

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

Jun 13, 2008
FILED
CLERK'S OFFICE

IN RE: LEVAQUIN PRODUCTS LIABILITY
LITIGATION

MDL No. 1943

TRANSFER ORDER

Before the entire Panel*: Plaintiffs in fourteen actions have moved, pursuant to 28 U.S.C. § 1407, for coordinated or consolidated pretrial proceedings of this litigation in the District of Minnesota. Defendants Johnson & Johnson, Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Johnson & Johnson Pharmaceutical Research & Development, LLC, oppose the motion or, alternatively, suggest centralization in the District of New Jersey.

This litigation currently consists of fifteen actions listed on Schedule A and pending in seven districts as follows: eight actions in the District of Minnesota; two actions in the District of Massachusetts; and one action each in the Southern District of Florida, the Southern District of Indiana, the Eastern District of Louisiana, the District of Maine, and the Eastern District of Wisconsin.¹

On the basis of the papers filed and hearing session held, we find that these actions involve common questions of fact, and that centralization under Section 1407 in the District of Minnesota will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share factual questions arising out of the allegations that the antibiotic Levaquin causes tendon rupture, and the warnings provided by defendants informing Levaquin users of this risk were inadequate. Centralization under Section 1407 will eliminate duplicative discovery; prevent inconsistent pretrial rulings; and conserve the resources of the parties, their counsel and the judiciary.

Defendants opposing the motion argue, *inter alia*, that centralization is not necessary and coordination by the parties without transfer is sufficient to handle the common discovery anticipated. Based upon the Panel's precedents and for the following reasons, we respectfully disagree with these arguments. These fifteen actions pending in seven scattered districts are nearly identical in terms of defendants' alleged conduct, and discovery and other pretrial efforts will undoubtedly overlap.

* Judge Heyburn did not participate in the disposition of this matter.

¹ The Panel has been notified that six additional related actions have been filed: two actions in the District of Minnesota; and one action each in the District of Kansas, the Southern District of New York, the District of Utah, and the Western District of Washington. These actions will be treated as potential tag-along actions. *See* Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

Section 1407 centralization will ensure streamlined resolution of this litigation to the overall benefit of the parties and the judiciary.

We are persuaded that the District of Minnesota is an appropriate transferee forum for this litigation. Eight actions, including the first-filed action, are pending there, and discovery is already underway in those actions. The actions pending in that district have been related before Judge John R. Tunheim, who has familiarized himself with the litigation.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the District of Minnesota are transferred to the District of Minnesota and, with the consent of that court, assigned to the Honorable John R. Tunheim for coordinated or consolidated pretrial proceedings with the actions pending there and listed on Schedule A.

PANEL ON MULTIDISTRICT LITIGATION



D. Lowell Jensen
Acting Chairman

John G. Heyburn II, Chairman*
Robert L. Miller, Jr.
David R. Hansen

J. Frederick Motz
Kathryn H. Vratil
Anthony J. Scirica

**IN RE: LEVAQUIN PRODUCTS LIABILITY
LITIGATION**

MDL No. 1943

SCHEDULE A

Southern District of Florida

Donald Roxenberg v. Johnson & Johnson, et al., C.A. No. 9:08-80104

Southern District of Indiana

Charles Epperson v. Johnson & Johnson, et al., C.A. No. 1:07-1640

Eastern District of Louisiana

Carolyn A. Brumfield v. Ortho-McNeil Pharmaceutical, Inc., et al., C.A. No. 2:07-7749

District of Maine

Lorraine Poirier v. Johnson & Johnson, et al., C.A. No. 2:08-9

District of Massachusetts

Jillian Fisher v. Johnson & Johnson, et al., C.A. No. 1:08-10179
Ida Almeida, et al. v. Johnson & Johnson, et al., C.A. No. 1:08-10217

District of Minnesota

William Voss, et al. v. Johnson & Johnson, et al., C.A. No. 0:06-3728
Burton Griner v. Johnson & Johnson, et al., C.A. No. 0:07-1584
Anne Beardsley v. Johnson & Johnson, et al., C.A. No. 0:07-1661
Richard Kirkes, et al. v. Johnson & Johnson, et al., C.A. No. 0:07-1862
Victoria Parr v. Johnson & Johnson, et al., C.A. No. 0:07-2999
Calvin Christensen, et al. v. Johnson & Johnson, et al., C.A. No. 0:07-3960
Aline Shaffer v. Johnson & Johnson, et al., C.A. No. 0:07-4617
William Cottle v. Johnson & Johnson, et al., C.A. No. 0:08-277

Eastern District of Wisconsin

Carlton J. Zeiler v. Johnson & Johnson, et al., C.A. No. 2:08-40