BEFORE THE
UNITED STATES JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

IN RE: XARELTO® PRODUCTS LIABILITY LITIGATION	§ § §	MDL No. _____

BRIEF IN SUPPORT FOR PLAINTIFFS' MOTION FOR TRANSFER OF ACTIONS PURSUANT TO 28 U.S.C. § 1407

Pursuant to 28 USC § 1407 and Rule 7.2(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, Movants[1] respectfully submit this memorandum of law in support of their motion for transfer and coordination for pretrial purposes of all currently filed cases identified in the included Schedule of Actions ("Actions"), as well as any cases subsequently filed involving similar facts or claims ("tag along cases"), to the United States District Court for the Southern District of Illinois.

Presently, there are at least twenty-one (21) actions pending in ten (1) different judicial districts in the United States alleging similar wrongful conduct on the part of Defendants. Likewise, because of the scope of Defendants' sales of Xarelto®, it is likely that thousands of other actions will be filed in jurisdictions throughout the United States. Transfer for consolidation and coordination is proper because each of these Actions and tag along cases arise out of the same or similar nucleus of operative facts, arise out of the same or similar alleged

[1] The Movants include the following plaintiffs with cases currently on file in the United States District Court for the Southern District of Illinois: *Mary K. Lemp and Charles Lemp, Jr. v. Janssen Research & Development LLC, et al.*, Case No. 3:14-cv-00987 (SDIL); *Dorothy Leach v. Janssen Research & Development LLC, et al.*, Case No. 3:14-cv-00989 (SDIL); *William Haney v. Janssen Research & Development LLC, et al.*, Case No. 3:14-cv-00988 (SDIL); *Stanley Pennell and Nancy Pennell v. Janssen Research & Development LLC, et al.*, Case No. 3:14-cv-01040 (SDIL); *Martha McMunn on behalf of Richard McMunn, Jr. v. Janssen Research & Development LLC, et al.*, Case No. 3:14-cv-01042 (SDIL); *Michael Mulroney v. Janssen Research & Development LLC, et al.*, Case No. 3:14-cv-01073 (SDIL).

wrongful conduct, will involve the resolution of the same or similar questions of fact and law, and discovery will be substantially similar and will involve the same documents and witnesses.

I. BACKGROUND

Xarelto® was introduced to the United States market on July 1, 2011 and is part of a class of drugs called New Oral Anticoagulants (NOACs). This class of NOACs, which also includes Pradaxa® and Eliquis®, has been marketed as the next generation of blood-thinning drugs designed to replace warfarin – which has been on the United States market for more than 50 years. Xarelto® has been widely prescribed to prevent pulmonary embolism and deep vein thrombosis, as well as strokes in patients suffering from atrial fibrillation. However, Xarelto® carries a significant risk of severe, and sometimes even fatal, internal bleeding – and there is no reversal agent available if serious bleeding occurs with Xarelto® use. In addition, Xarelto® has been marketed as a single daily dose pill that does not require the need to measure the blood plasma levels, and thus touted as the more convenient option to warfarin (which does require testing and monitoring).

Xarelto® was initially approved by the United States Food and Drug Administration (FDA) on July 1, 2011 for the prophylaxis of deep vein thrombosis (DVT) and pulmonary embolism (PE) in patients undergoing hip or knee replacement surgeries. Approval of Xarelto® for VTE prevention after knee and hip surgery was based on a serious of clinical trials known as the "RECORD" studies, which showed that Xarelto® was superior to (*i.e.*, no worse than) enoxaparin for thromboprophylaxis and accompanied by similar rates of bleeding; however, these "RECORD" studies also showed a greater incidence of bleeding with Xarelto® leading to decreased hemoglobin levels and blood transfusions. (*See* Lassen, *et al.*, Rivaroxaban versus enoxaparin for thromboprophylaxis after total knee arthroplasty. N. ENG. J. MED. 2008; 358:2776-86; Kakkar, *et al.*, Extended duration rivaroxaban versus short-term enoxaparin for the

prevention of venous thromboembolism after total hip arthroplasty: a double-blind, randomised controlled trial. LANCET 2008; 372:31-39; Ericksson, *et al*., Rivaroxaban versus enoxapaprin for thromboprophylaxis after hip arthroplasty. N. ENG. J. MED. 2008; 358:2765-75.)

On November 4, 2011, Defendants received FDA approval for the use of Xarelto® to reduce the risk of stroke and systemic embolism in patients with non-valvular atrial fibrillation. Approval of Xarelto® for this indication was based on a clinical trial known as the "ROCKET AF" clinical trial, which showed that Xarelto® was non-inferior to warfarin and had a similar risk of major bleeding for patients with non-valvular atrial fibrillation. However, in this clinical trial "bleeding from gastrointestinal sites, including upper, lower, and rectal sites, occurred more frequently in the rivaroxaban group, as did bleeding that led to a drop in the hemoglobin level or bleeding that required transfusion." (*See* Patel, *et al*., Rivaroxaban versus warfarin in nonvalvular atrial fibrillation, N. ENG. J. MED. 2011; 365:883-91.)

Then on November 2, 2012, Defendants received FDA approval for a third indication of Xarelto® for the treatment of DVT and/or PE, and to reduce the recurrence of such conditions. Approval of Xarelto® for this indication was based on three clinical trials known as the EINSTEIN-DVT, EINSTEIN-PE, and EINSTEIN-Extension studies. The EINSTEIN-DVT study tested Xarelto® versus a placebo and found that Xarelto® was a treatment option, but with obvious increased risk of bleeding events as compared to placebo. (*See* The EINSTEIN Investigators, Oral rivaroxaban for symptomatic venous thromboembolism. N. ENG. J. MED. 2010; 363:2499-510.) The results of the EINSTEIN-DVT were confirmed by the EINSTEIN-Extension study. (*See* Roumualdi, *et al*., Oral rivaroxaban after symptomatic venous thromboembolism: the continued treatment study (EINSTEIN-Extension study), EXPERT REV. CARDIOVASC. THER. 2011; 9(7):841-44.) The EINSTEIN-PE study showed that Xarelto® was

non-inferior to the standard therapy for initial and long-term treatment of DVT and/or PE; however, the study demonstrated an increased number of adverse events with Xarelto®, including permanent discontinuation of the drug or prolonged hospitalization. (*See* The EINSTEIN-PE Investigators, Oral Rivaroxaban for the Treatment of Symptomatic Pulmonary Embolism, N. ENG. J. MED. 2012; 366:1287-97.)

Defendants used the results of the ROCKET AF study, the RECORD studies, and the EINSTEIN studies to promote Xarelto® in their promotional materials, including the Xarelto® website, which tout the positive results of all of these studies. However, Defendants' promotional materials fail to similarly highlight the increased risk of gastrointestinal bleeding and other bleeding events requiring transfusions demonstrated in these studies. Further, Defendants marketed and promoted Xarelto® as a novel, once-a-day oral anticoagulant that, unlike warfarin, does not require periodic monitoring with blood tests or any dietary restrictions. In their promotion of Xarelto®, Defendants spent significant money, which included at least $11,000,000.00 spent in 2013 alone on advertising in journals targeting prescribing physicians and consumers in the United States. In fact, based on pages and dollars spent, Xarelto® was the number one pharmaceutical product advertised in professional health journals for the third quarter of the 2013 fiscal year.

As a result of Defendants' aggressive marketing and promotion efforts, Xarelto® garnered approximately $582,000,000.00 in global sales in its first year on the market. In Defendants' 2012 fiscal year, worldwide sales of Xarelto® steadily increased to approximately $658,000,000.00. Then in 2013, sales for Xarelto® reached approximately $2 Billion for the fiscal year, thus reaching "blockbuster" status (as referred to in the pharmaceutical industry when sales clear the $1 Billion threshold). In the United States alone, there were approximately

1,000,000 Xarelto® prescriptions written by the end of 2013. Defendants' website touts that over 7,000,000 people worldwide have been prescribed Xarelto®. Thus, Xarelto® is considered the leading new anticoagulant on a global scale in terms of sales and number of prescriptions.

