

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

FEB 17 2004

FILED
CLERK'S OFFICE

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE SERZONE PRODUCTS LIABILITY LITIGATION

Voncile Bryant, et al. v. Bristol-Myers Squibb Co., Inc., et al., S.D. Mississippi,

C.A. No. 3:03-1071 CA 2:04-0137

Marla Puma v. Bristol-Myers Squibb Co., et al., N.D. Texas, C.A. No. 3:03-1843 CA 2:04-0138

**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN,
BRUCE M. SELYA,* D. LOWELL JENSEN, J. FREDERICK MOTZ AND
ROBERT L. MILLER, JR., JUDGES OF THE PANEL**

TRANSFER ORDER

Before the Panel are motions brought, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by the plaintiffs in one Southern District of Mississippi action and one Northern District of Texas action to vacate the Panel's orders conditionally transferring the actions to the Southern District of West Virginia for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket. Defendant Bristol-Myers Squibb Company opposes the motions to vacate and favors inclusion of the actions in MDL-1477.

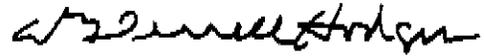
On the basis of the papers filed and hearing session held, the Panel finds that these two actions involve common questions of fact with the actions in this litigation previously transferred to the Southern District of West Virginia, and that transfer of these actions to the Southern District of West Virginia for inclusion in the coordinated or consolidated pretrial proceedings in that district will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The Panel further finds that transfer of these actions is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. The Panel held that the Southern District of West Virginia was a proper Section 1407 forum for actions involving claims of liability related to the prescription drug Serzone. *See In re Serzone Products Liability Litigation*, 217 F.Supp.2d 1372 (J.P.M.L. 2002). We note that the motions for remand to state court can be presented to and decided by the transferee court. *See, e.g., In re Ivy*, 901 F.2d 7 (2nd Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001).

* Judges Selya and Motz took no part in this decision with respect to the Southern District of Mississippi action (*Bryant*).

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IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these two actions are transferred to the Southern District of West Virginia and, with the consent of that court, assigned to the Honorable Joseph R. Goodwin for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

**UNITED STATES OF AMERICA
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

CHAIRMAN:
Judge Wim Terrell Hodges
United States District Court
Middle District of Florida

MEMBERS:
Judge John F. Keenan
United States District Court
Southern District of New York

Judge Bruce M. Selve
United States Court of Appeals
First Circuit

Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge J. Frederick Motz
United States District Court
District of Maryland

Judge Robert L. Miller, Jr.
United States District Court
Northern District of Indiana

Judge Kathryn H. Vratil
United States District Court
District of Kansas

DIRECT REPLY TO:

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Clerk of the Panel
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February 17, 2004

Teresa Deppner, Clerk
Post Office Box 2546
Charleston, WV 25329-2546

Re: MDL-1477 -- In re Serzone Products Liability Litigation

Voncile Bryant, et al. v. Bristol-Myers Squibb Co., Inc., et al., S.D. Mississippi, C.A. No. 3:03-1071
Marla Puma v. Bristol-Myers Squibb Co., et al., N.D. Texas, C.A. No. 3:03-1843

Dear Ms. Deppner:

I am enclosing a certified copy and additional copies of an order filed by the Judicial Panel on Multidistrict Litigation in the above-captioned matter. The act creating the Panel provides that:

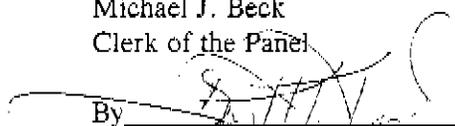
Orders of transfer ... shall be filed in the office of the clerk of the district court of the transferee district and shall be effective when thus filed. The clerk of the transferee district court shall forthwith transmit a certified copy of the panel's order to transfer to the clerk of the district court from which the action is being transferred. 28 U.S.C. § 1407(c).

As is also required by the statute, a copy of the order is being sent to the clerk for the Eastern District of California, the district in which the hearing on this matter was held on January 29, 2004.

A list of involved counsel is attached.

Very truly,

Michael J. Beck
Clerk of the Panel

By 

Deputy Clerk

Enclosures/Attachment

cc: Transferee Judge: Judge Joseph R. Goodwin
Transferor Judges: Judge Jerry Buchmeyer, Judge Henry T. Wingate
Transferor Clerks: J.T. Noblin, Karen S. Mitchell
Hearing District Clerk: Jack L. Wagner

INVOLVED COUNSEL LIST
DOCKET NO. 1477
IN RE SERZONE PRODUCTS LIABILITY LITIGATION

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Chairman