

**BEFORE THE UNITED STATES JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION**

IN RE: XARELTO® PRODUCTS  
LIABILITY LITIGATION

MDL No.: 2592

**INTERESTED PARTY RESPONSE  
SUPPORTING TRANSFER & COORDINATION OF ACTIONS  
IN THE SOUTHERN DISTRICT OF ILLINOIS OR, IN THE ALTERNATIVE,  
NORTHERN DISTRICT OF ALABAMA**

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COMES NOW Plaintiff, pursuant to 28 U.S.C. § 1407 and Rules 6.1(c) and 6.2(e) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, and respectfully submits this Interested Party Response in Support of an Order transferring and consolidating cases included as part of MDL No. 2592 to the United States District Court for the Southern District of Illinois.

For good cause, Plaintiff states the following:

The undersigned is counsel of record for Interested Party Plaintiff, Annie Banks, in the following case pending in the Southern District of Alabama:

- *Annie Banks v. Janssen Research and Development LLC f/k/a Johnson and Johnson Pharmaceutical Research and Development LLC, et al.* Case No. 1:14-cv-00522

The undersigned currently represents more than 50 additional Xarelto® clients from 21 different states. As such, the undersigned is poised to file numerous additional Xarelto® cases in federal courts across the country. To date, the undersigned has been contacted by hundreds of individuals inquiring about potential claims they may have for injuries and damages caused by the use of Xarelto® (rivaroxaban). The undersigned expects many more lawsuits will be filed in the near future, alleging very similar, if not identical, injuries and damages caused by the exact same dangerous drug.

**I. Transfer and Coordination is Appropriate**

Transfer and coordination is appropriate and consolidation is necessary because all of the lawsuits involve identical questions of law and fact that arise from the same course of conduct. All of the Plaintiffs allege identical or similar product liability claims which plead identical and/or virtually identical causes of action based on identical theories of recovery. All of the claims seek damages based on allegations arising from the exact same misconduct; i.e., allegations of the Defendant's intentional, reckless and/or negligent conduct related to the design, testing, manufacturing, marketing, advertising, promoting, labeling, selling and/or distribution of Xarelto® (rivaroxaban). Thus, coordination is proper and necessary in accordance with the purpose of 28 U.S.C. § 1407.

Transfer and coordination serves the best interests of the parties. Economically, coordination conserves resources (e.g., time, money, etc.) of the judiciary, parties and counsel. Equitably, coordination helps ensure the claims are treated fairly instead of risking disparate rulings from different courts that result in additional litigation and, ultimately, incongruent results. Without the benefit of coordination and consolidation, the parties and judiciary will be forced to needlessly spend time, money and resources because many common issues (e.g., matters related to discovery of common issues and generic experts) will be replicated.

**II. The Southern District of Illinois is the best venue for transfer & consolidation or, in the alternative, the Northern District of Alabama**

The undersigned agrees with the reasons set forth in the Brief in Support of Plaintiffs' Motion for Transfer of Actions Pursuant to 28 U.S.C. § 1407 (Doc. 1-1) and joins in support of the consolidation in the Southern District of Illinois, and specifically supports the coordinated pre-trial proceedings be transferred to Judge David R. Herndon.

The Panel has found the Southern District of Illinois to be an appropriate forum in MDL proceedings such as the following: *IN RE: Yasmin and Yaz (drospirenone) Marketing, Sales Practices and Products Liability Litigation* (MDL No. 2100) and *IN RE: Pradaxa (dabigatran etexilate) Products Liability Litigation* (MDL No. 2385). Both the *Yaz* MDL and the *Pradaxa* MDL were handled in the Southern District of Illinois by District Judge David Herndon quickly and efficiently. As the Panel has already noted, Judge Herndon “deftly presided” over the *Yaz* MDL. *See In re: Pradaxa (Dabigatran Etexilate) Prods. Liab. Litig.*, 883 F. Supp. 2d 1356. As such, the Southern District of Illinois is recognized as experienced and equipped to handle complex and multidistrict litigation in an efficient manner. Furthermore, Xarelto® is included within the same class of drugs (New Oral Anticoagulants) as Pradaxa®. The legal similarities between the Xarelto® litigation and the Pradaxa® litigation make the Southern District of Illinois, and specifically Judge David Herndon, well-suited as the best and most logical venue for transfer and consolidation.

In the alternative, the Northern District of Alabama is well suited and an appropriate venue for transfer and consolidation. The Panel has found the Northern District of Alabama to be an appropriate forum in MDL proceedings such as the following: *IN RE: Chantix (Varenicline) Products Liability Litigation* (MDL No. 2092) and *IN RE: Blue Cross Blue Shield Antitrust Litigation* (MDL No. 2406). The Northern District of Alabama is well equipped and able to handle multidistrict litigation in an efficient manner. For example, the first hearing in the *Chantix* MDL occurred in January of 2010 and every pending case resolved, reaching at least settlement, by mid 2013. As such, the Northern District of Alabama has the experience and resources necessary to manage complex mass litigation.

