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JUN 17 2005

ATTEST
FOR THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

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JUN 21 2005

ATTEST
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY

DOCKET NO. 1407

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

JUN 17 2005

FILED
CLERK'S OFFICE

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY LITIGATION

William Coward v. I. Perrigo Co., Inc., et al., M.D. Florida, C.A. No. 3:05-203

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 Middle District of Florida action (*Coward*). Movant asks the Panel to vacate an order conditionally transferring *Coward* to the Western District of Washington for inclusion in the centralized pretrial proceedings occurring there in this docket before Judge Barbara Jacobs Rothstein. Responding defendant Proctor & Gamble Pharmaceuticals, Inc., supports transfer of the action.

On the basis of the papers filed and hearing session held, the Panel finds that *Coward* 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 is persuaded that transfer of *Coward* 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 (PPA) - 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 Florida 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).

*Judge Vratil took no part in the disposition of this matter.

INVOLVED COUNSEL LIST
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UNITED STATES OF AMERICA
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

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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:

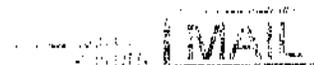
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June 17, 2005

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



JUN 21 2005

U.S. DISTRICT COURT
NORTHERN DISTRICT OF WASHINGTON
DEPUTY

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

William Coward v. L. Perrigo Co., Inc., et al., M.D. Florida, C.A. No. 3:05-203

Dear Mr. Rifkin:

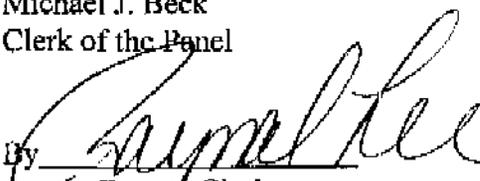
I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

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 Harvey E. Schlesinger
Transferor Clerk: Sheryl L. Loesch

JPML Form 29