As part of their marketing tactics, Defendants widely disseminated direct-to-consumer (DTC) advertising campaigns designed to influence patients to inquire about Xarelto® and/or request a Xarelto® prescription from their prescribing physician. Through their DTC advertising, Defendants not only overstated the efficacy of Xarelto®, but also failed to adequately disclose to patients that there is no means to reverse the anticoagulation effects of Xarelto®. The same can be said for 'The Xarelto Medication Guide', prepared and distributed by Defendants and intended for patients in the United States taking Xarelto®, which failed to warn patients of the lack of reversal agent and that if serious bleeding occurs, it could have permanently disabling, life-threatening and fatal consequences.

In addition, sales representatives of Defendants provided promotional materials to prescribing physicians detailing that Xarelto® is more convenient and as effective as warfarin in reducing strokes in patients with non-valvular atrial fibrillation, as well as preventing DVT/PE in patients with prior history of DVT/PE or after undergoing hip or knee replacement surgery; however, the prescribing physicians were not adequately informed of the lack of reversal agent and risks associated with Xarelto®. Similarly, Defendants also failed to warn emergency room physicians, surgeons and other critical care medical professionals that there is no reversal agent for Xarelto® − which is a dramatic departure from warfarin. Therefore, Xarelto® treatment leaves trauma professionals without effective means to treat and stabilize patients who experience uncontrolled or excessive bleeding while taking Xarelto®.

In the year leading up to June 30, 2012, there were 1,080 Xarelto®-associated serious adverse event (SAE) Medwatch reports filed with the FDA, including at least sixty-five (65) deaths. Of the reported hemorrhage events associated with Xarelto®, 8% resulted in death, which was approximately two-fold the risk of a hemorrhage-related death with warfarin. By the end of 2012, a total of 2,081 new Xarelto®-associated SAE reports were filed with the FDA, ranking Xarelto® as the tenth among pharmaceuticals in the number of direct reports to the FDA. Of those reported events, 151 resulted in death, as compared to only 56 deaths associated with warfarin. In fact, the ISMP referred to these SAE figures as constituting a "strong signal" (*i.e.,* evidence of sufficient weight to justify an alert to the public and the scientific community to warrant further investigation) regarding the safety of Xarelto®. Of particular note, for the first quarter of 2013, the number of reported SAEs associated with Xarelto® (680) overtook the number of reported SAEs associated with Pradaxa® (528), another new oral anticoagulant that had previously ranked as the number one pharmaceutical drug for adverse events in 2012.

In the wake of Defendants' successful marketing tactics and over-promotion of Xarelto®, death and serious injury to patients being prescribed Xarelto® have continued to mount. As a result, it is anticipated that there will be thousands of Xarelto® claims filed, likely similar to the number of Pradaxa® claims (over 2,500 filed federal cases).

II. ARGUMENT

A. Transfer and Consolidation or Coordination of All Actions Is Appropriate Under 28 U.S.C. § 1407

This Panel considers the following three factors when determining whether to authorize transfer and consolidation of multidistrict actions: (1) one or more common questions of fact are pending in different districts; (2) a transfer would serve the convenience of parties and witnesses; and (3) a transfer would promote the just and efficient conduct of the actions. 28 U.S.C. §

1407(a). The purpose of the multidistrict litigation process is to "eliminate the potential for contemporaneous pretrial rulings by coordinating district and appellate courts in multidistrict related civil actions." *In re: Multidistrict Private Civ. Treble Damages Litig.*, 298 F. Supp. 484, 491-92 (J.P.M.L. 1968). Consolidation is especially important in multidistrict litigations where "the potential for conflicting, disorderly, chaotic" action is greatest. *Id.* at 493.

In this instance, transfer, coordination and consolidation is appropriate because many common questions of fact and law exist, including, but not limited to the following:

- Whether Xarelto® was marketed with an adequate label;
- Whether Defendants conducted adequate testing of Xarelto®;
- Whether Defendants failed to warn about various issues involving Xarelto®, including but not limited to, the safety profile, dangers, increased risk of bleeding, need to monitor, lack of reversibility, intervention, and absence of both a "Boxed Warning" and "Bolded Warning", as alleged in the various Actions;
- Whether Defendants breached any warranty, express or implied, related to their sale of Xarelto®; and
- Whether Plaintiffs are entitled to compensatory and punitive damages.

In light of the numerous common issues and questions of fact involving cases throughout the country, determination of these and other common issues in a single district will benefit the parties and witnesses, while serving to promote the efficient prosecution and resolution of these Actions. In addition to significant financial savings, transfer and consolidation of these cases will promote the convenience of the parties and efficiency during pretrial proceedings, duplicative discovery will be eliminated, and there will be no risk of inconsistent judicial rulings. All of the actions proposed for transfer and consolidation allege substantially similar, and in some cases identical, causes of action and are based upon the same or substantially similar underlying facts, namely, that use of Xarelto® has caused the Plaintiffs to suffer serious and grave injuries.

Moreover, it is important to take into consideration that the nature of this litigation is national in scope and there will be thousands of these cases filed throughout the country. To date, twenty-one (21) cases have been filed in at least ten (10) federal district courts across the country. With the Pradaxa® litigation as a bench mark of sorts, it is very likely that the number of Xarelto® cases will grow exponentially and into the thousands. Thus, consolidation and centralization is clearly warranted in order to promote the convenience of the parties and the expeditious and efficient use of judicial resources.

It is well-established that this Panel has routinely ordered the transfer and consolidation of multidistrict product liability actions of drug products involving common issues and question of fact, often even over the objections of one or more parties. *See, e.g., In re: Pradaxa (Dabigatran Etexilate) Prods. Liab. Litig*., 883 F. Supp. 2d 1355 (J.P.M.L. 2012); *In re: Actos Prods. Liab. Litig.*, 840 F. Supp. 2d 1356 (J.P.M.L. 2011); *In re: DePuy Orthopaedics, Inc., Pinnacle Hip Implant Prods. Liab. Litig*., 787 F. Supp. 2d 1358 (J.P.M.L. 2011); *In re: DePuy Orthopaedics, Inc., ASR Hip Implant Prods. Liab. Litig*., 753 F. Supp. 2d 1378 (J.P.M.L. 2010); *In re: Yasmin & Yaz Mktg. Prods. Liab. Litig*., 655 F. Supp. 2d 1343 (J.P.M.L. 2009); *In re: NuvaRing Prods. Liab. Litig*., 572 F. Supp. 2d 1382 (J.P.M.L. 2008); *In re: Vioxx Prods. Liab. Litig*., 360 F. Supp. 2d 1352 (J.P.M.L. 2005); *In re: Prempro Prods. Liab. Litig*., 254 F. Supp. 2d 1366 (J.P.M.L. 2003).

Accordingly, transfer, coordination and consolidation of these Actions and tag along cases to a single district court are appropriate for the just and efficient prosecution of the Actions and for the convenience of all parties and witnesses.

B. The Southern District of Illinois is the Most Appropriate Transferee Court for Consolidation or Coordination.

Assuming that centralization is appropriate, Movants herein respectfully submit that the Southern District of Illinois is the most appropriate venue for these cases for the multitude of reasons discussed below.

1. The Southern District of Illinois Has an Impressive Track Record of Efficiently Litigating Pharmaceutical Multidistrict Litigations.

