

**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 Bruce M. Selya  
United States Court of Appeals  
First Circuit

Judge Julia Smith Gibbons  
United States Court of Appeals  
Sixth 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

**DIRECT REPLY TO:**

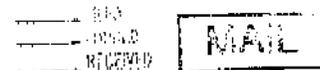
Michael J. Beck  
Clerk of the Panel  
One Columbus Circle, NE  
Thurgood Marshall Federal  
Judiciary Building  
Room G-255, North Lobby  
Washington, D.C. 20002

Telephone: (202) 502-2800  
Fax: (202) 502-2888

<http://www.jpml.uscourts.gov>

December 3, 2003

Bruce Rifkin, Clerk  
215 William Kenzo Nakamura  
U.S. Courthouse  
1010 Fifth Avenue  
Seattle, WA 98104-1130



DEC - 8 2003

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

(See Attached Transfer Order)

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY \_\_\_\_\_ DEPUTY

Dear Mr. Rifkin:

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 Western District of Texas, the district in which the hearing on this matter was held on November 20, 2003.

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 Judges: Judge David C. Bramlette, III, Judge Lacy A. Collier, Judge A. Joe Fish, Judge Nicholas G. Garaufis, Judge Thomas P. Griesa, Judge Donald J. Stohr, Judge C. Roger Vinson, Judge William R. Wilson, Jr.  
Transferor Clerks: J. Michael McMahon, J.T. Noblin, James W. McCormack, James Woodward, Karen S. Mitchell, Robert C. Heinemann, William M. McCool  
Hearing District Clerk: William G. Putnicki

JPML Form 29

2309

A CERTIFIED TRUE COPY

DEC 3 2003

JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

DEC - 3 2003

FILED  
CLERK'S OFFICE

DOCKET NO. 1407

ATTEST: *[Signature]*  
FOR THE JUDICIAL PANEL OF  
MULTIDISTRICT LITIGATION

**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

**IN RE PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY LITIGATION**

FILED  
RECORDED  
MAIL

*Brendra Joseph, et al. v. Chattem, Inc., et al.*, E.D. Arkansas, C.A. No. 4:03-250

DEC - 8 2003

*Kirby Davis v. Bayer Corp., et al.*, N.D. Florida, C.A. No. 3:03-233

*Evelyn E. Williams v. Bayer Corp., et al.*, N.D. Florida, C.A. No. 3:03-234

*Bobby Delaughter, et al. v. Bayer Corp., et al.*, N.D. Florida, C.A. No. 3:03-235

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

*Jerome Burton, etc. v. Proctor & Gumble Co., et al.*, S.D. Mississippi, C.A. No. 5:03-352

*Timi Siemer, et al. v. Chattem, Inc., et al.*, E.D. Missouri, C.A. No. 4:03-796

*Joseph Zennaro, etc. v. Wyeth, Inc., et al.*, E.D. New York, C.A. No. 1:03-2155

*Phyllis McComas v. Leiner Health Products, Inc., et al.*, S.D. New York, C.A. No. 1:02-8018

*Jerry Knight v. Advocare International LLC, et al.*, N.D. Texas, C.A. No. 3:03-1361

**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 i) plaintiffs in one Eastern District of Arkansas action, three Northern District of Florida actions, one Southern District of Mississippi action, one Eastern District of Missouri action, one Eastern District of New York action, and one Northern District of Texas action; and ii) defendants in one Southern District of New York action. Movants seek to vacate Panel orders conditionally transferring their respective action to the Western District of Washington for inclusion in the centralized pretrial proceedings occurring there in this docket before Judge Barbara Jacobs Rothstein. Plaintiffs in the Southern District of New York action and various defendants in the remaining actions have responded in support of transfer of their respective action(s).

On the basis of the papers filed and hearing session held, the Panel finds that these nine actions involve common questions of fact with actions in this litigation previously transferred to the Western District of Washington, and that transfer of the actions 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

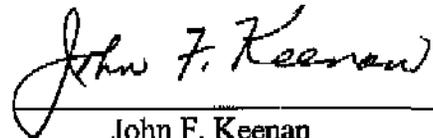
\*Judges Hodges and Selya took no part in the decision of this matter. Additionally, Judge Jensen took no part in the disposition of this matter with respect to the Southern District of Mississippi *Burton* action, and Judge Motz took no part in the disposition of this matter with respect to the Eastern District of Arkansas *Joseph* action, the Southern District of New York *McComas* action, and the Northern District of Texas *Knight* action.

transfer of the actions is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. 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).

