

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

IN RE: BENICAR (OLMESARTAN) * CIVIL NO. 15-2606 (RBK)(JS)
PRODUCTS LIABILITY LITIGATION * HON. ROBERT B. KUGLER

THIS DOCUMENT RELATES TO *
ALL ACTIONS *

CASE MANAGEMENT ORDER NO. 4
(Direct Filing – Stipulated)

I. SCOPE OF THE ORDER

This Stipulated Order shall govern (1) cases transferred to this Court by the Judicial Panel on Multidistrict Litigation, pursuant to its Order of April 3, 2015; (2) any tag-along actions subsequently transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to Rule 7.1 of the Rules of Procedure of that Panel; and (3) all related cases originally filed in this Court or transferred or removed to this Court. The Order only applies to claims brought by a U.S. citizen or resident based on usage or purchase of Benicar®, Benicar HCT®, Azor®, and Tribenzor® (collectively referred to hereinafter as “Olmesartan”) in the United States who alleges that he or she sustained serious gastrointestinal injury, including sprue-like enteropathy, lymphocytic colitis, microscopic colitis, and collagenous colitis as a result of taking Olmesartan prescription medicine.

II. DIRECT FILING OF CASES INTO MDL NO. 2606

A. In order to eliminate delays associated with the transfer to this Court of cases filed in or removed to other federal district courts and to promote judicial efficiency, any plaintiff whose

case would be subject to transfer to MDL No. 2606 may file his or her complaint against all Defendants directly in MDL No. 2606 in the District of New Jersey.

B. All Defendants stipulate and agree that they will not assert any objection of improper venue pursuant to Fed. R. Civ. P. 12(b) as to any Olmesartan-related cases filed directly in the District of New Jersey that emanate from districts outside the District of New Jersey and that are filed in this multidistrict litigation proceeding.

C. Each case filed directly in MDL No. 2606 that emanates from a district outside the District of New Jersey will be filed in MDL No. 2606 for pretrial proceedings only, consistent with the Judicial Panel on Multidistrict Litigation's April 3, 2015, Transfer Order.

D. Upon completion of all pretrial proceedings applicable to a case directly before this Court, pursuant to this Order, this Court, pursuant to 28 U.S.C. § 1404(a), will transfer that case to the federal district court in the district where the plaintiff allegedly was injured or where plaintiff resided at the time of his or her alleged injury, after giving the parties an opportunity to meet and confer and be heard on the issue. All Defendants stipulate and agree that they will not assert any objection of improper venue pursuant to Fed. R. Civ. P. 12(b) upon transfer consistent with the provisions in this paragraph and this Order.

E. Nothing contained in this Order shall preclude the parties from agreeing, at a future date, to try cases filed pursuant to this Order in this District.

F. The inclusion of any action in *In re: Benicar (Olmesartan) Products Liability Litigation*, MDL No. 2606, whether such action was or will be filed originally or directly in the District of New Jersey, shall not constitute a determination by this Court that venue is proper in this district.

G. All Parties stipulate and agree that a case that was filed directly in MDL No. 2606 pursuant to this Order will have no impact on choice of law that otherwise would apply to an individual case had it been originally filed in another district court and transferred to this Court pursuant to 28 U.S.C. § 1407.

H. All Defendants stipulate and agree that the filing of a complaint directly in MDL No. 2606 pursuant to this Order shall stop the running of any statute of limitations or prescriptive or preemptive period as if the complaint had been filed in an appropriate venue.

I. The references to "all Defendants" herein shall not constitute an appearance by or for any Defendant not properly served.

J. The caption for any complaint that is directly filed in MDL No. 2606 before this Court shall bear the following caption:

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: BENICAR (OLMESARTAN))	
PRODUCTS LIABILITY LITIGATION)	CIVIL NO. 15-2606 (RBK)(JS)
)	
)	
)	COMPLAINT AND JURY DEMAND
_____,)	Civil Action No: _____
Plaintiff,)	
)	
vs.)	
)	
_____,)	
Defendants.)	
)	

Camden, New Jersey this 27 day of June, 2015.

A handwritten signature in black ink, appearing to read "Robert B. Kugler", written over a horizontal line.

Hon. Robert B. Kugler
United States District Judge