

**BEFORE THE UNITED STATES
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

IN RE: RESPIMAT PHARMACEUTICALS
ANTITRUST LITIGATION

MDL No.

**MEMORANDUM IN SUPPORT OF MOTION TO TRANSFER AND
CENTRALIZE RELATED ACTIONS FOR CONSOLIDATED OR
COORDINATED PRETRIAL PROCEEDINGS**

Plaintiff Massachusetts Laborers' Health & Welfare Fund submits this memorandum in support of its Motion to Transfer and Centralize Related Actions for Consolidated or Coordinated Pretrial Proceedings. On March 6, 2024, Plaintiff filed a class action complaint in the District of Massachusetts alleging that the brand-name drug manufacturer Boehringer Ingelheim Pharmaceuticals, Inc. and its parent company, Boehringer Ingelheim International GmbH (together, "Boehringer" or "Defendants") engaged in an anticompetitive scheme to wrongfully list device-only patents in the FDA's Orange Book. Compl., *Mass. Laborers' Health & Welfare Fund v. Boehringer Ingelheim Pharms., Inc. et al*, No. 1:24-cv-10565 (D. Mass. Mar. 6, 2024), ECF No. 1. Plaintiff alleges that Boehringer's wrongful listing scheme prevented would-be competitors from developing and marketing generic alternatives to Defendants' "Respimat" inhaler products and caused Plaintiff and members of the proposed class to pay supra-competitive prices for these products. On March 27, 2025, Judge Denise J. Casper denied in part and granted in part Defendants' motion to dismiss, allowing Plaintiff's core monopolization claims to proceed. Discovery has now commenced.

Approximately two months after Plaintiff's action was filed, a nearly identical action was brought in the District of Connecticut. Compl., *1199SEIU National Benefit Fund et al v. Boehringer Ingelheim Pharmaceuticals, Inc. et al*, No. 3:24-cv-00783 (D. Conn. Apr. 29, 2024),

ECF No. 1. That case is pending before Judge Alvin W. Thompson. Defendants previously moved (unsuccessfully) to transfer the *1199SEIU* action to the District of Massachusetts. Defendants’ motion to dismiss there (which overlaps almost entirely with the one they filed in the District of Massachusetts) has been pending for over three months, but has yet to be argued or decided.

Transfer and centralization of the two actions (the “Related Actions”) in the District of Massachusetts before Judge Casper will avoid the risk of inconsistent rulings, advance the efficient resolution of this litigation, and serve the convenience of the parties and witnesses. As the Defendants noted in their transfer motion in *1199SEIU*, these cases are “virtually identical,” and “allowing this case to proceed in a separate forum would waste judicial and party resources and raise the risk of inconsistent rulings.” Defs.’ Mot. to Transfer, *1199SEIU*, No. 3:24-cv-00783 (D. Conn. July 16, 2024), ECF No. 36 at 1. Centralization also provides an efficient mechanism to manage any tag-along actions, such as those filed by any direct purchasers, that may arise given Plaintiffs’ allegations of nationwide harm.

FACTUAL BACKGROUND

The two Related Actions here concern Boehringer’s alleged anticompetitive scheme to protect its exclusivity in the markets for Combivent Respimat and Spiriva Respimat soft-mist inhalers by unlawfully listing device-only patents in the FDA’s Orange Book. *See* Am. Class Action Compl., *Mass. Laborers*, No. 1:24-cv-10565 (D. Mass. May 9, 2024), ECF No. 57 (“Mass. Compl.”), ¶ 19. Under federal law, for an FDA-approved drug product, brand-name drugmakers must submit all patents which “claim[] the drug” for listing in the Orange Book. *Id.* ¶ 10. Brand-name drugmakers cannot list device-only patents that do not claim the drug or a method for using the drug. *Id.* Listing a patent on the Orange Book as claiming a brand-name

drug product can prevent the FDA from approving generic drug applications until such patent has expired, which, in turn, has important implications for generic competition. *Id.* ¶ 11.