Opponents of transfer premise much of their opposition to transfer on their argument that jurisdiction is lacking in their actions. They urge the Panel not to order transfer before motions to remand to state court or other jurisdictional motions are resolved by the appropriate transferor court. We note that such motions, 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, these nine actions are 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:



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John F. Keenan  
Acting Chairman

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

BRUCE RIFKIN  
CLERK

WILLIAM KENZO NAKAMURA  
U.S. COURTHOUSE, SUITE 215  
SEATTLE, WASHINGTON 98104

December 10, 2003

Mr. James W. McCormack  
Clerk  
United States District Court  
402 United States Post Office  
and Courthouse  
600 West Capitol Avenue  
Little Rock, AR 72201-3325

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

Dear Clerk:

Enclosed is certified copy of the Transfer Order (CTO Tagalong) entered by the Judicial Panel on Multidistrict Litigation. The order became effective on December 3, 2003. 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 you file, please refer to our civil action number. If access to CM/ECF is available you may email us your website access and a password to enable us to electronically file the new case.

Title of Case  
Brendra Joseph et al v. Chattem Inc, et al

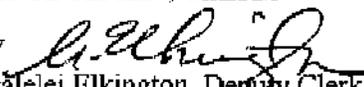
Your Number  
4:03-250

WAW Number

**CV03-3874**

Sincerely,

BRUCE RIFKIN, CLERK

BY   
Agalelei Elkington, Deputy Clerk  
206-553-4170 ext 4

Email: [agalelei\\_elkington@wawd.uscourts.wa.gov](mailto:agalelei_elkington@wawd.uscourts.wa.gov)

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

BRUCE RIFKIN  
CLERK

WILLIAM KENZO NAKAMURA  
U.S. COURTHOUSE, SUITE 215  
SEATTLE, WASHINGTON 98104

December 10, 2003

Mr. William M. McCool  
Clerk  
United States District Court  
United States Courthouse  
111 North Adams Street  
Tallahassee, FL 32301-7717

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

Dear Clerk:

Enclosed is certified copy of the Transfer Order (CTO Tagalong) entered by the Judicial Panel on Multidistrict Litigation. The order became effective on December 3, 2003. We have assigned an individual Western District of Washington (WAW) case number to your case to be transferred to us as listed below.

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Title of Case  
Kirby Davis v. Bayer Corp, et al.  
Evelyn E. Williams v. Bayer Corp et al  
Bobby Delaughter, et al v. Bayer Corp. et al

Your Number  
3:03-233  
3:03-234  
3:03-235

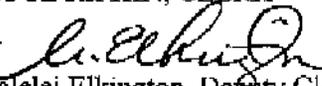
WAW Number

CV03-3875

CV03-3876

Sincerely,

CV03-3877  
BRUCE RIFKIN, CLERK

BY   
Agalelei Elkington, Deputy Clerk  
206-553-4170 ext 4

Email: [agalelei\\_elkington@wawd.uscourts.wa.gov](mailto:agalelei_elkington@wawd.uscourts.wa.gov)

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

BRUCE RIFKIN  
CLERK

WILLIAM KENZO NAKAMURA  
U.S. COURTHOUSE, SUITE 215  
SEATTLE, WASHINGTON 98104

December 10, 2003

Mr. J. T. Noblin  
Clerk  
United States District Court  
316 James O. Eastland United States  
Courthouse  
245 East Capitol Street  
Jackson, MS 39201

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

Dear Clerk:

Enclosed is certified copy of the Transfer Order (CTO Tagalong) entered by the Judicial Pane on Multidistrict Litigation. The order became effective on December 3, 2003. We have assigned an individual Western District of Washington (WAW) case number to your case to be transferred to us as listed below.

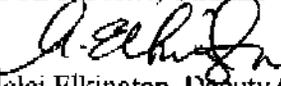
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Title of Case	Your Number	WAW Number
Jerome Burton, etc. v. Proctor & Gamble Co., et al	5:03-352	

Sincerely,

**CV03-3878**

BRUCE RIFKIN, CLERK

BY 

Agalelei Elkington, Deputy Clerk  
206-553-4170 ext 4

Email: [agalelei\\_elkington@wawd.uscourts.wa.gov](mailto:agalelei_elkington@wawd.uscourts.wa.gov)

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

BRUCE RIFKIN  
CLERK

WILLIAM KENZO NAKAMURA  
U.S. COURTHOUSE, SUITE 215  
SEATTLE, WASHINGTON 98104

December 10, 2003

Mr. James Woodward  
Clerk  
United States District Court  
3.300 Thomas F. Eagleton United States  
Courtthouse  
111 South Tenth Street  
St. Louis, MO 63102

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

Dear Clerk:

Enclosed is certified copy of the Transfer Order (CTO Tagalong) entered by the Judicial Panel on Multidistrict Litigation. The order became effective on December 3, 2003. We have assigned an individual Western District of Washington (WAW) case number to your case to be transferred to us as listed below.

