already-centralized actions, *MSP Recovery* involves factual questions arising out of allegations that "fluoroquinolone antibiotics cause or substantially contribute to the development of irreversible peripheral neuropathy and that the warnings provided by defendants concerning that risk were inadequate." *See In re: Fluoroquinolone Prods. Liab. Litig.*, 122 F. Supp. 3d 1378 (J.P.M.L. 2015).

Plaintiffs in *MSP Recovery* seek a pure bill of discovery against defendants, in support of a planned future action to recoup the costs incurred by Medicare payors in the treatment of peripheral neuropathy and related injuries allegedly resulting from defendants' fluoroquinolone drugs. The discovery they seek includes adverse event data submitted to the U.S. Food and Drug Administration, and any and all other communications with FDA concerning the drugs at issue in the MDL. The requested discovery thus likely overlaps with the common discovery in MDL No. 2642. If the transferee judge determines that *MSP Recovery* is best excluded from centralized proceedings, procedures are available to accomplish this with a minimum of delay. *See* Panel Rules 10.1-10.3.

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[*] Judge Nathaniel M. Gorton did not participate in the Panel's decision.

[1] Bayer HealthCare Pharmaceuticals Inc.; Bayer Corporation; Merck & Co., Inc.; Johnson & Johnson; Janssen Research & Development, LLC; Janssen Pharmaceuticals, Inc.; and McKesson Corp.

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the District of Minnesota and, with the consent of that court, assigned to the Honorable John R. Tunheim for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

Sarah S. Vance
Chair

Lewis A. Kaplan
R. David Proctor
Karen K. Caldwell

Ellen Segal Huvelle
Catherine D. Perry

IN RE: FLUOROQUINOLONE PRODUCTS LIABILITY LITIGATION MDL No. 2642

SCHEDULE A

Southern District of Florida

MSP RECOVERY CLAIMS, SERIES LLC, ET AL. v. BAYER HEALTHCARE PHARMACEUTICALS, INC., ET AL., C.A. No. 1:18-24625