This Panel has transferred two relatively recent product liability litigations to the Southern District of Illinois – *In re: Yasmin and Yaz (drospirenone) Marketing, Sales Practices and Products Liability Litigation* MDL 2100 ("*Yaz MDL*") and *In re: Pradaxa (dabigatran etexilate) Products Liability Litigation* MDL 2385 ("*Pradaxa MDL*"). In less than 27 months from the time of this Panel's Transfer Order of the *Yaz MDL* to the Southern District of Illinois, discovery was conducted, *bellwether* cases were selected and prepared for trial, *Daubert* motions were ruled upon, and shortly before the first *bellwether* trial the parties reached a mass settlement initiative resulting in more than 16,000 cases settling in both federal and state courts. Likewise for the *Pradaxa MDL*, in less than 22 months from the time of transfer to the Southern District of Illinois, a nationwide global settlement was reached involving more than 4,500 claimants in both federal and state court, as well as a number of unfiled cases. Simply put, large-scale pharmaceutical multidistrict litigations in the Southern District of Illinois move quickly and efficiently, with effective resolution.

Moreover, the Southern District of Illinois understands the importance of coordination efforts between the multidistrict litigation and the various state court consolidated litigations in order to promote the just and efficient conduct of the litigation. In both the *Yaz MDL* and *Pradaxa MDL*, successful cooperation and coordination efforts with the various state court

jurisdictions avoided duplicative discovery and inconsistent court rulings, and ultimately resulted in the inclusion of state court claimants as participants in the global settlement initiatives.

2. The Southern District of Illinois Is Well-Equipped to Manage the Litigation.

The Southern District of Illinois provides a well-prepared, well-staffed, and overall top-notch staff and Clerk's office. In light of the previous complex litigations successfully managed and the thousands of cases on file in this district, the staff and Clerk's office in the Southern District of Illinois is experienced, efficient, and well-equipped to provide the necessary support services for managing this litigation. As an added element of efficiency and convenience for all parties, the Southern District of Illinois' Clerk's office provides a state-of-the-art webpage for each multidistrict litigation, which provides an abundance of useful information and easily accessible court documents for attorneys and litigants, including a list of court contacts and lead counsel, an organized listing of all Case Management Orders, and minutes for each court hearing.[2] In addition, the Clerk's office at the Southern District of Illinois also offers a very streamlined process for direct filing of complaints.

The efficiency and experience of the Clerk's office in a district court is absolutely vital to the successful management and administration of large-scale multidistrict litigations, and it is clear that the Clerk's office in the Southern District of Illinois has proven its abilities and exceptional work in this regard.

3. The Xarelto Litigation Will Involve a Number of the Same or Similar Issues Involved in the *Pradaxa MDL* and *Yaz MDL*.

As mentioned above, Xarelto® is within the same class of newer anticoagulants as Pradaxa®. Both Xarelto® and Pradaxa® are marketed as blood thinning medications that do not

[2] To see a complete listing of the information and court documents available, the webpage for the *Pradaxa MDL* is accessible at http://www.ilsd.uscourts.gov/mdl/mdl2385.aspx and the webpage for the Yaz MDL is accessible at http://www.ilsd.uscourts.gov/mdl/mdl2100.aspx.

require the need to measure the blood plasma levels, and thus touted as more convenient options in comparison to warfarin; however, both drugs carry a significant risk of severe, and sometimes fatal, internal bleeding and neither offer a reversal agent. As a result, many of the scientific and technical aspects, the scope of relevant discovery at issue, the types of expert witnesses, and the claimed injuries of litigants will be essentially the same or very similar. As a result, the experience and knowledge gained by the Southern District of Illinois in the *Pradaxa MDL* will be beneficial for the proposed multidistrict litigation involving Xarelto®.