Plaintiff alleges that as part of its illegal scheme, Boehringer improperly submitted for listing in the Orange Book numerous patents that do not claim the at-issue drugs or even mention the drugs’ active ingredients; they merely describe devices or parts of devices, like filters, clamps, and nozzles associated with the “Respimat” soft-mist inhaler. Mass. Compl. ¶¶ 16; 191-588. These listings extended Boehringer’s exclusivity over the at-issue products to 2030, even though the properly listed drugs patents have been expired since 2020. *Id.* ¶¶ 15, 17. When a would-be competitor (Anobri) did plan to enter the market and filed generic drug applications for the two inhaler products in 2023, Boehringer sued them for patent infringement, triggering a 30-month automatic stay on FDA approval. *Id.* ¶ 17; *Boehringer Ingelheim Pharms., Inc. v. Anobri Pharms. US, LLC*, 2:23-cv-03530 (D.N.J. June 29, 2023).

Affordable generic versions of Combivent Respimat and Spiriva Respimat should have been available at least as early as 2020, shortly after the last Respimat-related drug patent expired. Mass. Compl. ¶ 18. But, as a result of Boehringer’s wrongful Orange-Book-listing scheme, there are—to this day—no generic versions of either Combivent Respimat or Spiriva Respimat. *Id.* ¶ 19. Accordingly, Plaintiff and other purchasers have been forced to pay millions, if not billions, of dollars in overcharges for expensive brand-name drugs. *Id.*

PROCEDURAL HISTORY

The First-Filed Action in the District of Massachusetts: On March 6, 2024, Massachusetts Laborers’ Health & Welfare Fund brought suit in the District of Massachusetts over this unlawful listing scheme. Compl., *Mass. Laborers*, No. 1:24-cv-10565 (D. Mass. Mar. 6, 2024), ECF No. 1. Plaintiff seeks monetary and injunctive relief on behalf of itself and two

proposed nationwide classes of indirect purchasers of (1) Combivent Respimat and/or its generic equivalents or (2) Spiriva Respimat and/or its generic equivalents. Mass. Compl. ¶¶ 688–689, 852. Plaintiff brings claims under state and federal antitrust and consumer protection laws. *Id.* ¶¶ 701–851.

On March 27, 2025, Judge Casper granted in part and denied in part Defendants’ Rule 12(b)(6) motion to dismiss the suit. The parties held their Rule 26(f) scheduling conference on April 11 and 16, 2025. On April 30, 2025, Judge Casper entered a scheduling order through class certification and *Daubert* motions. Elec. Order, *Mass. Laborers*, No. 1:24-cv-10565 (D. Mass. Apr. 30, 2025), ECF No. 117. On May 16, 2025, Plaintiff served its first set of documents requests on Boehringer.

The Later-Filed Connecticut Action: On April 29, 2024, the *1199SEIU* plaintiffs filed a virtually identical complaint challenging Boehringer’s unlawful conduct in the District of Connecticut. Compl., *1199SEIU*, No. 3:24-cv-00783 (D. Conn. April 29, 2024), ECF No. 1.¹ After the Connecticut action was filed, Boehringer moved to transfer it to the District of Massachusetts under the first-to-file rule. Defs.’ Mot. to Transfer, *1199SEIU*, No. 3:24-cv-00783 (D. Conn. July 16, 2024), ECF No. 36 at 1. Judge Thompson denied the motion on the grounds that the “balance of convenience” made Connecticut “the more appropriate forum.” Order, *1199SEIU*, No. 3:24-cv-00783 (D. Conn. Dec. 23, 2024), ECF No. 55 at 14. Boehringer filed a Rule 12(b)(6) motion to dismiss the action on November 12, 2024, which was fully briefed as of January 14, 2025. As of filing, the trial court has yet to set a date for oral argument or rule on Boehringer’s motion to dismiss.