**A. Convenience of the Parties and Witnesses: Centralization in Illinois or Alabama is proper because it is convenient to parties and witnesses.**

“[T]ransfers shall be made by the judicial panel on multidistrict litigation authorized by this section upon its determination that transfers for such proceedings will be for the convenience of parties and witnesses and will promote the just and efficient conduct of such actions.” 28 U.S.C. § 1407(a). Convenience of parties and witnesses includes consideration of the location of parties and witnesses, and the accessibility to the transferee jurisdiction to counsel from multiple jurisdictions. See, e.g., *In re High Pressure Laminate Antitrust Litig*, 2000 US Dist. LEXIS 14849; *In re Polyester Staple Antitrust Litig*, 259 F Supp. 2d. at 1380; *In re Pressure Sensitive Labelstock Antitrust Litig*, 290 F. Supp 2d. at 1376; *In re High Pressure Laminate Antitrust Litig*, 2000 US Dist. LEXIS 14849; See also, Gregory Hansel, *Extreme Litigation: An Interview with Judge Wm. Terrell Hodges, Chairman of the Judicial Panel on Multidistrict Litigation*, 19 Me. Bar J. 16, 19 (2004) (“[W]e take into account ... the accessibility of the court, particularly air travel in selecting a transferee district.”).

The Panel has already observed the convenience and benefits of the Southern District of Illinois due to its central location. *See In re: Pradaxa (Dabigatran Etexilate) Prods. Liab. Litig.*, 883 F. Supp. 2d 1356 (“[T]he Southern District of Illinois’ geographically central location and accessibility also commend it for this nationwide products liability litigation.”). Specifically, the Southern District of Illinois is centered around St. Louis, one of the nation’s largest cities in the middle of the United States. St. Louis’ Lambert International Airport is located approximately 16 miles from this district making air travel both convenient and accessible. The city also boasts affordable over-night lodging and transportation. Because this litigation is likely to involve Plaintiffs, counsel and witnesses from across the country, the Southern District of Illinois’ central location makes this a convenient location for the Xarelto® (rivaroxaban) proceedings. Similarly,

the Northern District of Alabama is a convenient forum as the Birmingham-Shuttlesworth International Airport is easily accessible with over one-hundred (100) daily flights to over twenty-five (25) cities throughout the United States and the city has ample hotel accommodations with affordable rates.

**B. The Southern District of Illinois can efficiently manage this litigation**

Transferring cases involving one or more common questions of fact to a single district “promote[s] the just and efficient conduct of such actions.” 28 U.S.C. § 1407. The Southern District of Illinois can provide for the equitable and systematic resolution of the Xarelto® (rivaroxaban) cases. The Southern District of Illinois, specifically Judge David Herndon, has a well-managed, efficient docket. The Panel has already recognized Judge David Herndon as “an experienced MDL judge” following the resolution of the Yaz MDL. *See In re: Pradaxa (Dabigatran Etexilate) Prods. Liab. Litig.*, 883 F. Supp. 2d 1356. Consider MDL 2385, *IN RE: Pradaxa (dabigatran etexilate) Products Liability Litigation*. The JPML transferred and consolidated all cases to the Southern District of Illinois on August 8, 2012. The litigation reached settlement in May of 2014. That is, the litigation was in the process of being resolved in just under two years. The Southern District of Illinois, specifically Judge David Herndon, has created a model for how mass litigation, such as the Xarelto® (rivaroxaban) litigation should be managed.

**CONCLUSION**

For the foregoing reasons, Plaintiff respectfully requests that the Panel consolidate the Xarelto® (rivaroxaban) actions and transfer them to the United States District Court for the Southern District of Illinois.

Respectfully submitted, this the 21st day of November, 2014.

*/s/ B. Kristian W. Rasmussen*

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MULTIDISTRICT LITIGATION**

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**PROOF OF SERVICE**

I, Kristian W. Rasmussen, hereby certify that on November 18, 2014, a true and correct copy of the forgoing Notice of Related Action and Proof of Service was served upon all interested counsel and/or parties identified below using the CM/ECF system.

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*Haney v. Janssen Research & Development LLC, et al., S.D. Ill. 14-00988*

*Leach v. Janssen Research & Development LLC, et al., S.D. Ill. 14-00989*

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*Case No. 3:14-cv-00182-TCB: Randolph and Carol Sinclair v. Jannssen Research & Development, LLC et al. ; In the United States District Court for the Northern District of Georgia.*

Dated: November 21, 2014

Respectfully Submitted,

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