It is also important to point out that the Southern District of Illinois has experience dealing with foreign defendants, and of particular note to this litigation, German defendants. In the *Yaz MDL*, some of the primary defendants were Bayer entities based in Germany. Similarly, in the proposed multidistrict litigation at bar involving Xarelto®, some of the primary defendants are also entities based out of Germany – including the same Bayer entities. This observation is an important one since the laws of Germany are unique, especially German privacy law which must be harmonized with ours to ensure a smooth and efficient course. For example, particular depositions take place in a convenient neighboring European country (such as Belgium or the Netherlands) instead of in Germany and requests for certain underlying data from the German entity defendants require heightened protections and burdens under the law.

In sum, the knowledge and experience of this district court regarding the similar aspects of the *Pradaxa MDL* and the unique issues surrounding German law provide yet another reason that strongly supports centralization in the Southern District of Illinois.

4. The Southern District of Illinois Has Skilled and Experienced Jurists with the Ability to Successfully Manage this Multidistrict Litigation.

The Southern District of Illinois has a wealth of highly skilled and experienced jurists, including but not limited to Judge David R. Herndon and Judge Staci M. Yandle.

i. Judge David R. Herndon Is Amply Qualified and Innovative in Successfully Managing Multidistrict Litigations.

Having been appointed to the Southern District of Illinois in 1998, Judge David R. Herndon is an experienced jurist and excellent choice for managing this complex multidistrict litigation. He served as Chief Judge for the Southern District of Illinois from 2007 until 2014, and has gained significant experience in managing complex litigation. Moreover, Judge Herndon has an extremely experienced and talented staff and law clerks who have managed these litigations with great efficiency.

In addition to his extensive qualifications and experience, Judge Herndon has clearly demonstrated his abilities to efficiently handle large-scale multidistrict litigations. In fact, when the decision was made to centralize actions in the *Pradaxa MDL* before Judge Herndon in the Southern District of Illinois, this Panel praised his efforts, experience, and abilities:

> [B]y selecting Judge David R. Herndon to preside over this matter, we are selecting a jurist with the willingness and ability to handle this litigation. Judge Herndon, an experienced MDL judge, has deftly presided over *In re Yasmin and Yaz (Drospirenone) Marketing, Sales Practices & Products Liability Litigation*, 655 F. Supp. 2d 1343 (J.P.M.L. 2009), another large pharmaceutical products liability litigation.

In re: Pradaxa Prods. Liab. Litig., 883 F. Supp. 2d 1355, 1356 (2012).

While presiding over the *Yaz MDL*, Judge David R. Herndon managed a docket with over 11,000 filed cases, ruled on over sixty (60) Motions *in Limine* and eighteen (18) Motions to Exclude the Testimony of Expert Witnesses pursuant to *Daubert*, entered sixty-seven (67) Case Management Orders[3], and held over forty (40) status hearings. The *Yaz MDL* was one of the largest mass tort litigations in history in this respect and by considering the voluminous discovery statistics; however, under Judge Herndon's management everything was accomplished

[3] All Case Management Orders are available at http://www.ilsd.uscourts.gov/mdl/mdl2100.aspx.

in under 27 months from the date of this Panel's Transfer Order on October 1, 2009 to the date that the parties reached the mass settlement initiative on December 31, 2011.[4]

Similarly while presiding over the *Pradaxa MDL*, Judge Herndon managed a docket with over 2,500 filed cases, entered eighty-five (85) Case Management Orders,[5] and held over twenty-eight (28) status hearings. The Pradaxa MDL was a very labor intensive multidistrict litigation; yet, under the management of Judge Herndon all of this was accomplished in under 22 months from the date of this Panel's Transfer Order on August 8, 2012 to the date that the global settlement was announced on May 28, 2014.[6]

In addition, Judge Herndon understands the importance of coordination efforts between the federal multidistrict litigation and the various state court consolidated litigations. In fact, Judge Herndon's coordination efforts have been praised by judges and lawyers alike after he successfully coordinated the *Yaz MDL* and *Pradaxa MDL* with the state court jurisdictions to avoid duplicative discovery and court rulings, and the state court litigants were ultimately included in the MDL settlement programs.