¹ Plaintiffs filed an amended complaint on July 17, 2024. Am. Compl., *1199SEIU*, No. 3:24-cv-00783 (D. Conn. July 17, 2024), ECF No. 38 (“1199SEIU Compl.”).

Informal Efforts at Consolidation: As noted above, Boehringer previously filed a motion to transfer the Connecticut action to the District of Massachusetts under the first-to-file rule, which the *1199SEIU* plaintiffs opposed. That transfer motion was eventually denied by Judge Thompson.

After the denial of Boehringer’s motion to dismiss in the Massachusetts action, counsel for Plaintiff Massachusetts Laborers reached out to counsel for plaintiffs in the *1199SEIU* action to request that they voluntarily transfer their action to the District of Massachusetts. After meeting and conferring with Plaintiff’s counsel, counsel for the *1199SEIU* plaintiffs declined to voluntarily transfer the Connecticut action to Massachusetts.

Counsel for Plaintiff Massachusetts Laborers then informed the *1199SEIU* plaintiffs’ counsel—as well as counsel for Defendants—that Massachusetts Laborers intended to file a motion for centralization in the District of Massachusetts pursuant to 28 U.S.C. § 1407 to eliminate the risk of inconsistent judgments and streamline the proceedings. Counsel for Boehringer did not provide its position on that motion even though it previously filed a motion to transfer the proceedings to the District of Massachusetts.

ARGUMENT

I. Transfer and Centralization of the Related Actions is Warranted under 28 U.S.C. § 1407

Transfer and centralization under 28 U.S.C. § 1407(a) is warranted where “civil actions involving one or more common questions of fact are pending in different districts,” and transferring these actions “will be for the convenience of parties and witnesses and will promote the just and efficient conduct of such actions.” Here, common factual questions predominate in the Related Actions, and centralization will greatly promote “just and efficient conduct” of the

actions, while serving the convenience of parties and witnesses. Accordingly, the Panel should grant Plaintiff's motion for transfer and centralization of the Related Actions.

A. The Related Actions involve common factual questions.

The Related Actions raise “virtually identical factual questions concerning the conduct of [the Defendants] in allegedly monopolizing the [relevant] market[s].” *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litig.*, 24 F. Supp. 3d 1361, 1362 (J.P.M.L. 2014); *see In re Insulin Pricing Litig.*, 688 F. Supp. 3d 1372, 1376 (J.P.M.L. 2023) (“The central factual allegations in support of the alleged [anticompetitive] scheme are the same in all actions[.]”). Each of the Related Actions allege that:

- Boehringer improperly listed the same device-only patents for Combivent Respimat and Spiriva Respimat in the Orange Book, Mass. Compl. ¶ 16; 1199SEIU Compl. ¶¶ 109–121;
- These improper listings frustrated competition and dissuaded would-be competitors from submitting applications to market affordable, generic versions of the products, Mass. Compl. ¶¶ 636–638; 1199SEIU Compl. ¶¶ 147, 181–182;
- Boehringer engaged in infringement litigation as part of a scheme to frustrate competition, Mass. Compl. ¶¶ 605–635; 1199SEIU Compl. ¶¶ 130–138;
- In the absence of this anticompetitive scheme, generic versions of the Respimat products would have entered the market earlier, Mass. Compl. ¶¶ 636–643; 1199SEIU Compl. ¶¶ 147, 182; and
- Boehringer's scheme led payors to suffer overcharges for Respimat products, Mass. Compl. ¶¶ 644–647; 1199SEIU Compl. ¶¶ 183–184.

Further, the proposed classes in the Related Actions are essentially the same. Both of the Related Actions propose nationwide classes comprising indirect purchasers of (1) Combivent Respimat and/or its generic equivalents and (2) Spiriva Respimat and/or its generic equivalents. Mass. Compl. ¶¶ 688–689; 1199SEIU Compl. ¶¶ 139–143.

