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4 UNITED STATES DISTRICT COURT  
5 NORTHERN DISTRICT OF CALIFORNIA

6 A.D., et al.,

7 Plaintiffs,

8 v.

9 PFIZER, INC., et al.,

10 Defendants.

Case No. [13-cv-02466-JST](#)

**ORDER GRANTING MOTION TO  
STAY; DENYING MOTION TO  
REMAND WITHOUT PREJUDICE;  
DENYING MOTION TO FILE A SUR-  
REPLY AS MOOT**

Re: ECF Nos. 7, 19, 21, 32

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13 In this products liability action, Defendants Pfizer Inc. (“Pfizer”), including its former  
14 division J.B. Roerig & Co., and Pfizer International LLC (“Pfizer International”) move to stay the  
15 case pending a decision by the JPML as to the transfer of this action to MDL No. 2342. Plaintiffs  
16 oppose the motion to stay and move to remand the action to the San Francisco Superior Court.  
17 For the reasons set forth below, the motion to stay is GRANTED and the motion to remand is  
18 DENIED WITHOUT PREJUDICE.

19 **I. BACKGROUND**

20 Plaintiffs filed this action in San Francisco Superior Court on April 5, 2013, for claims  
21 arising of the injuries and birth defects allegedly caused by the use of the prescription drug Zolof,   
22 which is manufactured and distributed by Defendants Pfizer, Inc., Pfizer International LLC,  
23 Greenstone LLC, J.B. Roerig & Co., and McKesson Corporation. Defendants removed this action  
24 on the basis of diversity of citizenship.

25 The Judicial Panel on Multidistrict Litigation (“JPML”) established MDL No. 2342 on  
26 April 17, 2012, (“Zolof MDL”) to coordinate pending federal Zolof cases alleging birth defects.  
27 See In re Zolof (Sertraline Hydrochloride) Prods. Liab. Litig., 856 F. Supp. 2d 1347 (J.P.M.L.  
28 2012).

1 After Defendants removed this case, they identified the action to the JPML as a potential  
2 tag-along action for transfer to the Zolof MDL.

3 Defendants move to stay this action pending a final decision by the JPML as to their  
4 transfer petition. Plaintiffs oppose the motion to stay and move instead to remand the action.

## 5 II. LEGAL STANDARD

6 A district court's discretion to stay proceedings "is incidental to the power inherent in  
7 every court to control disposition of the cases on its docket with economy of time and effort for  
8 itself, for counsel, and for litigants." Landis v. N. Am. Co., 299 U.S. 248, 254 (1936). In  
9 determining whether a stay is warranted pending the JPML's determination of a transfer petition,  
10 courts consider the "(1) potential prejudice to the non-moving party; (2) hardship and inequity to  
11 the moving party if the action is not stayed; and (3) the judicial resources that would be saved by  
12 avoiding duplicative litigation if the cases are in fact consolidated." Couture v. Hoffman-La  
13 Roche, Inc., No. 12-cv-2657-PJH, 2012 WL 3042994 (N.D. Cal. July 25, 2012) (quoting Rivers v.  
14 Walt Disney Co., 980 F.Supp. 1358, 1360 (C.D. Cal.1997) (citation omitted)).

15 When motions to stay and to remand are pending, "deference to the MDL court for  
16 resolution of a motion to remand often provides the opportunity for the uniformity, consistency,  
17 and predictability in litigation that underlies the MDL system." Id. (citation and internal quotation  
18 marks omitted). In deciding whether to rule on the motion to remand, "courts consider whether  
19 the motion raises issues likely to arise in other actions pending in the MDL transferee court."  
20 Conroy v. Fresh Del Monte Produce, Inc., 325 F. Supp. 2d 1049, 1053 (N.D. Cal. 2004).

## 21 III. DISCUSSION

22 The Court concludes that each of the factors discussed above weighs strongly in favor of  
23 staying this action pending the JPML's final resolution of the transfer petition.

24 The potential prejudice to Plaintiffs that could result from a stay is minimal, as the JPML's  
25 decision is likely to be issued shortly. On the other hand, Defendants would face the risk of  
26 unnecessary proceedings and inconsistent rulings on recurring questions of law and fact if the case  
27 is not stayed. Finally, as several courts throughout the country have recognized, staying a Zolof  
28 action pending a final decision as to whether the action should be transferred to the Zolof MDL

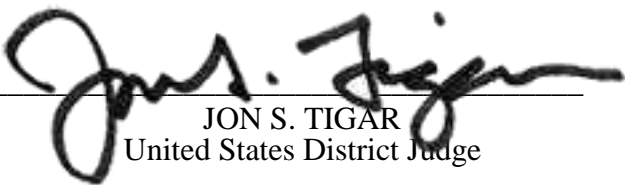
1 promotes judicial economy. See, e.g., J.W. v. Pfizer, Inc., 13-cv-00318-YGR, 2013 WL 1402962,  
2 at \*4 (N.D. Cal. Apr. 5, 2013) (granting motion to stay on the grounds that staying the action  
3 pending a final decision by the JPML would promote judicial economy and lead to “consistent  
4 rulings and efficient consideration of common issues”).

5 **IV. CONCLUSION**

6 Defendants’ motion to stay this action pending a final determination by the JPML as to the  
7 transferability of this action to MDL No. 2342 is GRANTED. Plaintiffs’ motion to remand is  
8 DENIED WITHOUT PREJUDICE. Defendants’ motion to file a sur-reply to the motion to  
9 remand is DENIED AS MOOT. Plaintiffs shall file a motion to lift the stay in the event that the  
10 JPML issues a final order denying Defendants’ requested transfer.

11 **IT IS SO ORDERED.**

12 Dated: July 26, 2013

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15 JON S. TIGAR  
16 United States District Judge  
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