

A CERTIFIED TRUE COPY

**JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

APR 19 2005

APR 19 2005

DOCKET NO. 1626

**FILED
CLERK'S OFFICE**

**ATTEST
FOR THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE ACCUTANE PRODUCTS LIABILITY LITIGATION

Laurie A. Stupak v. Hoffman La-Roche, Inc., et al., E.D. Wisconsin, C.A. No. 1:03-421

BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D. LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL

TRANSFER ORDER

Before the Panel is a motion brought, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by the defendants in one Eastern District of Wisconsin action (*Stupak*). Movants ask the Panel to vacate its order conditionally transferring the action to the Middle District of Florida for inclusion in the centralized pretrial proceedings occurring there in this docket before Judge James S. Moody, Jr. Plaintiff supports transfer of *Stupak*.

On the basis of the papers filed and hearing session held, the Panel finds that *Stupak* involves common questions of fact with actions in this litigation previously transferred to the Middle District of Florida, and that transfer of the action to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The Panel is persuaded that transfer is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. The Panel held that the Middle District of Florida was a proper Section 1407 forum for actions brought by persons allegedly injured by Hoffmann-LaRoche's Accutane, a drug approved for the treatment of severe recalcitrant nodular acne. See *In re Accutane Products Liability Litigation*, 343 F.Supp.2d 1382 (J.P.M.L. 2004).

The defendants in *Stupak* argue that the action should not be transferred in view of the stage of proceedings in the action. We point out that transfer under Section 1407 will permit this and other MDL-1626 actions to proceed before a single transferee judge who is familiar with the complex questions at issue in MDL-1626 and who can structure pretrial proceedings to consider all parties' legitimate discovery needs, while ensuring that common parties and witnesses are not subjected to discovery demands which duplicate activity that will occur or has already occurred in other MDL-1626 actions. It may well be, on further refinement of the issues and close scrutiny by the transferee judge, that this action (or claims therein) can be remanded in advance of the other actions in the transferee district. But we are unwilling, on the basis of the record before us, to make such a determination at this time with respect to this action. We note that should the transferee judge deem remand of any claims or action appropriate, procedures are available whereby this may be accomplished with a minimum of delay. See Rule 7.6, R.P.J.P.M.L., 199 F.R.D. at 436-38.

file requested 4/26/05

- 2 -

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, this action is transferred to the Middle District of Florida and, with the consent of that court, assigned to the Honorable James S. Moody, Jr., for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:

A handwritten signature in black ink, appearing to read "Wm. Terrell Hodges".

Wm. Terrell Hodges
Chairman

INVOLVED COUNSEL LIST
DOCKET NO. 1626
IN RE ACCUTANE PRODUCTS LIABILITY LITIGATION

Allen A. Arntsen
Foley & Lardner, LLP
Verex Plaza
150 E. Gilman St.
P.O. Box 1497
Madison, WI 53701-1497

Geoffrey N. Fieger
Fieger & Fieger
19390 West Ten Mile Road
Southfield, MI 48075

Michael X. Imbroscio
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, DC 20004

Christopher D. Wolske
Hinshaw & Culbertson
100 W. Lawrence Street
Appleton, WI 54911