

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE: AVANDIA MARKETING, SALES
PRACTICES AND PRODUCTS LIABILITY
LITIGATION**

**MDL No. 1871
07-md-01871**

**THIS DOCUMENT APPLIES TO:
ALL ACTIONS**

PRETRIAL ORDER NO. 196

Certain Plaintiffs (hereinafter “Movants”), by and through counsel,¹ have filed a joint Motion for Suggestion of Remand.² Movants argue that the work which remains to be done to advance claims is case specific and not for the common benefit of all plaintiffs,³ and therefore this Court should recommend to the Judicial Panel on Multidistrict Litigation (“JPML”) that the cases be returned to the transferor courts.

A court overseeing an MDL is permitted to conduct coordinated or consolidated pre-trial proceedings.⁴ The term “coordinated or consolidated” is to be interpreted broadly,⁵ and “a proceeding that relates only to a single individual’s case or claim can nonetheless be

¹ Moving counsel are from the Diaz Law Firm, the Law Offices of Peter G. Angelos, P.C., the Ferraro Law Firm, and Baum, Hedlund, Aristei, & Goldman.

² Doc. No. 2687.

³ Movants also argue that the adequacy of the evidence regarding specific causation should be weighed in accordance with the laws of the transferor courts. The Court does not find that this argument requires remand, as the Court has been required to apply the laws of various transferor jurisdictions when deciding other motions during the course of this litigation and is prepared to do so on this issue as well.

⁴ 28 U.S.C. § 1407; In re Patenaude, 210 F.3d 135, 142 (3d Cir. 2000).

⁵ Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach, 523 U.S. 26, 33-34 (1998).

coordinated.”⁶ The JPML is obligated to remand pending cases to the originating courts when pre-trial proceedings have run their course.⁷

In this MDL, coordinated pre-trial proceedings are ongoing. Pursuant to PTO 186, cases have been assigned to Discovery Groups A, B, and C, and each of those groups has a discovery schedule and pre-trial briefing schedule, and has been assigned to a trial pool so that the Court may conduct bellwether trials. Therefore, at this point in the litigation, remand to the transferor courts is purely discretionary.⁸ The Court has determined that remand would be premature.

In light of the foregoing, on this 25th day of April 2013, it is hereby **ORDERED** that Movants’ Motion is **DENIED** without prejudice.

It is so **ORDERED**.

BY THE COURT:


CYNTHIA M. RUFÉ, J.

⁶ In re Patenaude, 210 F.3d at 143.

⁷ Id.

⁸ Id.