

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: ABBOTT LABORATORIES, ET AL.,
PRETERM INFANT NUTRITION PRODUCTS
LIABILITY LITIGATION**

MDL No. 3026

TRANSFER ORDER

Before the Panel: Plaintiff in the Northern District of California *Sudds* action listed on the attached Schedule A moves under Panel Rule 7.1 to vacate the Panel’s order conditionally transferring the action to MDL No. 3026. Defendant Abbott Laboratories (Abbott) opposes the motion.

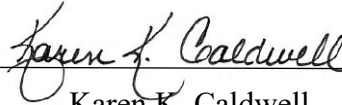
After considering the arguments of counsel, we find that this action involves common questions of fact with the actions previously transferred to MDL No. 3026, and that transfer under 28 U.S.C. § 1407 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Moreover, transfer is warranted for the reasons set forth in our order directing centralization. In that order, we held that the Northern District of Illinois was an appropriate Section 1407 forum for actions sharing factual questions arising from allegations that cow’s milk-based infant formula products marketed under the Similac (Abbott) and Enfamil (Mead Johnson) brand names have a higher propensity to cause necrotizing enterocolitis (NEC) in infants born prematurely than other, allegedly safer alternatives. *See In re Abbott Laboratories, et al., Preterm Infant Nutrition Prods. Liab. Litig.*, 600 F. Supp. 3d 1345 (J.P.M.L. 2022). Plaintiff does not dispute that the action falls within the MDL’s ambit because it involves injuries arising from an infant’s ingestion of cow’s milk-based preterm infant formulas manufactured by Abbott and Mead Johnson.

In support of her motion to vacate, plaintiff argues that federal subject matter jurisdiction is lacking and that her pending motion for remand to state court should be decided before transfer. We are not persuaded by this argument. The Panel has held that such jurisdictional objections generally do not present an impediment to transfer.¹ *See, e.g., In re Prudential Ins. Co. of Am. Sales Pracs. Litig.*, 170 F. Supp. 2d 1346, 1347–48 (J.P.M.L. 2001) (“[R]emand motions can be presented to and decided by the transferee judge.”). “This is so even where, as here, plaintiffs assert that the removals were patently improper.” *In re Ford Motor Co. DPS6 PowerShift Transmission Prods. Liab. Litig.*, 289 F. Supp. 3d 1350, 1352 (J.P.M.L. 2018).

¹ Panel Rule 2.1(d) expressly provides that the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on a remand motion if it chooses to do so.

IT IS THEREFORE ORDERED that this action is transferred to the Northern District of Illinois and, with the consent of that court, assigned to the Honorable Rebecca R. Pallmeyer for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in cursive script, reading "Karen K. Caldwell", is positioned above a horizontal line.

Karen K. Caldwell
Chair

Nathaniel M. Gorton
David C. Norton
Dale A. Kimball

Matthew F. Kennelly
Roger T. Benitez
Madeline Cox Arleo

**IN RE: ABBOTT LABORATORIES, ET AL.,
PRETERM INFANT NUTRITION PRODUCTS
LIABILITY LITIGATION**

MDL No. 3026

SCHEDULE A

Northern District of California

SUDDS v. ABBOTT LABORATORIES, ET AL., C.A. 3:24-06404