

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: FLUOROQUINOLONE PRODUCTS
LIABILITY LITIGATION

MDL No. 2642

TRANSFER ORDER

Before the Panel: Plaintiff in the action listed on Schedule A (*Wietzema*), proceeding *pro se*, moves under Panel Rule 7.1 to vacate our order conditionally transferring his action to MDL No. 2642. Defendant Janssen Pharmaceuticals Inc., opposes the motion to vacate and supports transfer.

After considering the parties' arguments, we find that this action shares 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 this litigation. Like many of the centralized actions, *Wietzema* involves factual questions arising from allegations that fluoroquinolone antibiotics (here, Levaquin) cause or substantially contribute to the development of irreversible peripheral neuropathy and that the warnings provided by defendant concerning that risk were inadequate. *See In re Fluoroquinolone Prods. Liab. Litig.*, 122 F. Supp. 3d 1378, 1380 (J.P.M.L. 2015).

In opposition to transfer, plaintiff argues that he would like the venue to stay in North Dakota where he resides. He asserts that he has had previous dealings with a law firm involved in class action litigation against defendant, the firm engaged in misrepresentations, and he has decided to represent himself in his individual action in North Dakota. But plaintiff's personal preference to keep his action in the district where he resides does not justify denial of transfer. The Panel looks to "the overall convenience of the parties and witnesses, not just those of a single plaintiff or defendant in isolation." *See, e.g., In re Watson Fentanyl Patch Prods. Liab. Litig.*, 883 F. Supp. 2d 1350, 1351-52 (J.P.M.L. 2012). Here, overall convenience will be served by transfer of *Wietzema*, given the factual issues the case shares with other MDL cases. Moreover, we note that "since Section 1407 transfer is for pretrial proceedings only, there is usually no need for the parties and witnesses to travel to the transferee district for depositions or otherwise." *See In re Cygnus Telecomms. Tech., LLC, Patent Litig.*, 177 F. Supp. 2d 1375, 1376 (J.P.M.L. 2001).

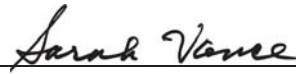
Plaintiff also objects to transfer on the ground that his action is "unique." But he fails to identify any case-specific issues in his action that would weigh against transfer. In any event, "the presence of additional facts or differing legal theories" does not prevent the transfer of an action that shares significant factual issues with those in the MDL. *See, e.g., In re Auto Body Shop Antitrust*

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Litig., 37 F. Supp. 3d 1388, 1390 (J.P.M.L. 2014).¹

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
Nathaniel M. Gorton

¹ See also *In re Xarelto (Rivaroxaban) Prods. Liab. Litig.*, 65 F. Supp. 3d 1402, 1404 (J.P.M.L. 2014) (“Almost all personal injury litigation involves questions of causation that are plaintiff-specific. Those differences are not an impediment to centralization where common questions of fact predominate.”).

**IN RE: FLUOROQUINOLONE PRODUCTS
LIABILITY LITIGATION**

MDL No. 2642

SCHEDULE A

District of North Dakota

WIETZEMA v. JANSSEN PHARMACEUTICALS, INC., ET AL., C.A. No.3:19-00067