

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
IN RE: NEW ENGLAND COMPOUNDING)	
PHARMACY, INC. PRODUCTS LIABILITY)	
LITIGATION)	MDL No.: 1:13-md-2419-FDS
)	
This Document Relates to:)	
All Cases)	
_____)	
IN RE: NEW ENGLAND COMPOUNDING)	
PHARMACY CASES)	Master Docket No. 12-12052 - FDS
)	
This Document Relates to)	
All Cases)	
_____)	

**CHAPTER 11 TRUSTEE’S MOTION TO TRANSFER PERSONAL
INJURY TORT AND WRONGFUL DEATH CASES TO THIS COURT
PURSUANT TO 28 U.S.C. §§ 157(b)(5) AND 1334**

Pursuant to 28 U.S.C. §§ 157(b)(5) and 1334, Paul D. Moore, the Chapter 11 Trustee for the Estate of New England Compounding Pharmacy, Inc. (“NECC” or the “Debtor”), hereby files this motion (the “Motion”) for entry of an order transferring to this Court the personal injury and wrongful death cases that are identified on Exhibit A (the “Pending Actions”) to the accompanying memorandum of law (the “Memorandum of Law”).¹

¹ The Pending Actions include lawsuits filed against NECC, its shareholders, directors, officers, employees, and other third parties (some of which are related to or affiliated with NECC), and include the following categories of lawsuits: (1) lawsuits pending in federal courts which have not been transferred to the multidistrict forum (listed on Exhibit A1); (2) lawsuits pending in state courts which are in the process of being removed to federal courts pursuant to 28 U.S.C. §§ 1441 and /or 1452(a) (listed on Exhibit A2); and (3) lawsuits pending in state courts for which a notice of removal has not yet been filed (listed on Exhibit A3). The Pending Actions also include lawsuits which do not name NECC as a defendant, but which name as defendants: (a) parties related to NECC; (b) parties which may have indemnification and/or contribution claims against NECC; and/or (c) parties against which NECC may have claims to recover damages for the benefit of creditors of NECC’s estate (lawsuits within categories (a) – (c) are listed on Exhibit A4).

As set forth in greater detail in the Memorandum of Law, the Pending Actions allege similar claims for injuries, including the onset of meningitis or death, following the injection of allegedly contaminated pharmaceuticals (*e.g.*, injectable steroid methyl-prednisolone acetate). These personal injury and wrongful death claims represent the vast majority of claims against the Debtor's estate. Transfer of these claims to this Court pursuant to 28 U.S.C. §§ 157(b)(5) and 1334 will: (1) centralize the adjudication of claims against the estate; (2) ensure orderly and efficient resolution of these claims; (3) further the efficient administration of the Debtor's estate; (4) ensure that the Pending Actions are resolved in a manner that minimizes the burden on the Debtor thereby conserving the Debtor's limited assets; (5) ensure that similarly situated creditors are treated equitably; and (6) facilitate opportunities for an efficient, expeditious and economical resolution of the Pending Actions for the benefit of the Debtor's tort claimants and other creditors.

In addition, transfer of the Pending Actions to this Court will not affect any substantive rights that the plaintiffs and other non-Debtor parties have or assert in their Pending Actions.

Finally, by filing this Motion, the Trustee does not seek to waive or in any way modify the automatic stay that applies to the Pending Actions under 11 U.S.C. § 362. Moreover, the filing of this Motion is without prejudice to any position that the Trustee may take regarding whether 11 U.S.C. §§ 105 and 362 operate to stay any Pending Action or to render null and void the post-petition filing of any Pending Action.

WHEREFORE, the Trustee requests that the Court grant the instant Motion of the Trustee for the Estate of New England Compounding Pharmacy, Inc. to Transfer Personal Injury Tort and Wrongful Death Cases to This Court Pursuant to 28 U.S.C. § 157(b)(5), transferring all of the Pending Actions to this Court for all purposes.

Dated: March 10, 2013

Respectfully submitted,

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