Accordingly, there are numerous common questions of fact in the Related Actions that satisfy the requirements for transfer under § 1407. *See In re Deere & Co. Repair Servs. Antitrust Litig.*, 607 F. Supp. 3d 1350, 1351 (J.P.M.L. 2022) (finding centralization appropriate where actions asserted “substantially identical claims under the Sherman Act”). Minor differences between the actions in certain specific state law claims or additional factual allegations are irrelevant to the question of commonality. *See In re Insulin Pricing Litig.*, 688 F. Supp. 3d at 1374–75 (“We often have held that the assertion of different legal claims or additional facts is not significant where, as here, the actions arise from a common factual core.”).

B. Centralization will promote the just and efficient conduct of the Related Actions and serve the convenience of parties and witnesses.

This Panel routinely grants centralization in antitrust actions that “share complex factual issues” and “overlapping putative nationwide classes.” *In re Chicago Bd. Options Exch. Volatility Index Manipulation Antitrust Litig.*, 325 F. Supp. 3d 1374, 1375–76 (J.P.M.L. 2018). *See, e.g., In re Qualcomm Antitrust Litig.*, 273 F. Supp. 3d 1373, 1375 (J.P.M.L. 2017) (centralizing actions involving “overlapping putative nationwide classes” and “claims for violations of federal and state antitrust and consumer protection laws”). Here, as in these previous cases, “[c]entralization will eliminate duplicative discovery; prevent inconsistent pretrial rulings, including with respect to class certification; and conserve the resources of the parties, their counsel and the judiciary.” *In re Chicago Bd.*, 325 F. Supp. 3d at 1376.

Given the substantial overlap in the cases, centralization will greatly reduce duplicative discovery. The factual allegations and legal issues in the Related Actions are nearly identical. *See* Defs.’ Mot. to Transfer, *1199SEIU*, No. 3:24-cv-00783 (D. Conn. July 16, 2024), ECF No. 36 at 1 (describing these cases are “virtually identical”). Accordingly, plaintiffs will almost certainly seek substantially similar testimony, documents, and other evidence from Boehringer. “Transfer under Section 1407 will offer the benefit of placing all related actions before a single judge who can structure pretrial proceedings to accommodate all parties’ legitimate discovery needs while ensuring that common witnesses are not subjected to duplicative discovery demands.” *In re Auto Body Shop Antitrust Litig.*, 37 F. Supp. 3d 1388, 1390 (J.P.M.L. 2014).

The benefits to centralization of discovery are even greater where—as here—discovery is “international in scope.” *In re Nebivolol Pat. Litig.*, 867 F. Supp. 2d 1354, 1355 (J.P.M.L. 2012). As the Defendants have argued, Boehringer Ingelheim International GmbH is a German entity, and “[c]oordination between the two defendants in this case, as well as with international laws pertaining to cross-border discovery, presents complexities that will take time to navigate.” Fed. R. Civ. P. 26(f) Corrected Joint Statement of the Parties, *Mass. Laborers*, No. 1:24-cv-10565 (April 22, 2025), ECF No. 114 at 13.

Centralization will also avoid duplicative and inconsistent rulings, particularly on class certification. Both actions involve overlapping, proposed nationwide classes of indirect payors and purchasers. Consolidation is therefore necessary to avoid the possibility of inconsistent class-certification decisions. *See In re Passenger Vehicle Replacement Tires Antitrust Litig.*, 737 F. Supp. 3d 1364, 1366 (J.P.M.L. 2024) (“Centralization will . . . prevent inconsistent pretrial rulings, particularly as to class certification . . .”). Indeed, “[s]uch a potential for conflicting or overlapping class actions presents one of the strongest reasons for transferring such related

actions to a single district for coordinated or consolidated pretrial proceedings.” *In re Plumbing Fixtures*, 308 F. Supp. 242, 244 (J.P.M.L. 1970).

