BEFORE THE UNITED STATES JUDICIAL PANEL
ON MULTIDISTRICT LITIGATION

IN RE: LINEAR GADOLINIUM-BASED CONTRAST AGENTS PRODUCTS LIABILITY LITIGATION	MDL DOCKET NO. _____ BRIEF IN SUPPORT OF MOTION OF KATHLEEN GEISSE, Ph.D., CURTIS ULLESEIT, LISA WEHLMANN, PATRICIA YOUNG, BETH WINKLER, STEPHEN GOODELL, NIKKI ESSERMAN, GAIL MONTANI, DENISE McGRATH, HILARY DAVIS, SRIHARI MUNNURU, SUSAN FISCHER, MARCIA SABOL, MARCIN ZELAZNY, LORI COMBS, SEAN MILLER, DAWN WALTON, DEBRA JAVENS, GENA NORRIS AND CHUCK NORRIS FOR TRANSFER OF ACTIONS PURSUANT TO 28 U.S.C. SECTION 1407 TO THE NORTHERN DISTRICT OF CALIFORNIA FOR CENTRALIZED PRETRIAL PROCEEDINGS ORAL ARGUMENT REQUESTED

I. INTRODUCTION AND SUMMARY OF ARGUMENT

Pursuant to 28 U.S.C. § 1407 and Rule 6.2 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, Kathleen Geisse, Ph.D., Curtis Ulleseit, Lisa Wehlmann, Patricia Young, Beth Winkler, Stephen Goodell, Nikki Esserman, Gail Montani, Denise McGrath, Hilary Davis, Srihari Munnuru, Susan Fischer, Marcia Sabol, Marcin Zelazny, Lori Combs, Sean Miller, Dawn Walton, Debra Javens, Gena Norris and Chuck Norris ("Movants")[1]

[1] Movants' cases are: *Geisse, et al. v. Bayer Healthcare Pharmaceuticals Inc., et al.* 3:17-cv-07026-JD, ND CA; *Young v. v. Bayer Healthcare Pharmaceuticals Inc., et al.* 3:18-cv-00811-JD, ND CA; *Winkler v. v. Bayer Healthcare Pharmaceuticals Inc., et al.* 3:18-cv-03077-JD, ND CA;; *Goodell v. v. Bayer Healthcare Pharmaceuticals Inc., et al.,* 1:18-cv-10694-IT, D MA

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 subsequently filed cases involving similar facts or in ("tag-along" actions), to the United States District Court for the Northern District of California.

Each of the twenty-one (21)) currently filed cases included on the Schedule of Actions involve claims by patients who have suffered retention of Linear Gadolinium-Based Contrast Agents (hereinafter referred to as "Linear GBCAs"), resulting in retention of toxic gadolinium in their organs, bone and tissues, as a result of receiving MRI (Magnetic Resonance Imaging) and MRA (Magnetic Resonance Angiography) procedures using intravenous injections of Linear GBCAs manufactured, marketed, sold and/or distributed by or on behalf of one or more of the defendants in this action. The cases have been filed by multiple law firms representing clients throughout the United States.

Transfer and centralization is proper because each of these actions and future tag-along cases arise out of the same or similar nucleus of operative facts and the same or similar wrongful conduct, and will involve resolution of the same or similar questions of fact and law. In addition,

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(Boston); *Esserman v. Bracco Diagnostics, Inc., et al.* 1:18-cv-21396-KMM, SD FL (Miami); *Montani v. Bracco Diagnostics, Inc.* 4:18-cv-10054-KMM; SD FL (Key West); *McGrath v. v. Bayer Healthcare Pharmaceuticals Inc., et al.* 1:18-cv-02134-JRD-VMS, ED NY (Brooklyn); *Davis v. McKesson Corporation, et al.* 2:18-cv-01157-DGC; D AZ (Phoenix); *Munnuru v. Guerbet LLC, et al.* 2:18-cv-01159-DGC, D AZ (Phoenix); *Fischer v. v. Bayer Healthcare Pharmaceuticals Inc., et al.* 2:18-cv-01778-DGC, D AZ (Phoenix); *Sabol v. v. Bayer Healthcare Pharmaceuticals Inc., et al.* 8:18-cv-00850-CEH-AEP MD FL (Tampa); *Zelazny v. v. Bayer Healthcare Pharmaceuticals Inc., et al.* 1:28-cv-03246-JGK, SD NY (Foley Square); *Combs v. Bayer Healthcare Pharmaceuticals Inc., et al.* 1:18-cv-00802-DCN, ND OH (Cleveland); *Miller v. GE Healthcare, Inc., et al.* 3:18-cv-00113-TMR, SD OH (Dayton); *Walton v. GE Healthcare Inc., et al.* 2:18-cv-00605-SU, D OR (Pendleton(2)); *Javens v. GE Healthcare, Inc., et al.* 1:18-cv-01030-RGA, D DE (Wilmington), and *Norris v. McKesson Corporation et al.* 3:18-cv-04314-CS, ND CA, transfer pending to the SD TX

