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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

KLARA ERNYES-KOFLER, et al.,
Plaintiffs,
v.
SANOFI S.A., et al.,
Defendants.

Case No. [5:16-cv-07307-EJD](#)

**ORDER GRANTING DEFENDANT’S
MOTION TO STAY PENDING
TRANSFER TO MDL 2740**

Re: Dkt. No. 14

Defendant sanofi-aventis U.S. LLC moves to stay this case pending a decision by the Judicial Panel on Multidistrict Litigation (“JPML”) on whether to transfer this action to MDL 2740. Defendant’s motion will be GRANTED.

I. BACKGROUND

Plaintiffs allege that they suffered permanent hair loss from using Taxotere, a chemotherapy drug. Notice of Removal ¶ 2, Dkt. No. 1. Over 700 similar cases are pending in federal courts. *Id.* On October 4, 2016, the JPML established MDL 2740 to centralize these cases in the Eastern District of Louisiana. *Id.*; see also *In re Taxotere (Docetaxel) Prods. Liab. Litig.*, MDL 2740, 2016 WL 5845996 (J.P.M.L. Oct. 4, 2016). Defendant sanofi-aventis U.S. LLC filed a notice of potential tag-along actions on December 23, 2016, and the JPML conditionally transferred this case on January 3, 2017. MDL Dkt. Nos. 216, 222.

Plaintiffs filed this action in Santa Clara County Superior Court. Notice of Removal ¶ 2. Defendant sanofi-aventis U.S. LLC removed on the basis of diversity jurisdiction, arguing that

1 Defendant McKesson Corporation, a California citizen, was fraudulently joined. Id. ¶¶ 9–24.
2 Plaintiffs have moved to remand. Dkt. No. 10. Defendant sanofi-aventis U.S. LLC now asks the
3 Court to stay this case pending transfer to MDL 2740.

4 **II. LEGAL STANDARD**

5 “[T]he power to stay proceedings is incidental to the power inherent in every court to
6 control disposition of the cases on its docket with economy of time and effort for itself, for
7 counsel, and for litigants.” Landis v. N. Am. Co., 299 U.S. 248, 254 (1936). While a court “should
8 not automatically stay discovery, postpone rulings on pending motions, or generally suspend
9 further rulings” when a party moves to transfer a case to an MDL panel (Rivers v. Walt Disney
10 Co., 980 F. Supp. 1358, 1360 (C.D. Cal. 1997)), courts “frequently grant stays pending a decision
11 by the MDL panel regarding whether to transfer a case.” Good v. Prudential Ins. Co. of Am.,
12 5 F. Supp. 2d 804, 809 (N.D. Cal. 1998). A stay is appropriate “when it serves the interest of
13 judicial economy and efficiency.” Id.

14 When considering a motion to stay pending a JPML transfer, courts assess “(1) potential
15 prejudice to the non-moving party; (2) hardship and inequity to the moving party if the action is
16 not stayed; and (3) the judicial resources that would be saved by avoiding duplicative litigation if
17 the cases are in fact consolidated.” Rivers, 980 F. Supp. at 1360.

18 When faced with both a motion to remand and a motion to stay pending a JPML transfer,
19 some district courts in the Ninth Circuit apply the three-part test from Meyers v. Bayer AG,
20 143 F. Supp. 2d 1044 (E.D. Wis. 2001). Under the Meyers test, courts should (1) “give
21 preliminary scrutiny to the motion to remand”; (2) assess whether “the jurisdictional issue appears
22 factually or legally difficult”; and (3) consider whether the “jurisdictional issue is both difficult
23 and similar or identical to those in cases transferred or likely to be transferred.” Id. at 1049; see
24 also Barba v. Janssen Research and Dev. LLC, 8:15-cv-1548-DOC-JCG (C.D. Cal. Oct. 27, 2015),
25 Dkt. No. 17 (finding that the Meyers test favored a stay pending JPML transfer, and deferring
26 ruling on the motion to remand).

