

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**IN RE: EXACTECH POLYETHYLENE ORTHOPEDIC  
PRODUCTS LIABILITY LITIGATION**

MDL No. 3044

**TRANSFER ORDER**

**Before the Panel:**\* Plaintiff in the District of Connecticut action (*Porta*) listed on the attached Schedule A moves under Panel Rule 7.1 to vacate the Panel’s order conditionally transferring the action to MDL No. 3044. Defendant Exactech, US, Inc., opposes the motion.

After considering the arguments of counsel, we find that this action involves common questions of fact with the actions previously transferred to MDL No. 3044, and that transfer under 28 U.S.C. § 1407 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Moreover, transfer is warranted for the reasons set forth in our order directing centralization. In that order, we held that the Eastern District of New York was an appropriate Section 1407 forum for actions sharing factual questions arising from allegations concerning the design, manufacture, testing, marketing, packaging, and performance of the polyethylene components of certain Exactech devices. Plaintiffs allege that oxidation of the polyethylene used in the Exactech hip, knee, and ankle devices (sold under the names Connexion GXL, Optetrak and Truliant, and Vantage, respectively) causes inflammatory responses when implanted, generates polyethylene debris, cracks, and loosening of the device, all of which in turn require revision surgery. *See In re Exactech Polyethylene Orthopedic Prods. Liab. Litig.*, 637 F. Supp. 3d 1381 (J.P.M.L. 2022). Plaintiff brings claims regarding his Exactech knee replacement device (a Truliant device), which he contends was defective and required removal surgery. The action thus falls squarely in the MDL’s ambit.

Plaintiff opposes transfer based on his contention that federal court jurisdiction is lacking. We consistently have held that “jurisdictional objections, including objections to removal, are not relevant to transfer,” even where “plaintiffs assert that the removals were patently improper.” *In re Ford Motor Co. DPS6 PowerShift Transmission Prods. Liab. Litig.*, 289 F. Supp. 3d 1350, 1352 (J.P.M.L. 2018).<sup>1</sup> Plaintiff can present his remand arguments to the transferee court.

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\* Judge Nathaniel M. Gorton took no part in the decision of this matter.

<sup>1</sup> Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a  
(continued)

IT IS THEREFORE ORDERED that this action is transferred to the Eastern District of New York and, with the consent of that court, assigned to the Honorable Nicholas G. Garaufis for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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Karen K. Caldwell

Chair

Matthew F. Kennelly  
Roger T. Benitez  
Madeline Cox Arleo

David C. Norton  
Dale A. Kimball

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remand motion is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on a remand motion if it chooses to do so.

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**SCHEDULE A**

District of Connecticut

PORTA v. EXACTECH, INC., ET AL., C.A. No. 3:24-00009