

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: ZANTAC (RANITIDINE)
PRODUCTS LIABILITY LITIGATION

MDL No. 2924

ORDER DENYING REMAND

Before the Panel:* Plaintiff in the *Gallagher* action listed on Schedule A moves under Panel Rule 10.3 for Section 1407 remand of his action, which we previously transferred from the Southern District of New York to MDL No. 2924 in the Southern District of Florida. *See* Transfer Order, MDL No. 2924 (J.P.M.L. Apr. 10, 2023), ECF No. 1253 (transferring *Gallagher*). Defendants Sanofi US Services Inc., Sanofi-Aventis U.S. LLC, and Chattem, Inc., oppose the motion.

After considering the parties' arguments, we conclude that remand is not appropriate at this time and deny plaintiff's motion. In considering the question of Section 1407 remand, we accord great weight to the transferee judge's determination that remand of a particular action at a particular time is appropriate because the transferee judge supervises the day-to-day pretrial proceedings in the MDL. *See In re Holiday Magic Sec. & Antitrust Litig.*, 433 F. Supp. 1125, 1126 (J.P.M.L. 1977). A transferee judge's suggestion of remand to the Panel, *see* Panel Rule 10.1(b), indicates that she believes her "role under Section 1407 to have ended." *In re Holiday Magic*, 433 F. Supp. at 1126. Here, the transferee judge has not issued a suggestion of remand. Instead, the transferee court recently denied a motion by plaintiff to stay *Gallagher* pending the Panel's decision of this remand motion. The transferee court rejected the primary argument that plaintiff advances before this Panel—namely, that common pretrial proceedings in the MDL have concluded:

[T]he factual premise of the Plaintiff's motion to [remand] and Motion to Stay is incorrect. The Plaintiff's case is not "the only case remaining in the MDL," as other cases that fall within the scope of cancers addressed in Pretrial Order 81 remain pending. And contrary to the Plaintiff's statement that the proceedings in this MDL "have run their course," cases continue to be filed and transferred to this MDL. Indeed, the Panel transferred a case to this MDL as recently as three days ago.

* Judges Nathaniel M. Gorton, David C. Norton, and Dale A. Kimball did not participate in the decision of this matter.

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Order Denying Mot. to Stay at 2–3, *In re Zantac (Ranitidine) Prods. Liab. Litig.*, C.A. No. 9:20-md-02924 (S.D. Fla. Aug. 10, 2023), ECF No. 6890 (internal citations omitted).


Our review of the docket is consistent with the transferee court’s description of the status of pretrial proceedings in the MDL. Plaintiff’s action is not the only one being litigated in the MDL—we have transferred no fewer than thirteen actions to the MDL over the past year and are transferring another action to the MDL concurrent with this order. Further, *Gallagher* itself is being actively litigated. The transferee court has established an October deadline for plaintiff to produce general causation expert evidence pursuant to Pretrial Order 81.¹

Plaintiff further argues that he would be prejudiced if *Gallagher* is not remanded from the MDL because the transferee court is likely to dismiss his complaint. Dissatisfaction with a transferee court’s rulings and the course of pretrial proceedings, however, is “clearly not a factor to be taken into consideration” when deciding whether Section 1407 remand is appropriate. *In re Holiday Magic*, 433 F. Supp. at 1126.

Without a suggestion of remand, a party advocating Section 1407 remand “bears a strong burden of persuasion.” *Id.* Plaintiff has not met that burden here. Remand at this juncture, while pretrial proceedings are still ongoing in the MDL, will not promote the just and efficient conduct of this litigation. Instead, it would result in duplication of efforts and, potentially, inconsistent pretrial rulings.

IT IS THEREFORE ORDERED that the motion for Section 1407 remand is denied.

PANEL ON MULTIDISTRICT LITIGATION



Karen K. Caldwell
Chair

Matthew F. Kennelly
Madeline Cox Arleo

Roger T. Benitez

¹ This order establishes procedures to advance the litigation of non-designated cancer claims (such as those asserted by plaintiff in *Gallagher*), including deadlines for expert reports. See Pretrial Order # 81, *In re Zantac (Ranitidine) Prods. Liab. Litig.*, C.A. No. 9:20-md-02924 (S.D. Fla. Feb. 14, 2023), ECF No. 6271.

**IN RE: ZANTAC (RANITIDINE)
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SCHEDULE A

Southern District of Florida

GALLAGHER v. BOEHRINGER INGELHEIM PHARMACEUTICALS, INC., ET AL.,
C.A. No. 3:23-23053 (S.D. New York, C.A. No. 1:22-10216)