As one of the lawyers and law firms principally involved in the entire course of the *Yaz MDL* and *Pradaxa MDL*, I can attest that Judge Herndon is at all times accessible to the parties, often times on very short notice, has convened hearings promptly in order to rule on important

[4] By way of enumeration, in the *Yaz MDL* the defense produced over 90 million pages of documents, and more than 50 Bayer corporate witness and 40 expert witness depositions took place on three continents, and in five different countries, in a little over a year and a half. Notwithstanding the above, case-specific plaintiff discovery also occurred through a multi-tiered *bellwether* process that included over 100 depositions of plaintiffs and related witnesses in fewer than 120 days. Therefore, a process of plaintiff-only depositions began in approximately 100 cases. In total, well over 200 depositions were taken in just over one year.

[5] All Case Management Orders are available at http://www.ilsd.uscourts.gov/mdl/mdl2385.aspx.

[6] By way of enumeration, in the *Pradaxa MDL* the defense produced over 100 million pages of documents. More than 60 corporate witness depositions took place on two continents, and in three different countries, in a little over a year and a half. Notwithstanding the above, case-specific plaintiff discovery also occurred through a multi-tiered bellwether process that included over 74 depositions of plaintiffs and related witnesses in fewer than 155 days.

issues and disputes, and has made multidistrict litigations a priority by setting regular status conferences to facilitate and expedite the litigations.

The efforts and activities, as described above, clearly demonstrate that Judge Herndon has the experience, ability, and dedication to efficiently manage this litigation. For these reasons, Judge Herndon is an appropriate choice for managing this multidistrict litigation.

ii. Judge Staci M. Yandle Is a Jurist with a Wealth of Litigation Experience.

Judge Staci M. Yandle would also be an excellent choice by this Panel for managing this complex litigation. Judge Yandle was recently appointed to the Southern District of Illinois on August 22, 2014. She earned her bachelor's degree from the University of Illinois at Urbana-Champaign and her Juris Doctorate from Vanderbilt University School of Law. Prior to her appointment, Judge Yandle spent twenty years in private practice and taught as an adjunct professor at the St. Louis University School of Law. Judge Yandle has litigated virtually every type of civil litigation in her career, and as such, Judge Yandle has a wealth of personal knowledge and litigation experience.

Moreover, Judge Yandle is currently assigned to seven out of the eight Xarelto® cases currently on file in the Southern District of Illinois, which is more than any jurist in the federal judiciary.[7] If assigned to the proposed multidistrict litigation at bar, Judge Yandle would benefit from the valuable experience of Judge Herndon, the knowledgeable staff and law clerks within the district, and the well-equipped and efficient Clerk's office. For these reasons, Judge Yandle

[7] Judge Staci M. Yandle has been assigned to the following Xarelto® cases currently on file in the United States District Court for the Southern District of Illinois: *Mary K. Lemp and Charles Lemp, Jr. v. Janssen Research & Development LLC, et al.*, Case No. 3:14-cv-00987; *Dorothy Leach v. Janssen Research & Development LLC, et al.*, Case No. 3:14-cv-00989; *William Haney v. Janssen Research & Development LLC, et al.*, Case No. 3:14-cv-00988; *Stanley Pennell and Nancy Pennell v. Janssen Research & Development LLC, et al.*, Case No. 3:14-cv-01040; *Martha McMunn on behalf of Richard McMunn, Jr. v. Janssen Research & Development LLC, et al.*, Case No. 3:14-cv-01042; *Robert Biven v. Janssen Research & Development LLC, et al.*, Case No. 3:14-cv-01050; *Sharon Rucker as the Administrator for and on behalf of the heirs of the Estate of Marion Rucker, Jr.*, Case No. 3:14-cv-01026.

has the experience and ability to efficiently manage this litigation and therefore would also be an appropriate choice for managing this multidistrict litigation.

