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JUN 15 2004

ATTEST *Debra S. Stewart*  
FOR THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

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FILED  
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**DOCKET NO. 1407**

**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

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

*Jay Spears v. Bayer Corp., et al., W.D. Missouri, C.A. No. 4:03-1151*

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

### **TRANSFER ORDER**

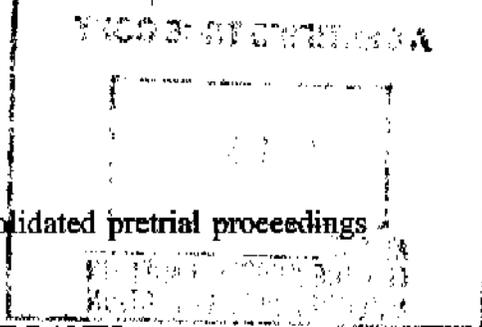
Before the Panel is a motion brought, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiff in one Western District of Missouri action (*Spears*). Movant asks the Panel to vacate an order conditionally transferring *Spears* to the Western District of Washington for inclusion in the centralized pretrial proceedings occurring there in this docket before Judge Barbara Jacobs Rothstein. Defendant Bayer Corp. supports transfer of the action.

On the basis of the papers filed and hearing session held, the Panel finds that *Spears* 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 *Spears* 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).

Plaintiff premised much of his opposition to transfer on the argument that federal jurisdiction was lacking in his action, and he urged the Panel not to order transfer before his motion to remand to state court was resolved by the Missouri court. We note that this objection has now been mooted by the Missouri court's March 29, 2004 order denying plaintiff's motion to remand *Spears* to state court.

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:

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Wm. Terrell Hodges  
Chairman