pretrial discovery in all the cases will be substantially similar and will involve the same liability and general causation documents and witnesses.

There are currently twenty-one (21) cases pending in twelve (12)) federal district courts, before fourteen (14) different judges. The undersigned counsel believe the number of Linear GBCA cases yet to be filed will likely be in the hundreds or more due to the widespread use of Linear GBCAs in MRI and MRA procedures and the significant percentage of patients who may be impacted by gadolinium retention in their organs, bones and tissues.

For the reasons that follow, the United States District Court for the Northern District of California is the most appropriate venue to consolidate these cases: (1) Five cases are currently pending in the Northern District of California[2]; (2) two of the defendants named in several of the cases are headquartered in the Northern District of California[3]; (3) the Northern District of California is home to many respected jurists who have expeditiously and successfully handled multidistrict and complex litigation; (4) the District has sufficient capacity to adjudicate this litigation; (5) San Francisco is an easily accessible and convenient forum for the anticipated number of geographically dispersed cases that are on file and expected to be filed; and (6) the Clerk of Court of the Northern District of California has expertise in efficiently managing complex multidistrict litigations, many of which involved large numbers of daily filings.

In the alternative, the District of Massachusetts would also be an appropriate venue.

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[2] *Kathleen Geisse, Ph.D., et al. v. Bayer Healthcare Pharmaceuticals Inc., et al.*, No. 3:17-cv-07026-JD, Judge James Donato; *Patricia Young v. Bayer Healthcare Pharmaceuticals Inc. et al.*, No. 3:18-cv-00811-JD, Judge James Donato; *Beth Winkler v. Bayer Healthcare Pharmaceuticals Inc., et al.*, No. 3:18-cv-03077-JD, Judge James Donato; *Joseph Lewis v. Bayer Healthcare Pharmaceuticals Inc. et al.*, No. 3:18-cv-04146-LB, Magistrate Judge Laurel Beeler

[3] McKesson Corporation, headquartered in San Francisco, is a named defendant in XX of the cases; McKesson Medical-Surgical, Inc., headquartered in San Francisco, is a named defendant in XX of the cases

II. BACKGROUND, AND FACTUAL AND LEGAL CONTENTIONS

A. Background

Movants and plaintiffs in these actions are people with normal or near-normal kidney function who underwent one or more MRI or MRA procedures in which a Linear GBCA manufactured, marketed, sold and/or distributed by one or more of the defendants was administered by injection during the procedure(s). As a result of receiving a Linear GBCA, they developed symptoms consistent with the known toxic effects of retained gadolinium which can include fibrosis in bones, organs and skin, and deposition in the neuronal nuclei of the brain. Typical clinical features of gadolinium retention are similar to those of other heavy metal poisoning, and include persistent headaches, bone and joint pain, and clouded mental acuity. People with gadolinium retention often experience subcutaneous soft-tissue thickening that clinically appears somewhat spongy or rubbery. Tendons and ligaments may also be painful and have a thickened appearance. People with gadolinium retention often experience excruciating pain, typically in a distal distribution in the arms and legs, but it may also manifest in the torso or other locations. This pain is often described as feeling like sharp pins and needles, or cutting and or burning sensations. Gadolinium retention often progresses to painful inhibition of the ability to use the arms, legs, hands, feet and other joints. It is a progressive disease for which there is no known cure. Gadolinium retention occurs only in patients who have received a gadolinium-based contrast agent for an MRI or an MRA because gadolinium does not occur naturally in the body, cannot be ingested, and because there is no other environmental source. No pre-existent disease or subsequently developed disease of an alternate known process is present to account for the symptoms that these patients experience.