The Related Actions may also present complex questions about privilege waiver, where conflicting rulings could be confusing and prejudicial. In cases involving improper Orange Book listings, defendants often raise an affirmative “regulatory compliance” defense, asserting that they listed the patents because of a good-faith, reasonable belief that they were mandated to do so. *See, e.g., In re Actos Antitrust Litig.*, 628 F. Supp. 3d 524, 534 (S.D.N.Y. 2022) (addressing defendant’s regulatory compliance defense in case involving improper Orange Book listings). In order to meet their burden under this defense, defendants must typically waive attorney-client and/or work-product privilege. *See, e.g., id.* at 534–35 (defendant waiving privilege in order to establish a regulatory compliance defense). In the Massachusetts action, Boehringer has already indicated it may waive privilege to support a regulatory compliance defense. *See* Fed. R. Civ. P. 26(f) Corrected Joint Statement of the Parties, *Mass. Laborers*, No. 1:24-cv-10565 (April 22, 2025), ECF No. 114 at 15 (proposing a deadline to “waive privilege to support any regulatory mandate defense”). The scope of such waiver frequently leads to extensive pre-trial disputes. *E.g., Actos*, 628 F. Supp. 3d at 531–32 (detailing dispute over scope of waiver); Orders, *Actos*, No. 1:13-cv-09244 (S.D.N.Y. Apr. 21, 2023 and July 27, 2023), ECF Nos. 507, 535 (rulings on additional disputes regarding scope of privilege waiver); *In re Lantus Direct Purchaser Antitrust Litig.*, 578 F. Supp. 3d 211, 212 (D. Mass. 2021) (addressing a dispute over privilege waiver).

In this context, consolidation and centralization will greatly promote judicial economy by avoiding duplicate proceedings. Moreover, consolidation will avoid inconsistent rulings as to the scope of any privilege waiver. This is particularly important as the scope of waiver in one proceeding impacts the scope of waiver in another. *See In re Steinhardt Partners, L.P.*, 9 F.3d

230, 235 (2d Cir. 1993) (noting the general rule that the “waiver doctrine provides that voluntary disclosure of work product to an adversary waives the privilege as to other parties” and refusing to apply a “selective waiver” theory); *see also United States v. Massachusetts Inst. of Tech.*, 129 F.3d 681, 684–88 (1st Cir. 1997) (explaining the general rule that sharing privileged information waives privilege).

The Panel has recognized that benefits from centralization exist even when there are relatively few cases. Indeed, the Panel—on a number of occasions—has granted § 1407(a) motions to transfer and centralize actions where there are only two pending cases.² Of particular relevance here, “the Panel has frequently centralized litigation comprised of only two Hatch-Waxman Act cases,” a context closely related to the claims at issue. *In re Nebivolol*, 867 F. Supp. 2d at 1355 (“Even though only two actions are pending, the Panel has recognized that ‘actions involving the validity of complex pharmaceutical patents and the entry of generic