5. The Southern District of Illinois Is a Central and Convenient Venue.

This Panel has emphasized the fact that "although air travel renders both [coasts of the United States, California and New York] readily accessible, there is still something to be said for the convenience of a geographically central forum." *In re Library Editions of Children's Books,* 297 F. Supp. 385, 387 (J.P.M.L. 1968). In fact, this Panel recognized the innate benefits of the centrality of the Southern District of Illinois when deciding to consolidate actions in this district for the *Pradaxa MDL*. *See In re: Pradaxa (Dabigatran Etexilate) Prods. Liab. Litig.*, 883 F. Supp. 2d 1355, 1356 (2012) ("[T]he Southern District of Illinois' geographically central location and accessibility also commend it for this nationwide products liability litigation.").

The Southern District of Illinois courthouse is centrally located for all parties and witnesses, particularly in light of the fact that it is anticipated that such a complex products liability case will unquestionably involve parties and witnesses located in a variety of locations throughout the United States. Moreover, the Southern District of Illinois provides a neutral venue since it is not the "hometown" of any of the defendants and in the present modern era of electronic discovery the location of the documents is obsolete since the majority of documents (if not all) will be easily produced in electronic format. *See e.g. In re Bristol Myers Squibb Securities Litigation*, 205 F.R.D. 437 (U.D.D.N.J. 2004); Manual for Complex Litigation, Fourth, § 22 (2004).

In addition, traveling to this central location is much more convenient and efficient than traveling to other destinations in the United States. For instance, the federal courthouse in the Southern District of Illinois is located in East St. Louis, which is only fifteen minutes from

Lambert International Airport in St. Louis, Missouri. Lambert International Airport not only offers moderately priced flights, but is one of the most central travel hubs in the nation with 250 daily departures to more than 60 nonstop destinations. As such, the Southern District of Illinois is a very convenient option for same day travel for regular status conferences and hearings. Further, there are plenty of reasonably priced lodging options throughout the local area. In fact, there are several hotels within the immediate vicinity of the Southern District of Illinois courthouse with an average daily rate of only $117.00. In addition, the cost of food, gas and transportation within the Southern District of Illinois area is at or below the national average.

For these reasons, the Southern District of Illinois offers a very convenient and central location, and is thus an appropriate choice to serve as the transferee court for this multidistrict litigation.

C. CONCLUSION

After a thorough analysis of the salient factors, the Southern District of Illinois is the most appropriate transferee court pursuant to 28 U.S.C. § 1407. Therefore, Plaintiffs respectfully request that this Panel transfer the above-mentioned actions and all subsequently filed tag along cases to the Southern District of Illinois for consolidated or coordinated pretrial proceedings.

Date: October 9, 2014

Respectfully submitted,

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Case No. 3:14-cv-00987-SMY-SCW; *Mary K. Lemp and Charles Lemp, Jr. v. Janssen Research & Development LLC, et al.*; In the United States District Court for the Southern District of Illinois

Case No. 3:14-cv-00989-SMY-PMF; *Dorothy Leach v. Janssen Research & Development LLC, et al.*; In the United States District Court for the Southern District of Illinois

Case No. 3:14-cv-00988-SMY-PMF; *William F. Haney v. Janssen Research & Development LLC, et al.*; In the United States District Court for the Southern District of Illinois

Case No. 3:14-cv-01040-MJR-SCW; *Stanley Pennell and Nancy Pennell v. Janssen Research & Development LLC, et al.*; In the United States District Court for the Southern District of Illinois

Case No. 3:14-cv-01042-DRH-PMF; *Martha McMunn on behalf of Richard McMunn, Jr. v. Janssen Research & Development LLC, et al.*; In the United States District Court for the Southern District of Illinois

Case No. 3:14-cv-01073-MJR-DGW; *Michael Mulroney v. Janssen Research & Development LLC, et al.*; In the United States District Court for the Southern District of Illinois