The pending actions involve common defendants who manufacture, market, distribute and/or sell linear GBCAs throughout the United States. They include: (1) Bayer HealthCare Pharmaceuticals Inc., Bayer Corporation, and Bayer Healthcare LLC, (hereinafter "Bayer") who

manufacture, market, distribute and sell the Linear GBCA "Magnevist"; GE Healthcare Inc. and General Electric Company, (hereinafter "GE") who manufacture, market, distribute and sell the Linear GBCA "Omniscan"; (3) Guerbet, LLC; Mallinckrodt Inc., Mallinckrodt LLC, and Liebel-Flarsheim Company LLC, hereinafter ("Guerbet") who manufacture, market, distribute and sell the Linear GBCA "OptiMark"; and (4) Bracco Diagnostics Inc., (hereinafter "Bracco") who manufactures, markets, distributes and sells the Linear GBCA "MultiHance."

Patients who undergo more than one MRI or MRA may be exposed to Linear GBCAs made by more than one manufacturing defendant. Therefore, the coordination and consolidation of these cases is especially suited to resolve all claims for damages related to Linear GBCAs.

During the years that Defendants manufactured, marketed, distributed, sold, and administered Linear GBCAs, there have been numerous case reports, studies, assessments, papers, peer reviewed literature, and other clinical data that have described and/or demonstrated gadolinium retention in connection with the use of Linear GBCAs.

There are two basic types of contrast agents differentiated by their chemical structure – linear agents and macrocyclic agents. The main difference is that the linear agents do not fully surround the gadolinium ion, whereas the macrocyclic agents form a more complete ring around the gadolinium ion which creates a stronger bond. Defendants failed to warn Plaintiffs and their healthcare providers about the serious health risks associated with Linear GBCAs and failed to disclose the fact that there were safer alternatives (e.g., macrocyclic agents instead of linear agents).

Dermatologists, nephrologists, and other scientists previously connected the administration of Linear GBCAs to a rapidly progressive, debilitating and often fatal condition called gadolinium-induced "Nephrogenic Systemic Fibrosis" (NSF), prompting the Food and Drug Administration (FDA) to issue a black box warning regarding the release of toxic gadolinium, and its long-term retention in the bodies of animals and humans (for patients with abnormal kidney function) on all gadolinium-based contrast agents in 2007. Defendants

amended their labels to include contraindications for use in people with kidney disease and acute kidney injury, but did not include any such warnings for patients with normal kidney function.

There were over 500 NSF cases reported and estimated to be well over a thousand non-reported. MDL 1909 against the defendants in the current litigation concerned the role of GBCA's in causing NSF. A trial in that litigation resulted in a verdict in favor of the plaintiff and against GE. The litigation resolved and the MDL was formally closed in 2015. Due to the new black box warning in the GBCA's labeling, doctors stopped using GBCAs in patients with abnormal kidney function. However, the warnings for patients with normal kidney function remained unchanged until May 21, 2018, and as a result, the linear GBCAs continued to be widely used and marketed notwithstanding the Defendants' knowledge of the dangers of the product. The cases that this motion seeks to transfer and coordinate are pending throughout the country and involve widespread fibrosis and other symptoms in the bodies of patients with normal kidney function.

On May 21, 2018, the four GBCA manufacturers issued a joint warning to patients with normal kidney function. This new "Important Drug Warning" issued by Bayer, GE, Bracco, and Guerbet included the following:

a. "Subject: Gadolinium from GBCAs may remain in the body for months to years after injection;"
b. A new class warning, patient counseling, and a medication guide;
c. Warning that gadolinium is retained for months to years in several organs;
d. Warning that the highest concentrations of retained gadolinium are found in bone, followed by organs (brain, skin, kidney, liver, and spleen);
e. Warning that the duration of gadolinium retention is longest in bone and varies by organ;
f. Warning that linear GBCAs cause more retention than macrocyclic GBCAs;
g. Warning about reports of pathological skin changes in patients with normal

