UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

CAPTAIN SEAN MILLER (RET.),	:	Case No. 3:18-cv-113
Plaintiff,	:	Judge Thomas M. Rose
v.	:	
GE HEALTHCARE, INC., *et al*.,	:	
Defendants.	:	

ENTRY AND ORDER GRANTING MOTION TO DISMISS PLAINTIFF'S COMPLAINT (DOC. 36)

This case is before the Court on the Motion to Dismiss Plaintiff's Complaint (Doc. 36) pursuant to Federal Rules of Civil Procedure 12(b)(5) and 12(b)(6) filed by Defendants GE Healthcare Inc., GE Healthcare AS, and General Electric Company ("GE Defendants"). Defendants Guerbet LLC and Liebel-Flarsheim Company, LLC ("Guerbet Defendants") and Defendants Mallinckrodt Inc. and Mallinckrodt LLC ("Mallinckrodt Defendants") join the Motion to Dismiss in all respects concerning Federal Rule of Civil Procedure 12(b)(6), but do not join the Motion to Dismiss with respect to Rule 12(b)(5).

The GE Defendants filed the Motion to Dismiss on May 3, 2018. The Court granted the Guerbet Defendants' and Mallinckrodt Defendants' respective Motions for Joinder in the Motion to Dismiss on May 17, 2018. The time for Plaintiff to respond to the Motion to Dismiss, whether calculated from the date it was originally filed or the additional parties' joinder, has long since passed. Plaintiffs had moved under 28 U.S.C. § 1407 to centralize pre-trial proceedings in this action with sixteen other actions in the Northern District of California or, alternatively, the District

of Massachusetts. At no time did Plaintiffs move to stay this case pending the MDL Panel's determination of that issue. Accordingly, this case has not been stayed. The Court deferred ruling on the Motion to Dismiss pending the MDL Panel's decision in deference to the transferee court, if the case had been centralized. The MDL Panel has now ruled, however, that "centralization would not serve the convenience of the parties and witnesses or further the just and efficient conduct of this litigation" and denied Plaintiffs' motion under § 1407. (Doc. 49 at 2.) The Court no longer has any reason to delay its decision.

After review of the Motion to Dismiss and the Defendants' respective supporting memoranda, and further noting that the Motion to Dismiss is unopposed, it is hereby **GRANTED**. The claims against the GE Defendants are **DISMISSED** under Federal Rules of Civil Procedure 12(b)(5) and 12(b)(6). The claims against the Guerbet Defendants and Mallinckrodt Defendants are **DISMISSED** under Federal Rule of Civil Procedure 12(b)(6).

DONE and **ORDERED** in Dayton, Ohio, this Friday, October 19, 2018.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE