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AUG 12 2003

ATTEST
FOR THE JUDICIAL PANEL OF
MULTIDISTRICT LITIGATION

ENTERED

AUG 21 2003

SAMUEL L. KAY, CLERK
U. S. District & Bankruptcy Courts
Southern District of West Virginia

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

AUG 12 2003

FILED
CLERK'S OFFICE

DOCKET NO. 1477

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE SERZONE PRODUCTS LIABILITY LITIGATION

2:03-2089 ***Tina Horton, et al. v. Bristol-Myers Squibb Co., et al.*, N.D. Mississippi, C.A. No. 2:03-93**
2:03-2090 ***Carolyn Irving, et al. v. Bristol-Myers Squibb Co., et al.*, N.D. Mississippi, C.A. No. 4:03-90**
2:03-2091 ***Jacqueline Westbrook, et al. v. Bristol-Myers Squibb Co., et al.*, N.D. Mississippi, C.A. No. 4:03-142**
2:03-2092 ***Freda D. Hill, et al. v. Bristol-Myers Squibb Co., Inc., et al.*, S.D. Mississippi, C.A. No. 3:03-189**
2:03-2093 ***Johnnie M. Sagers, et al. v. Bristol-Myers Squibb Co., Inc., et al.*, S.D. Mississippi, C.A. No. 3:03-193**
2:03-2094 ***Sybil McIntosh, et al. v. Bristol-Myers Squibb Co., et al.*, S.D. Mississippi, C.A. No. 3:03-194**
2:03-2095 ***Billie D. Bates, et al. v. Bristol-Myers Squibb Co., et al.*, S.D. Mississippi, C.A. No. 3:03-229**
2:03-2096 ***Susan S. Willis, et al. v. Bristol-Myers Squibb Co., Inc., et al.*, S.D. Mississippi, C.A. No. 3:03-363**
2:03-2097 ***Jennifer Hutson, et al. v. Bristol-Myers Squibb, et al.*, S.D. Mississippi, C.A. No. 5:03-151**
2:03-2098 ***Florine Robinson, et al. v. Bristol-Myers Squibb Co., Inc., et al.*, S.D. Mississippi, C.A. No. 5:03-164**

BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, BRUCE M. SELYA, JULIA SMITH GIBBONS, 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 three Northern District of Mississippi actions and seven Southern District of Mississippi actions 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 ten 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

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

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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 any 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).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these ten 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:

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Chairman

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