² *See, e.g., In re RBS Worldpay, Inc., Customer Data Sec. Breach Litig.*, 626 F. Supp. 2d 1322 (J.P.M.L. 2009); *In re LandAmerica 1031 Exch. Servs., Inc., Internal Revenue Serv. § 1031 Tax Deferred Exch. Litig.*, 626 F. Supp. 2d 1345 (J.P.M.L. 2009); *In re Standard Auto. Corp. Retiree Benefits “ERISA” Litig.*, 431 F. Supp. 2d 1357 (J.P.M.L. 2006); *In re Am. Fam. Mut. Ins. Co. Overtime Pay Litig.*, 416 F. Supp. 2d 1346 (J.P.M.L. 2006); *In re Mosaid Techs. Inc., Pat. Litig.*, 283 F. Supp. 2d 1359 (J.P.M.L. 2003); *In re Cisco Sys., Inc., Secs. & Derivative Litig.*, 268 F. Supp. 2d 1378 (J.P.M.L. 2003); *In re Philadelphia Life Ins. Co. Sales Prac. Litig.*, 149 F. Supp. 2d 937 (J.P.M.L. 2001); *In re White Consol. Indus., Inc., Env’t Ins. Coverage Litig.*, No. 996, 1994 WL 52568 (J.P.M.L. Feb. 16, 1994); *In re Diamond Match Plant Hazardous Waste Cleanup Litig.*, 799 F. Supp. 1204 (J.P.M.L. 1992); *In re Pantopaque Prods. Liab. Litig.*, 787 F. Supp. 229 (J.P.M.L. 1992); *In re Fairchild Indus., Inc.*, No. 822, 1989 WL 162387 (J.P.M.L. Dec. 5, 1989); *In re Gen. Aircraft Corp. Antitrust/Tort Claims Act Litig.*, 449 F. Supp. 604 (J.P.M.L. 1978); *In re Petroleum Prods. Antitrust Litig.*, 393 F. Supp. 1091 (J.P.M.L. 1975); *In re L. E. Lay & Co. Antitrust Litig.*, 391 F. Supp. 1054 (J.P.M.L. 1975); *In re E. Airlines, Inc. Flight Attendant Weight Program Litig.*, 391 F. Supp. 763 (J.P.M.L. 1975); *In re Japanese Elec. Prods. Antitrust Litig.*, 388 F. Supp. 565 (J.P.M.L. 1975); *In re W. Coast Bakery Flour Antitrust Litig.*, 368 F. Supp. 808 (J.P.M.L. 1974); *In re Clark Oil & Ref. Corp. Antitrust Litig.*, 364 F. Supp. 458 (J.P.M.L. 1973); *In re Camco Pat. Infringement Litig.*, 343 F. Supp. 1406 (J.P.M.L. 1972); *In re Cross-Fla. Barge Canal Litig.*, 329 F. Supp. 543 (J.P.M.L. 1971); *In re CBS Licensing Antitrust Litig.*, 328 F. Supp. 511 (J.P.M.L. 1971).

versions of the patent holder's drugs are particularly well-suited for transfer under Section 1407.'" (citation omitted)). Here as well, the Related Actions raise similarly complex issues about "the entry of generic versions of the patent holder's drugs" and the effect of Boehringer's scheme on drug development. *Id.* Centralization will yield similar benefits for the court, the parties, and witnesses.

Finally, the parties have exhausted other means of achieving consolidation. The District of Connecticut has already denied a motion to transfer or stay the action under the first-to-file doctrine, Order, *1199SEIU*, No. 3:24-cv-00783 (D. Conn. Dec. 23, 2024), ECF No. 55 at 14, and plaintiffs are unwilling to voluntarily dismiss either action in favor of the alternative venue. *See In re Gerber Probiotic Prods. Mktg. & Sales Pracs. Litig.*, 899 F. Supp. 2d 1378, 1379–80 (J.P.M.L. 2012) (listing transfer, stay under the first-to-file doctrine, and voluntary dismissal as alternatives to § 1407 transfer). Plaintiffs in *1199SEIU* opposed Defendants' motion. Pls.' Opp. to Mot. to Transfer, *1199SEIU*, No. 3:24-cv-00783 (D. Conn. August 6, 2024), ECF No. 39. And the *Mass. Laborers* Plaintiff has no reason to leave the forum in which it has achieved a favorable motion-to-dismiss ruling, and where discovery is already underway. There are no additional transfer motions pending or expected. Accordingly, there is no "reasonable prospect" that the resolution of Section 1404 motions could eliminate the multidistrict character of the actions before us." *In re Gerber*, 899 F. Supp. 2d at 1379 (citation omitted). In sum, transfer under § 1407 is required to realize the significant benefits of centralization.

