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FEB 14 2006

BEFORE THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

FEB 14 2006

FILED
CLERK'S OFFICE

DOCKET NO. 1407

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
IN RE PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY
LITIGATION

Victor Gomez v. Bayer Corp., et al., S.D. Texas, C.A. No. 7:05-311

**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 plaintiff in one Southern District of Texas action (*Gomez*). Movant asks the Panel to vacate an order conditionally transferring *Gomez* to the Western District of Washington for inclusion in the centralized pretrial proceedings occurring there in this docket before Judge Barbara Jacobs Rothstein.

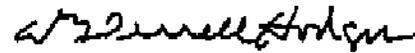
On the basis of the papers filed and hearing session held, the Panel finds that *Gomez* involves common questions of fact with actions in this litigation previously transferred to the Western District of Washington, and that transfer of the action to that district for inclusion in the coordinated or 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 concludes that transfer of *Gomez* is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. In that order, the Panel held that the Western District of Washington was a proper Section 1407 forum for actions brought by persons allegedly injured by products containing Phenylpropanolamine – a substance which, until it became the subject of a November 2000 public health advisory issued by the Food and Drug Administration, was used as an ingredient in many nasal decongestants and weight control products. See *In re Phenylpropanolamine (PPA) Products Liability Litigation*, 173 F.Supp.2d 1377 (J.P.M.L. 2001).

Plaintiff premises much of his opposition to transfer on the argument that federal jurisdiction is lacking in his action, and he urges the Panel not to order transfer before his motion to remand to state court is resolved by the Texas court. Such motions, however, if not resolved in transferor courts by the time of Section 1407 transfer, can be presented to and decided by the transferee judge. 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, this action is transferred to the Western District of Washington and, with the consent of that court, assigned to the Honorable

Barbara Jacobs Rothstein 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 Wm. 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 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

Judge David R. Hansen
United States Court of Appeals
Eighth Circuit

DIRECT REPLY TO:

Michael J. Beck
Clerk of the Panel
One Columbus Circle, NE
Thurgood Marshall Federal
Judiciary Building
Room G-255, North Lobby
Washington, D.C. 20002

Telephone: [202] 502-2800
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<http://www.jpml.uscourts.gov>

February 14, 2006

FILED
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FEB 21 2006

AT SEALED
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
OFFICE

Bruce Rifkin, Clerk
U.S. Courthouse
700 Stewart Street
Seattle, WA 98101

Re: MDL-1407 -- In re Phenylpropanolamine (PPA) Products Liability Litigation

Victor Gomez v. Bayer Corp., et al., S.D. Texas, C.A. No. 7:05-311

Dear Mr. Rifkin:

I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...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."

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 Barbara Jacobs Rothstein
Transferor Judge: Judge Ricardo H. Hinojosa
Transferor Clerk: Michael N. Milby

JPML Form 29

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
OFFICE OF THE CLERK

BRUCE RIFKIN
CLERK

700 STEWART STREET
SEATTLE, WASHINGTON 98101
(206) 370-8453

February 27, 2006

Clerk, U.S. District Court
Southern District of Texas
1701 W. Bus. Hwy. 83, Suite 1011
McAllen, TX 78501

IN RE: MDL 1407 (PPA) PHENYLPROPANOLAMINE PRODUCTS LIABILITY LITIGATION

Dear Clerk:

Enclosed is a certified copy of the Transfer Order (CTO Tag-along) entered by the Judicial Panel on Multidistrict Litigation. The order became effective on February 21, 2006. We have assigned an individual Western District of Washington (WAW) case number to your case to be transferred to us as listed below.

Please send us your file along with a certified copy of your docket entries. When you send your files, please refer to the WAWD civil action number. If you are a CM/ECF court you may provide a copy of the case by submitting documents in pdf form on a disc along with a certified copy of the docket sheet. Please do not email a login and password to access the case.

Case Title	Original Case Number	WAWD Case Number
Victor Gomez v. Bayer Corp., et al	SDTX 7:05-311	06cv273

Sincerely,

BRUCE RIFKIN, CLERK

Lisa Jurdiff

Deputy Clerk
206-370-8453