renal function;

h. Warning that adverse events involving multiple organ systems have been reported in patients with normal kidney function;

i. Warning that certain patients are at higher risk:

   i. patients with multiple lifetime doses;

   ii. pregnant patients;

   iii. pediatric patients;

   iv. patients with inflammatory process;

j. Instructions for health care providers to advise patients that:

   i. Gadolinium is retained for months or years in brain, bone, skin, and other organs in patients with normal renal function;

   ii. Retention is greater following administration of linear GBCAs than following administration of macrocyclic GBCAs.

Based on the foregoing, and Movants' damages resulting from the conduct of the Defendants, Movants have brought numerous identical claims against Defendants including strict products liability: failure to warn and negligence. See Exhibit 1, *Davis v. Bayer Healthcare Pharmaceuticals, et al*. Complaint, and Exhibit 4, *Geisse, et al.v. Bayer Healthcare Pharmaceuticals, et al*., Complaint.

III. LEGAL STANDARD

Actions containing allegations with common questions of fact may be transferred and consolidated or coordinated pursuant to Section 1407 if transfer will facilitate the convenience of the parties and witnesses, and will promote the just and efficient conduct of the transferred cases. 28 U.S.C. § 1407. The Panel typically considers four factors in deciding whether to transfer a case under Section 1407:

a. the elimination of duplication in discovery;

b. the avoidance of conflicting rules and schedules;

c. the reduction of litigation cost; and

d. the conservation of the time and effort of the parties, attorneys, witnesses and courts.

See Manual for Complex Litigation (Fourth) § 20.131 (2004) (citing *In re Plumbing Fixture Cases*, 298 F. Supp. 484 (J.P.M.L. 1968)). Each of these factors weigh strongly in favor of transfer and consolidation of the cases filed against Defendants Bayer, GE, Guerbet, and Bracco.

IV. ARGUMENT

A. Transfer and centralization of the Linear Gadolinium-Based Contrast Agents Product Liability Litigation is appropriate and necessary.

The underlying purpose of transferring related actions under 28 U.S.C. § 1407 is to serve the convenience of the parties and witnesses and promote the just and efficient adjudication of actions. See *In re Hydrogen Peroxide Antitrust Litigation*, 374 F.Supp.2d 1345, 1346 (J.P.M.L. 2005). On the specific issue of whether to centralize in a single district, the Panel considers the convenience of the parties and witnesses, the number of related actions, and the complexity of the common questions of fact. See *In re DaimlerChrysler Corp. Seat Belt Buckle Products Liability Litigation*, 217 F.Supp.2d 1376, 1377 (J.P.M.L. 2002).

The Linear Gadolinium-Based Contrast Agents cases are well-suited for centralization under Section 1407. Though scattered across the country, these cases are all closely related. The cases name one or more of the same four Defendants, assert the same basic theories of liability, and involve the same general factual allegations. The cases all will involve the same core of lay and expert witness and document discovery. Most importantly, this is the ideal time to centralize these cases, because none of the Linear Gadolinium-Based Contrast Agents cases has progressed past the initial stages of litigation. None of the actions has resulted in production of documents or discovery of experts and other key witnesses. Consequently, the

goals of efficiency and coordination can best be met by transferring all filed cases to one MDL Judge.

1. **The litigation involves common questions of fact and law, and involves common issues for discovery**.

A critical factor in transferability and coordination under Section 1407 is the presence of common questions of fact. *See In re Federal Election Campaign Act Litigation*, 511 F.Supp.821, 823 (J.P.M.L. 1979). To date, _twenty-one (21)actions are pending against Defendants in twelve (12)) different federal judicial districts. Movants expect substantial numbers of additional cases to be filed in various districts based on the wide-spread use of Linear GBCAs by people who have undergone MRIs or MRAs, were injected with these Linear GBCAs as part of the procedure, and now experience the painful, debilitating, and incurable toxic effects of gadolinium retention. GBCAs are used in at least 33-50% of all MRIs. Over 1.5 million MRIs with linear contrast are performed each year[4]. (Exhibit A) Each of these actions includes substantially similar claims and seeks substantially similar relief. Among the common questions of fact are:

(1) Whether Defendants conducted complete and adequate studies of their Linear GBCAs;

(2) When the Defendants first learned of the connection between Linear GBCAs and gadolinium retention and its toxic effects;

(3) Whether and to what extent Defendants misrepresented the efficacy of their Linear GBCAs as compared to other alternatives such as macrocyclic GBCAs;

(4) Whether and to what extent Defendants' Linear GBCAs have caused, or will cause harmful effects in patients with normal or near-normal kidney function who received

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[4] (Exhibit A, Medical Imaging Drugs Advisory Committee Meeting, *Gadolinium Retention after Gadolinium Based Contrast Magnetic Resonance Imaging in Patients with Normal Renal function, FDA Briefing Document*, September 8, 2017, Appendix Tables 1 and 3.)

the drugs;

(5) The nature and extent of damages suffered by Plaintiffs as a result of receiving injections of Linear GBCAs;

(6) Whether, and for how long, Defendants concealed their internal knowledge of the dangers of Linear GBCAs from physicians, patients, and the scientific community; and,

(7) Whether and to what extent Defendants failed to provide accurate information and proper warnings to patients, physicians, and healthcare providers in the United States.

Under Section 1407, the transfer and consolidation of these _twenty-one (21) (XX) Linear GBCA actions, and the many anticipated actions to be filed in the near future, is appropriate and will serve the purposes of judicial economy, national coordination of discovery and other pretrial efforts, will prevent duplicative and potentially conflicting pretrial efforts and rulings, and will reduce the costs of litigation and allow cases to proceed more efficiently to trial.

2. Pretrial centralization of the Linear GBCA cases will promote the just and efficient conduct of these cases and will enhance the convenience of the litigation as a whole.

Centralization will foster the just and efficient conduct of these actions by preventing duplicative discovery and preventing inconsistent resolution of pretrial issues. Transferring these cases pursuant to 28 U.S.C. § 1407 would enhance the efficiency and expediency of this litigation. On the other hand, failing to centralize would force all parties to take repetitive and/or redundant pre-trial discovery, and would very likely lead to inconsistent and conflicting rulings across the country concerning discovery and other pretrial matters.

Transfer and coordination/consolidation of the actions will best serve the interests of justice and efficiency by permitting a single court to coordinate discovery and resolve disputes

common to the pending actions, thus avoiding unnecessary taxing of the judicial system's and the litigants' finite resources. *See, e.g., In re Temporomandibular Joint (TMJ) Implant Products Liability Litigation*, 1553, 1554 (J.P.M.L. 1994). Because of the number of current and anticipated Linear GBCA claims and the existence of common questions of fact, the requirements for transfer under Section 1407 are easily met here. Additionally, separate, unconsolidated pretrial proceedings in the cases that have been and will be filed would greatly increase the costs of this litigation for all parties, waste judicial resources, and create a significant risk of inconsistent rulings on these common questions of fact.

3. Cases against all four defendants should be consolidated into a single MDL

Many of the Movants and Plaintiffs in these cases had multiple MRIs, and as a result, were injected with Linear GBCAs manufactured by more than one defendant. See, e.g. *Fischer v. Bayer, et al.*, Case No. 2:18-cv-01778, D AZ)[5]. Accordingly, their complaints name each of the relevant manufacturers. Id. While occasionally the Panel creates multiple MDLs involving similar products made by different manufacturers that would not be an efficient practice here where many of the cases will involve multiple defendants. Efficiency and fairness will best be served by the creation of a single MDL including the four defendants.

There is relevant precedent for a single consolidated MDL for this litigation. In the first Gadolinium MDL (MDL 1909) the Panel sent all of the cases against the four manufacturers to Judge Dan Aaron Polster in the Northern District of Ohio. That MDL was not unwieldy and resulted in the efficient resolution of all of the federal cases against the manufacturers.

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[5] The *Fischer* case involves three of the four defendants: Bayer, Guerbet, and Bracco.

