

Novartis Cancer Drug Suits Too Few To Centralize, JPML Told

By **Emily Field**

Law360 (July 29, 2021, 6:09 PM EDT) -- Novartis Pharmaceuticals Inc. told the Judicial Panel on Multidistrict Litigation on Thursday that suits alleging its blood cancer drug Tasigna causes cardiovascular disease should not be consolidated, since the company believes it is unlikely that significantly more suits will be filed in federal court.

Robert Johnston of Hollingworth LLP said that only 20 federal cases have been filed as of the day before, and only four of those cases have been filed since the beginning of the year. In contrast, there are 186 pending cases pending in multicounty litigation in New Jersey state court, Johnston said.

"That suggests that the three firms that control all of the inventory have elected to pursue centralization in New Jersey and are preferring that forum," Johnston said. "And it is simply speculative to expect that there are going to be a large number of additional cases filed in the federal system."

Earlier in the hearing, Richard Elias of Elias LLC, counsel for a cancer patient named Matthew Garland, told the panel that sending the cases to New Jersey presented a "unique opportunity to coordinate not only the federal litigation, but also the global Tasigna litigation."

If not, there is a risk of inconsistent discovery rulings, Elias said.

Chris Oxx of Parker Waichman LLP, who represents other cancer patients who allegedly were harmed by Tasigna, agreed the cases should be consolidated in New Jersey.

"We are presented here with an exceptional opportunity to consolidate these cases, thereby allowing the court to coordinate with the New Jersey court to efficiently and uniformly resolve disputes across all cases," Oxx said.

However, Johnston said there is no risk of inconsistent rulings since there is already an agreement that there will be only one discovery production in the case.

"So whatever the best plaintiff-friendly ruling on discovery disputes plaintiffs obtain, whether that's in state court or here, Novartis will satisfy that production obligation," Johnston said. "And so there's really no danger to the plaintiffs of inconsistent rulings."

If the cases do get centralized, Johnston argued they should be sent to Florida, where most of the cases are filed.

"Plaintiffs claim that Tasigna causes cardiovascular disease, that is heart attacks, strokes and peripheral arterial disease," Johnston said. "But the plaintiffs ignore that those diseases are considered the number-one cause of mortality in the United States at this

point and are highly prevalent in folks aged 50 to 80, which is the time period during which [chronic myeloid leukemia] is diagnosed and treatment with Tasigna is usually initiated."

Garland alleges Novartis failed to warn of the risks that Tasigna causes arteries to harden and narrow, even though it warned doctors and patients in Canada. His March 2020 suit alleges he was diagnosed with blood cancer in 2006 and took Tasigna between 2013 and 2016.

"As a result of his use of Tasigna, plaintiff suffered severe peripheral vascular disease resulting in multiple procedures and ultimate amputation," Garland said.

Garland is represented by Richard Elias of Elias LLC.

Additional plaintiffs are represented by Chris Oxx of Parker Waichman LLP.

Novartis is represented by Robert Johnston of Hollingworth LLP.

The case is In Re: Tasigna (Nilotinib) Products Liability Litigation, case number 3006, before the Judicial Panel on Multidistrict Litigation.

--Editing by Philip Shea.