

BEFORE THE UNITED STATES JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

IN RE: TAXOTERE (DOCETAXEL)
PRODUCTS LIABILITY LITIGATION

MDL No. 2740

**PLAINTIFFS KLARA ERNYS-KOFLER AND CANDYSE JENKINS’ INTERESTED
PARTIES’ RESPONSE IN SUPPORT OF TRANSFER OF RELATED ACTIONS TO
THE NORTHERN DISTRICT OF CALIFORNIA**

Plaintiffs Klara Ernys-Kofler and Candyse Jenkins (“Plaintiffs”) respectfully submit this Interested Parties’ Response to Plaintiffs Veronica Smith and Kelley Gahan’s Motion for Transfer of Actions (Doc. #1), pursuant to 28 U.S.C. § 1407 (“§1407”) and Rule 6.2 of Rule of Procedure of the United States Judicial Panel on Multidistrict Litigation.

Klara Ernys-Kofler is the plaintiff in *Ernys-Kofler v. Sanofi S.A.*, Case No. 5:16- cv- 04938-LHK (N.D. CA.), filed September 2, 2016. Candyse Jenkins is the plaintiff in *Jenkins v. Sanofi S.A.*, No. 3:16-cv-04940-HSG (N.D. CA), filed September 2, 2016.

Plaintiffs submit this response in support of consolidation of the related actions (“Related Actions”) in this matter. For the reasons that follow, Plaintiffs believe that transfer of the Related Actions to the United States District Court for the Northern District of California is appropriate, meets the criteria of §1407, and would benefit the actions.

I. Transfer And Consolidation Is Appropriate.

Section 1407 provides for the transfer of civil actions to any district for consolidated or coordinated proceedings upon a determination by the United States Panel on Multidistrict Litigation (“the Panel”) that the transfer “will be for the convenience of parties and witnesses and will promote the just and efficient conduct of such actions.” §1407(a). The circumstances of the Related Actions support consolidation and transfer to the Northern District of California.

Each of the Related Actions involves claims by women who have suffered injury as the result of using the chemotherapy drug Taxotere. There are already over 50 Related Actions filed in 27 different federal district courts around the country. Transfer and coordination of the Related Actions will eliminate the risk of inconsistent rulings from various courts throughout the country,

1 conserve limited judicial resources, reduce litigation costs for all parties, and permit the cases to
2 proceed to trial in an efficient manner. There has been overwhelming support from the plaintiffs
3 in these actions for consolidation, and even the Defendants agree that consolidation and transfer is
4 the best course of action. With such overwhelming support from the parties, the Panel should
5 find consolidation and transfer would be “for the convenience of parties.” §1407(a).

6 As stated, Related Actions have been filed in 27 different courts across the country. The
7 parties generally agree that thousands more cases will likely be filed in this matter, due to the
8 widespread use of the drug and the significant percentage of women impacted by permanent hair
9 loss. As are the actions already filed, these thousands of cases will likely be spread throughout
10 the entire United States. Therefore, a “convenient” forum that will “promote the just and efficient
11 conduct” of these actions must have significant resources, be based in an easily accessible locale
12 for parties and witnesses from across the country, and have experienced jurists. § 1407(a). Based
13 on these considerations, Plaintiffs support transfer to the Northern District of California.

14 **II. The Northern District Of California Is Convenient For Parties and Witnesses.**

15 The Northern District of California would provide an excellent location for the anticipated
16 proceedings. A number of cases have already been filed in the district, and it is probable that
17 many more will follow because Sanofi-Aventis, the manufacturer, promoted Taxotere in Northern
18 California. It is also likely that expert witnesses will be located in the Northern District of
19 California because of the high concentration of top medical research centers in the area.
20 Researchers have conducted many clinical trials on Taxotere at the University of California, San
21 Francisco and at Stanford University.¹

22 Travel to the Northern District of California for litigation will be simple and cost-
23 effective. The San Francisco Bay Area is a major metropolitan area with multiple international
24 airports and vast resources for litigation support, providing exceptional convenience for witnesses
25 and parties not in the Northern District. Furthermore, numerous hotels and conference facilities
26 are located in cities throughout the region. Encompassing Silicon Valley, the Northern District
27

28 ¹ According to search results from ClinicalTrials.gov (a service of the U.S. National Institutes of Health) there have been up to 74 clinical trials involving Taxotere at UCSF and Stanford.

1 provides unparalleled access to the most cutting-edge technology, a critical benefit for such
2 complex and expansive litigation.

3 **III. The Northern District Of California Has An Experienced MDL Bench.**

4 The Northern District handles some of the country's most complex litigation and is more
5 than well-prepared to handle this voluminous tort litigation. As the Panel is aware, the Northern
6 District of California has a proven track record of efficiently managing many large MDLs and has
7 ample resources to handle this MDL. Furthermore, the Northern District has jurists that are more
8 than capable of handling such litigation. Plaintiffs' cases are currently in front of Judges
9 Haywood S. Gilliam and Lucy H. Koh.² Judge Gilliam is new to MDL as a judge, but would be
10 an excellent choice based on his experience with complex civil litigation. Judge Koh is an
11 extremely experienced and well-respected jurist who has proven her capability to manage MDLs
12 efficiently and effectively. In addition, the Northern District of California is home to many other
13 judges who have managed MDLs, including Judge Susan Illston, who handled the recently-
14 terminated MDL No. 1827 In Re: TFT-LCD (Flat Panel) Antitrust Litigation.

15 Accordingly, Plaintiffs respectfully request that the Panel order the actions to be
16 coordinated or consolidated for pretrial proceedings in the United States District Court for the
17 Northern District of California as the most efficient method for adjudicating these cases to a just
18 outcome.

19 Dated: September 7, 2016

Respectfully submitted,

21 /s/C. Brooks Cutter

22 C. Brooks Cutter
23 **CUTTER LAW, P.C.**
24 401 Watt Avenue,
25 Sacramento, CA 95864
26 bcutter@cutterlaw.com
27 Tel: 916.290.9400

*Attorneys for Plaintiffs Klara Ernys-Kofler
and Candyse Jenkins*

28 ² The Honorable Lucy H. Koh has been nominated for a position on the Ninth Circuit Court of Appeals but continues to await confirmation.

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PROOF OF SERVICE

Pursuant to Rule 4.1(a) of the Rules of Procedure for the United States Judicial Panel on Multidistrict Litigation, I hereby certify that a true and correct copy of the foregoing document was filed using the Court's electronic case filing system (CM/ECF) and that notice thereof was automatically sent to the e-mail addresses of all counsel of record.

Dated: September 7, 2016

Respectfully submitted,

 /s/ C. Brooks Cutter

C. Brooks Cutter
CUTTER LAW, P.C.
401 Watt Avenue,
Sacramento, CA 95864
bcutter@cutterlaw.com
Tel: 916.290.9400

*Attorney for Plaintiffs Klara Ernys-Kofler
and Candyse Jenkins*