

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: NATIONAL PRESCRIPTION
 OPIATE LITIGATION**

MDL No. 2804

ORDER DENYING TRANSFER

Before the Panel:* Cencora, Inc. f/k/a AmerisourceBergen Drug Corporation; Cardinal Health, Inc.; and McKesson Corporation, defendants in the N.D. West Virginia *Marshall County* action listed on the attached Schedule A, move under 28 U.S.C. § 1407(c) to transfer *Marshall County* to MDL No. 2804, *In re National Prescription Opiate Litigation*. Plaintiffs Marshall County Board of Education and Wetzel County Board of Education oppose the motion. *Marshall County* will undoubtedly share common questions of fact with actions in the MDL. Indeed, counsel for plaintiffs in *Marshall County* represent plaintiffs in an MDL action that advances similar liability theories on behalf of the same proposed class.¹ That overlap, however, does not persuade us that we need to make an exception to our 2022 order halting transfers to this MDL.

Movants argue that our rationale for ending transfers to MDL No. 2804—the litigation had reached a “mature” stage—does not apply here because the transferee judge is still working to resolve actions brought by public school plaintiffs. But we stopped transferring actions to this MDL with full knowledge that the bellwether process had not yet reached cases involving school district plaintiffs. *See* Order Denying Reconsideration at 1–2, *In re Nat’l Prescription Opiate Litig.*, MDL No. 2804 (J.P.M.L. June 1, 2022), Dkt. No. 9607. We likewise knew that halting transfers to this MDL could result in some overlap between new actions outside the MDL and those in the MDL. Order Denying Transfer and Vacating CTO at 2, *In re Nat’l Prescription Opiate Litig.*, MDL No. 2804 (J.P.M.L. Apr. 8, 2022), Dkt. No. 9586. We explained that the better course for this complex litigation is for the parties to “employ alternatives to transfer to minimize whatever, if any, possibilities may arise of duplicative discovery or inconsistent pretrial rulings.” *Id.*

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

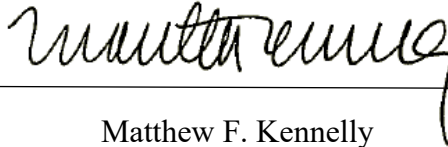
¹ Compare Complaint ¶¶ 37, 47–65, *Marshall Cnty. Bd. of Educ. v. Cencora, Inc.*, No. 5:26-cv-00027 (N.D. W. Va. Feb. 3, 2026), Dkt. No. 1 (asserting public nuisance, negligence, and negligent violation of statutory duty claims “on behalf of all independent public school boards in the state of West Virginia”), with Complaint ¶¶ 545, 610–656, *Marion Cnty. Bd. of Educ. v. Cephalon, Inc.*, No. 1:22-op-45028 (N.D. Ohio July 1, 2022), Dkt. No. 1 (asserting, among other things, nuisance, negligence, and negligent violation of statutory duty claims “on behalf of all independent public school districts in the state of West Virginia”).

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We are not convinced that informal coordination will be insufficient for handling the overlap between *Marshall County* and MDL actions brought by other public school districts. The parties have several options available to minimize the possibility of duplicative discovery. *See, e.g., In re Eli Lilly & Co. (Cephalexin Monohydrate) Pat. Litig.*, 446 F. Supp. 242, 244 (J.P.M.L. 1978). Moreover, the district courts involved have various procedural tools at their disposal (such as stays pending the resolution of a related case) that can minimize conflict. *See Manual for Complex Litigation*, Fourth, § 20.14 (2004).

IT IS THEREFORE ORDERED that the motion for transfer of the action listed on Schedule A is DENIED.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, appearing to read "Matthew Kennelly", is written over a horizontal line.

Matthew F. Kennelly
Acting Chair

David C. Norton
Madeline Cox Arleo
Richard Seeborg

Dale A. Kimball
M. Casey Rodgers

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

MDL No. 2804

SCHEDULE A

Northern District of West Virginia

MARSHALL COUNTY BOARD OF EDUCATION, ET AL. v. CENCORA, INC.,
ET AL., C.A. No. 5:26-00027