

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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4  
5 MICHAEL A. ARNOLD, et al.,

6 Plaintiffs,

7 v.

8 BRISTOL-MYERS SQUIBB  
9 COMPANY, et al.,

10 Defendants.

NO. C12-6426 TEH

ORDER GRANTING  
DEFENDANT'S MOTION TO  
STAY

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12 On December 20, 2012, Defendant Bristol-Myers Squibb Company filed a motion to  
13 relate this case to *Caouette v. Bristol-Myers Squibb Co.*, Case No. 12-1814 EMC, and the  
14 parties filed a stipulation to relate the two cases on the same day. The motion remains  
15 pending before Judge Edward M. Chen.

16 On February 20, 2013, the Judicial Panel on Multidistrict Litigation (“JPML”)   
17 conditionally transferred this case to the United States District Court for the District of New  
18 Jersey as part of Multidistrict Litigation (“MDL”) No. 2418, *In re: Plavix Marketing, Sales*  
19 *Practices and Products Liability Litigation (No. II)*. Plaintiffs have opposed the conditional  
20 transfer order, and the JPML’s consideration of whether to transfer this case remains  
21 pending.

22 Defendant now moves to stay proceedings in this Court pending possible transfer by  
23 the JPML and possible relation by Judge Chen. After carefully considering the parties’  
24 written arguments, the Court finds oral argument to be unnecessary and now VACATES the  
25 hearing scheduled for April 8, 2013.

26 This Court has the inherent power to control its own docket, including the power to  
27 stay proceedings in the interests of judicial economy. *Landis v. N. Am. Co.*, 299 U.S. 248,  
28 254-55 (1936). When considering whether to grant a stay, courts consider: “(1) conserving

1 judicial resources and avoiding duplicative litigation; (2) hardship and inequity to the moving  
2 party if the action is not stayed; and (3) potential prejudice to the non-moving party.” *In re*  
3 *Apple iPhone Application Litig.*, Case No. 10-CV-05878-LHK, 2011 WL 2149102, at \*2  
4 (N.D. Cal. May 31, 2011). These factors weigh in favor of a stay in this case. First, it is  
5 undisputed that motions to remand are pending before multiple judges in this district in  
6 similar cases. Staying this case pending possible relation to a single judge in this district or  
7 to the MDL court would promote judicial economy and uniform decision-making. Second,  
8 Defendant might suffer hardship and inequity if this Court were to decide Plaintiffs’ motion  
9 to remand before Judge Chen or the JPML determines whether transfer is appropriate. If the  
10 Court were to deny the motion to remand and this case were later transferred, Judge Chen or  
11 the MDL court could revisit the issue, thus forcing Defendant to relitigate it. On the other  
12 hand, if the Court were to grant the motion, and Judge Chen or the MDL court ultimately  
13 decided in other similar cases that removal was proper, Defendant would be prejudiced by  
14 having to litigate this case in state court instead of before Judge Chen or the MDL court.  
15 *Leeson v. Merck & Co., Inc.*, No. CIV. S-05-2240 WBS PAN, 2006 WL 3230047, at \*4  
16 (E.D. Cal. Jan. 27, 2006). Third, Plaintiffs have identified no potential prejudice from a stay,  
17 and this Court finds none. If this case is transferred or related, Plaintiffs can present their  
18 remand motion to Judge Chen or the MDL court. Additionally, Plaintiffs have already  
19 opposed the conditional transfer order by the JPML, and Defendant’s reply is due today, so  
20 any stay is not likely to be long in duration.

21 Accordingly, with good cause appearing, Defendant’s motion to stay proceedings is  
22 GRANTED.<sup>1</sup> The May 20, 2013 case management conference is hereby VACATED.

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24 <sup>1</sup>This Court joins other courts in this district that have granted motions to stay in  
25 similar cases. Mar. 25, 2013 Order Vacating Hearings & Staying Proceedings, *Vanny v.*  
26 *Bristol-Myers Squibb Co.*, Case No. 12-5752 SI (Docket No. 32) (granting identical motion  
27 to stay); Mar. 14, 2013 Order Granting Mot. to Stay, *Aiken v. Bristol-Myers Squibb Co.*, Case  
28 No. 12-5208 RS (Docket No. 34) (same); *see also* Jan. 22, 2013 Order Staying Litig. Pending  
Decision by Judicial Panel on Multidistrict Litig., *Belinda v. Bristol-Myers Squibb Co.*, Case  
No. 12-5941 YGR (Docket No. 15) (staying case pending decision by JPML to create  
consolidated proceeding); Dec. 3, 2012 Order Staying Litig. Pending Decision by MDL  
Judicial Panel, *Kinney v. Bristol-Myers Squibb Co.*, Case No. 12-4477 EMC (and nine  
related cases) (Docket No. 26) (same).

1 Plaintiffs may re-notice their motion to remand if Judge Chen does not relate this case and  
2 the JPML does not transfer this case to the MDL court. Prior to doing so, the parties shall  
3 meet and confer to discuss whether supplemental briefing on the remand motion is required  
4 and, if so, to stipulate to a briefing schedule. The noticed hearing date must be at least two  
5 weeks after both the date of the re-notice and the deadline to file supplemental briefs, if any.

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**IT IS SO ORDERED.**

Dated: 04/03/13

  
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THELTON E. HENDERSON, JUDGE  
UNITED STATES DISTRICT COURT