II. The Panel Should Transfer the Related Actions to the Honorable Denise J. Casper of the District of Massachusetts

The District of Massachusetts is home to the first-filed and most procedurally advanced action. Moreover, Judge Casper is an experienced MDL jurist with experience presiding over Hatch-Waxman cases. *In re Asacol Antitrust Litig.*, 1:15-cv-12730; *In re Solodyn Antitrust Litig.*,

No. 1:14-md-2503. She has already developed great familiarity with this case, which is highly technical. And the District of Massachusetts is convenient and accessible to all parties and witnesses.

Centralization of the case before the court and judge overseeing the first-filed and most procedurally advanced action “minimize[s] delay and avoid[s] unnecessary duplication of discovery and motion practice.” *In re Smith & Nephew BHR & R3 Hip Implant Prods. Liab. Litig.*, 249 F. Supp. 3d 1348, 1352 (J.P.M.L. 2017). Accordingly, the Panel routinely transfers actions to the venue and jurist overseeing “the first-filed [] and the most procedurally advanced” action. *In re Broiler Chicken Grower Antitrust Litig.*, 509 F. Supp. 3d 1359, 1362 (J.P.M.L. 2020). *See also In re Smith*, 249 F. Supp. 3d at 1352 (transfer to district with first filed and most procedurally advanced action); *In re Monitronics Int’l, Inc., Tel. Consumer Prot. Act Litig.*, 988 F. Supp. 2d 1364, 1367 (J.P.M.L. 2013) (same); *In re Google Inc. Gmail Litig.*, 936 F. Supp. 2d 1381, 1382 (J.P.M.L. 2013) (same). Procedural advancement is often the “primary reason” for selecting a district. *See In re Int’l House of Pancakes Franchise Litig.*, 331 F. Supp. 556, 557 (J.P.M.L. 1971).

Here, *Mass. Laborers* was filed nearly two months before *1199SEIU*. “[I]t is the only action that has progressed beyond the pleadings stage,” with a thorough and thoughtful ruling on Defendants’ motion to dismiss, and discovery has begun. *In re Broiler Chicken*, 509 F. Supp. 3d at 1362. By contrast, in *1199SEIU*, Defendants’ motion to dismiss remains pending, with no date set for oral argument and no timeline for discovery. Centralization before Judge Casper will allow *1199SEIU* to “catch-up” to the more advanced case. It will also avoid a duplicative and possibly inconsistent ruling on a pending dispositive motion, which could harm members of the putative class of purchasers.

Judge Casper is familiar with this case, which is highly technical, having presided over it for over twelve months, having heard argument from the parties, and having ruled on the motion to dismiss. *See In re Prudential Ins. Co. of Am. SGLI/VGLI Cont. Litig.*, 763 F. Supp. 2d 1374, 1375 (J.P.M.L. 2011) (noting the transferee judge “has had an opportunity to become familiar with this litigation over the six months [it] has been pending before him”); *In re Broiler Chicken*, 509 F. Supp. 3d at 1362 (“[The transferee judge] has the most familiarity with the subject matter of this litigation, having already ruled upon multiple dismissal motions.”). “[Her] familiarity with the issues in this litigation will serve to maximize the efficient conduct of pretrial proceedings.” *In re Insulin Pricing Litig.*, 688 F. Supp. 3d at 1376.

Furthermore, “the Honorable Denise J. Casper [is] an experienced transferee judge,” that has successfully guided complex MDL proceedings to resolution in the past. *In re Evenflo Co., Inc., Mktg., Sales Pracs. & Prods. Liab. Litig.*, 466 F. Supp. 3d 1384, 1385 (J.P.M.L. 2020). Judge Casper just granted preliminary approval of a settlement in a pending MDL proceeding. Order, *In re Evenflo Co., Inc., Mktg., Sales Pracs. & Prods. Liab. Litig.*, No. 1:20-md-02938 (D. Mass. Apr. 28, 2025), ECF Nos. 217, 218. Her experience includes presiding over complex litigation involving allegations that a brand-name manufacturer has engaged in anticompetitive conduct designed to delay or deter generics from coming to market. *In re Asacol Antitrust Litig.*, 1:15-cv-12730; *In re Solodyn Antitrust Litig.*, No. 1:14-md-2503. At present, she has no other MDL proceedings before her. Accordingly, Judge Casper has the demonstrated ability and capacity to preside over the centralized action.

