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

ROSALYNN ALAIMALO, et al.,

No. C 13-3146 MMC

Plaintiffs,

v.

**ORDER GRANTING DEFENDANT
GLAXOSMITHKLINE LLC'S MOTION TO
STAY; VACATING SEPTEMBER 6, 2013
HEARING**

MCKESSON CORPORATION, et al.,

Defendants.

Before the Court is defendant GlaxoSmithKline LLC's motion, filed July 22, 2013, to "Stay All Proceedings Pending Transfer by the Judicial Panel on Multidistrict Litigation to MDL 1871 (E.D.PA)." Plaintiffs have filed opposition, to which defendant has replied. Having read and considered the papers filed in support of and in opposition to the motion,¹ the Court deems the matter suitable for decision on the parties' respective written submissions, VACATES the hearing scheduled for September 6, 2013, and rules as follows.

The instant complaint "involves claims of death, personal injury, economic damages, punitive damages, and other claims of damage" arising from the use of Avianda²

¹After briefing was complete, plaintiffs filed a Motion for Leave to File Sur-reply, attached to which is a proposed sur-reply, to which defendant has responded. The Court has considered the matters set forth in the proposed sur-reply and in defendant's response thereto, and, accordingly, plaintiffs' motion for leave is GRANTED.

²"Avianda" is one of several trade names for the pharmaceutical compound Rosiglitazone. (See Compl. ¶ 1.)

1 (see Compl. ¶ 1), brought on behalf of sixty-six named plaintiffs. A number of complaints
2 raising similar claims are pending in a coordinated proceeding in the Eastern District of
3 Pennsylvania, titled In re: Avandia Marketing, Sales Practices and Products Liability
4 Litigation, MDL No. 1871. (See Boranian Decl., filed July 22, 2013, ¶¶ 2, 3.) On July 18,
5 2013, the Judicial Panel on Multidistrict Litigation (“JPML”) conditionally transferred the
6 instant action to the Eastern District of Pennsylvania. See In re: Avandia Marketing, Sales
7 Practices and Products Liability Litigation, MDL No. 1871, Doc. No. 1059. On August 7,
8 2013, plaintiffs filed a motion to vacate the conditional transfer order, see id., Doc. No.
9 1108; defendant’s opposition thereto was filed August 23, 2013, see id., Doc. No. 1138,
10 and the JPML has set the matter for hearing on September 26, 2013, see id., Doc. No.
11 1120.

12 Defendant requests this Court issue an order staying proceedings in the instant
13 action pending the JPML’s determination as to whether transfer is appropriate. Other than
14 defendant’s motion to stay, the only matter pending before the Court is plaintiffs’ motion to
15 remand, also noticed for hearing September 6, 2013. Accordingly, the issue now
16 presented is, in effect, whether the Court should consider the merits of plaintiffs’ motion to
17 remand, or, instead, stay the instant action, with the understanding that, in the event of
18 transfer, the motion will be heard by the transferee court.

19 Because a decision as to whether the instant action will be transferred will, in all
20 likelihood, be made shortly by the JPML, the stay sought by defendant likely will be of
21 limited duration. In light of the anticipated brevity of the stay, and no significant prejudice
22 resulting from such stay having been identified by plaintiffs, the Court, in the interests of
23 conserving judicial resources and promoting consistency in the determination of common
24 issues,³ finds a stay of the proceedings is appropriate. See Rivers v. Walt Disney Co., 980

25
26 ³ The issues presented by plaintiffs’ motion to remand are whether McKesson
27 Corporation is fraudulently joined as a defendant and whether the case is removable as a
28 “mass action” pursuant to 28 U.S.C. § 1332(d)(11). The same issues have been raised in
motions to remand filed in a number of other actions currently pending in this district, which
actions have been stayed pending a decision by the JPML as to transfer to the Eastern

1 F. Supp. 1358, 1360 (C.D. Cal 1997) (identifying factors for court to consider when
2 determining whether to stay action pending decision by JPML).

3 Accordingly, defendant's motion for a stay is hereby GRANTED.

4 In light of the stay, the September 6, 2013 hearing on plaintiffs' motion to remand is
5 hereby VACATED.

6 **IT IS SO ORDERED.**

7 Dated: August 29, 2013

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9 MAKINE M. CHESNEY
10 United States District Judge

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25 District of Pennsylvania. See, e.g., Flores v. McKesson Corp., C. 13-3153 (Doc. No. 18);
26 Tarango v. McKesson Corp., C. 13-3070 (Doc. No. 17); Harrison v. McKesson Corp.,
27 13-3045, (Doc. No. 13); Myers v. McKesson Corp., C. 13-3096, (Doc. No. 11); Allender v.
28 McKesson Corp., C. 13-3068 (Doc. No. 18); Allen v. McKesson Corp., C. 13-3110 JSW
(Doc. No. 20); Hargrove v. McKesson Corp., C. 13-3114 (Doc. No. 20); Poff v. McKesson
Corp., C. 13-3115 (Doc. No. 21); Adams v. McKesson Corp., C 13-3102 (Doc. No. 19); and
Alvarez v. McKesson Corp., C. 13-3112 (Doc. No. 18).