The logic of a single MDL is further supported by the fact that the Defendants acted in concert in issuing their recent "Important Drug Warning." They collaborated and issued a single warning that covered all of the gadolinium-based contrast agents that each defendant produces. See *Exhibit B.* Discovery into the process by which the Joint Warning was agreed upon and issued will be an important element of the coordinated proceeding and is best served by appointing a single MDL judge with all four defendants in front of that Court.

B. The Northern District of California is the most appropriate venue to centralize the Linear GBCA cases.

1. The Northern District of California has an impressive track record of effectively handing complex multidistrict litigations and has the capacity to adjudicate this case.

The Northern District of California is the ideal court to effectively manage a complex products liability case such as this, in part because of the Court's familiarity and experience with multidistrict litigation, including product liability actions involving pharmaceutical drugs.

In determining an appropriate transferee forum, the Panel balances a number of factors including: the experience, skill and caseloads of the available judges; number of cases pending in the jurisdiction; convenience of the parties; location of the witnesses and evidence; and the minimization of cost and inconvenience to the parties. *See, e.g., In re Regents of University of California*, 964F.2d 1128, 1136 (Fed. Cir. 1992); *In re Wheat Farmers Antitrust Class Action Litig.*, 366 F. Supp. 1087, 1088 (J.P.M.L. 1973); *In re Preferential Drugs Prods. Pricing Antitrust Lit*ig., 429 F. Supp. 1027, 1029 (J.P.M.L. 1977); *In re Tri-State Crematory Litig.*, 206 F. Supp. 1376, 1378 (J.P.M.L. 2002); Annotated Manual of Complex Litigation (Fourth) (2004), §20.131, at 303-304. Of the factors the Panel considers when determining the transferee forum, experience, number of pending cases, and available resources most notably

weigh in favor of transferring all related cases to the Northern District of California.

The judges of the Northern District of California are well suited to handle this multidistrict litigation. Many of them have successfully, either partially or completely presided over complex, multidistrict litigation cases such as this one, including but not limited to: *In re: Bextra and Celebrex Marketing and Sales Practices Litigation*, MDL 1699 (Judge Breyer), *In re: Google Android Consumer Privacy,* MDL 2264 (Judge White), *In re: TFT-LCD (Flat Panel) Antitrust Litigation,* MDL 1827, (Judge Illston),[6] and *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL-2796,.(Judge Breyer).

Another relevant factor is the transferee court's capacity to handle the cases. This Panel has historically favored districts where the transferred cases will not add to an already overburdened docket. *See, e.g., In re Webvention LLC ('294) Patent Litigation*, 831 F.Supp.2d 1366, 1367 (J.P.M.L. 2011) (avoiding transfer to districts with "large civil caseloads" and choosing a transferee court with "more favorable" docket conditions).

The Northern District of California has a long history of managing multi-district cases effectively and expeditiously. Judge James Donato, who already has three of the five Linear GBCA cases filed in the Northern District of California coordinated before him, has expressed interest in these cases, and as an experienced jurist with a docket that includes significant complex litigation, would be well-suited for this MDL.

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[6] *United States Judicial Panel on Multidistrict Litigation, Multidistrict Litigation Terminated Through September 30, 2017,* pp. 34 – 36. Another four were terminated between January and June 2018. http://www.jpml.uscourts.gov/sites/jpml/files/Recently_Terminated%20MDLs-1-1-2018_to_6-15-2018.pdf

2. The Northern District of California is well-equipped to manage the litigation.

The efficiency and experience of the Clerk's office in a district court is essential to the successful management and administration of a complex multidistrict litigation. The Clerk's office of the Northern District of California has handled an enormous volume of filings in MDL cases over the years. In fact, according to the *United States Judicial Panel on Multidistrict Litigation, Multidistrict Litigation Terminated Through September 30, 2017,* only two other courts, the Southern District of New York and the Central District of California, with 165 and 104 cases, respectively, had completed more coordinated proceedings than the Northern District of California. *Id.* at pp. 6, 37. As of September 30, 2017, the judges of the Northern District of California have completed 91 multidistrict litigations. *Id.* at p. 34. Another four were terminated between January and June 2018. http://www.jpml.uscourts.gov/sites/jpml/files/Recently_Terminated%20MDLs-1-1-2018_to_6-15-2018.pdf

3. The Northern District of California is central and convenient to the parties and witnesses.

Another important factor for consideration by this Panel is whether the district court provides a convenient forum and easy access for the parties and witnesses. Presently, the largest concentration of Linear GBCA cases is in the US District Court for the Northern District of California. The other thirteen (13) cases are scattered throughout the country in US District Courts in Arizona, Florida, Massachusetts, New York, Ohio, Oregon and Delaware.

The federal courthouse in San Francisco is easily accessible to air and ground transportation and has a large number and variety of hotels near the courthouse.

Furthermore, there are currently several Linear GBCA cases filed in two state superior courts in California. These include four (4) cases on file in the San Francisco County Superior

Court. The San Francisco Superior Court's Complex Litigation Department has extensive experience with coordinated gadolinium cases, as it served as the venue under California's judicial coordination procedures in JCCP 4546, the *Gadolinium Medical Cases,* from August 15, 2008 until the litigation was terminated on June 24, 2015. The San Francisco Superior Court also worked closely in coordinating with the MDL proceedings for *In re: Gadolinium-Based Contrast Agents Products Liability Litigation*, MDL 1909, in the Northern District of Ohio, which was terminated on April 30, 2015.

The current Linear GBCA cases and the previous gadolinium cases involve the same manufacturing defendants and contrast agent products. State coordinated proceedings are likely in this case as well. Coordination in the Northern District of California would benefit all parties by having one main geographical location for all cases, the opportunity for close cooperation between the federal and state courts in San Francisco, and the extensive experience of the San Francisco Superior Court with the previous gadolinium litigation.

For these reasons, the Northern District of California offers a very convenient and central location, and is thus an appropriate choice to serve as the transferee court for this multidistrict litigation. Movants are confident that any Judge of the Northern District of California will promote the goal of a just resolution of these cases as speedily, inexpensively, and fairly as possible.

C. The District of Massachusetts is an appropriate alternative venue.

In the event that the Northern District of California is not chosen, Movants propose the District of Massachusetts in Boston as an alternative venue.

This court is currently home to two Linear GBCA cases, *Goodell v. Bayer Healthcare Pharmaceuticals, Inc., et al.* 1-18-cv-10694-IT and *Viuret v.Bayer Healthcare Pharmaceuticals, Inc., et al.* 1:18-cv-11611. The District of Boston has judges who are capable of handling this type of litigation, and Boston has major air and ground transportation facilities and major hotels

convenient to the courthouse. Moreover, one of the defendants, GE Healthcare, Inc., is headquartered in Boston.

The *Goodell* case is pending before Judge Indira Talwani. Judge Talwani is an experienced MDL judge and currently presides over the Stryker LFIT V40 Femoral Head Products Liability Litigation, MDL 2768. The *Virtuet* case is unassigned.

Although there is no doubt that many of the Judges of the federal judiciary are fully capable of coordinating and managing a successful MDL the District of Massachusetts is both easily accessible and is not burdened by an already congested docket. A Linear GBCA MDL would benefit from a forum with ample resources to oversee the efficient resolution of these actions as well as a judiciary with prior MDL experience. The District of Massachusetts provides both.

Under these circumstances, the District of Massachusetts, principal place of business for GE Healthcare Inc., and the Honorable Indira Talwani are a good alternative to the Northern District of California to "promote the just and efficient conduct of [the] actions" and advance the "convenience of parties and witnesses" 28 U.S.C.A §1407.

IV. CONCLUSION

For all the foregoing reasons, Movants Kathleen Geisse, Ph.D., Curtis Ulleseit, Lisa Wehlmann, Patricia Young, Beth Winkler, Stephen Goodell, Nikki Esserman, Gail Montani, Denise McGrath, Hilary Davis, Srihari Munnuru, Susan Fischer, Marcia Sabol, Marcin Zelazny, Lori Combs, Sean Miller, Dawn Walton, Debra Javens, Gena Norris and Chuck Norris

respectfully move for an Order transferring all Related Actions and any future Linear GBCA product liability cases to the United States District Court for the Northern District of California, or, in the alternative to the United States District Court for the District of Massachusetts, for consolidated or coordinated pretrial proceedings.

Date: July 31, 2018

Respectfully Submitted,

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