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Title of Case  
Timi Siemer et al v. Chatten, Inc., et al

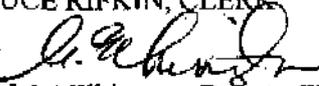
Your Number  
4:03-796

WAW Number

**CV 03 - 387**

Sincerely,

BRUCE RIFKIN, CLERK

BY   
Agalelei Elkington, Deputy Clerk  
206-553-4170 ext 4

Email: [agalelei\\_elkington@wawd.uscourts.wa.gov](mailto:agalelei_elkington@wawd.uscourts.wa.gov)

**UNITED STATES DISTRICT COURT**

**WESTERN DISTRICT OF WASHINGTON  
OFFICE OF THE CLERK**

BRUCE RIFKIN  
CLERK

WILLIAM KENZO NAKAMURA  
U.S. COURTHOUSE, SUITE 215  
SEATTLE, WASHINGTON 98104

December 10, 2003

Mr. Robert C. Heinemann  
Clerk  
United States District Court  
United States Courthouse  
225 Cadman Plaza East  
Brooklyn, NY 11201

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

Dear Clerk:

Enclosed is certified copy of the Transfer Order (CTO Tagalong) entered by the Judicial Panel on Multidistrict Litigation. The order became effective on December 3, 2003. We have assigned an individual Western District of Washington (WAW) case number to your case to be transferred to us as listed below.

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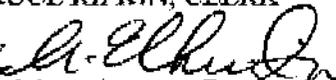
Title of Case  
Joseph Zennaro, etc. v. Wyeth, Inc. et al

Your Number  
1:03-2155

WAW Number

Sincerely,  
**CV03-3880**

BRUCE RIFKIN, CLERK

BY   
Agalelei Elkington, Deputy Clerk  
206-553-4170 ext 4

Email: [agalelei\\_elkington@wawd.uscourts.wa.gov](mailto:agalelei_elkington@wawd.uscourts.wa.gov)

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

BRUCE RIFKIN  
CLERK

WILLIAM KENZO NAKAMURA  
U.S. COURTHOUSE, SUITE 215  
SEATTLE, WASHINGTON 98104

December 10, 2003

Mr. J. Michael McMahon  
Clerk  
United States District Court  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

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

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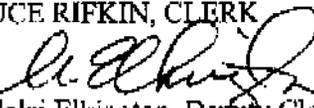
Please send us your file along with a certified copy of your docket entries. When you send your file, please refer to our civil action number. If access to CM/ECT is available you may email us your website access and a password to enable us to electronically file the new case.

Title of Case  
Phyllis McComas v. Leiner Health Products, Inc. et al

Your Number  
028018  
WAW Number  
**CV03 - 3881**

Sincerely,

BRUCE RIFKIN, CLERK

BY   
Agalelei Elkington, Deputy Clerk  
206-553-4170 ext 4

Email: [agalelei\\_elkington@wawd.uscourts.wa.gov](mailto:agalelei_elkington@wawd.uscourts.wa.gov)

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

BRUCE RIFKIN  
CLERK

WILLIAM KENZO NAKAMURA  
U.S. COURTHOUSE, SUITE 215  
SEATTLE, WASHINGTON 98104

December 10, 2003

Ms. Karen Mitchell  
Clerk  
United States District Court  
14A20 Earle Cabell Federal Building  
and United States Courthouse  
1100 Commerce Street  
Dallas, TX 75242-1003

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

Dear Clerk:

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Title of Case  
Jerry Knight v. Advocare International LLC, et al

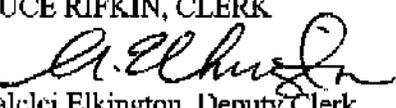
Your Number  
3:03-361

WAW Number

Sincerely,

**CV03-3882**

BRUCE RIFKIN, CLERK

BY   
Agalelei Elkington, Deputy Clerk  
206-553-4170 ext 4

Email: [agalelei\\_elkington@wawd.uscourts.wa.gov](mailto:agalelei_elkington@wawd.uscourts.wa.gov)