Finally, the District of Massachusetts is convenient and accessible to the parties. There are daily nonstop flights between Frankfurt, Germany—nearby Defendant Boehringer Ingelheim International GmbH’s corporate headquarters—and Boston, Massachusetts; and Boston is readily

accessible to the U.S.-based counsel and witnesses in this case too.³ Plaintiff Massachusetts Laborers' Health & Welfare Fund is located within the district. Massachusetts is also nearby *1199SEIU* plaintiffs' headquarters in New York. Pls.' Opp. to Mot. to Transfer, *1199SEIU*, No. 3:24-cv-00783 (D. Conn. Aug. 6, 2024), ECF No. 39 at 23–24. Accordingly, Massachusetts is a convenient and accessible venue for the parties and potential witnesses.

CONCLUSION

In sum, transfer and centralization of the Related Actions will eliminate wasteful and duplicative discovery and pretrial proceedings, avoid the risk of inconsistent rulings, and allow the cases to proceed expeditiously before an experienced jurist intimately familiar with the matter. Plaintiff respectfully requests that the Panel transfer and centralize the Related Actions, as well as any case that may be subsequently filed asserting related or similar claims, before the Honorable Denise J. Casper of the District of Massachusetts.

Dated: May 19, 2025

Respectfully submitted,

/s/ Natasha J. Fernández-Silber

Natasha J. Fernández-Silber*
 nfernandezsilber@edelson.com
 EDELSON PC
 350 North LaSalle Street, 14th Floor
 Chicago, Illinois 60654
 Tel: (312) 589-6370
 *Admitted in New York and Michigan

³ See Google Flights, <https://www.google.com/travel/flights> (search for one-way, nonstop flights from Frankfurt Airport to Boston Logan International Airport). There are no direct flights between Frankfurt and any Connecticut airports. See *id.* (search for one-way, nonstop flights from Frankfurt Airport to Bradley International Airport in Hartford, Connecticut or Tweed New Haven Airport).

Sarah LaFreniere
slafreniere@edelson.com
Brandon Baum-Zepeda*
bbaum-zepeda@edelson.com
1255 Union Street NE, Suite 850
Washington, DC 20002
Tel: (202) 270-4777
*not admitted to practice in DC; practice authorized
by D.C. Rule 49(c)(3).

Todd A. Seaver
Carl N. Hammarskjold
Sean M. Akchin
Berman Tabacco
425 California Street
Ste 2300
San Francisco, CA 94104
Tel: (415) 433-3200
tseaver@bermantabacco.com
chammarskjold@bermantabacco.com
sakchin@bermantabacco.com

Steven Lev Groopman
Leslie R. Stern
Berman Tabacco
One Liberty Square
5th Floor
Boston, MA 02109
Tel: (617) 542-8300
sgroopman@bermantabacco.com
lstern@bermantabacco.com

Gregory S. Asciolla
Geraldyn J. Trujillo
John M. Shaw
DiCello Levitt LLP
1485 Lexington Avenue, Suite 1001
New York, NY 10017
Tel: (646) 933-1000
gasciolla@dicellolevitt.com
gtrujillo@dicellolevitt.com

Matthew E. Van Tine
Miller Law LLC
53 W Jackson Boulevard
Suite 1320

Chicago, IL 60604
Tel: (312) 332-3400
mvantine@millerlawllc.com

*Counsel for Massachusetts Laborers' Health &
Welfare Fund*