

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: C.R. BARD, INC., PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION**

MDL No. 2187

TRANSFER ORDER

Before the Panel: Plaintiff in the action listed on Schedule A (*Morrison*) moves under Panel Rule 7.1 to vacate our order conditionally transferring the actions to MDL No. 2187. Defendant Blasingame, Burch, Garrard & Ashley, P.C. (Blasingame) opposes the motion to vacate.

After considering the argument of counsel, we find this action, though not typical of most MDL No. 2187 actions, involves common questions of fact with the actions transferred to MDL No. 2187, 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. The actions centralized in MDL No. 2187 involve factual questions arising from allegations that C.R. Bard, Inc., Covidien, Inc., and related entities defectively designed, manufactured, and marketed pelvic surgical mesh products, resulting in serious injuries, and that defendants failed to provide appropriate warnings and instructions regarding the risks and dangers posed by the devices. *See In re: Avaulta Pelvic Support Sys. Prods. Liab. Litig.*, 746 F. Supp. 2d 1362 (J.P.M.L. 2010); Order Renaming Litigation, MDL No. 2187 (J.P.M.L. Feb. 13, 2012). Previously, plaintiff alleged she suffered injuries arising from the implantation of a Covidien pelvic mesh product, filed suit against Bard and Covidien directly in MDL No. 2187, and settled her claims. In the *Morrison* complaint now before the Panel, plaintiff alleges the defendant law firm—her attorneys in MDL No. 2187—made misrepresentations to her that induced her to accept the proposed settlement of her claims in MDL No. 2187.

In opposing transfer, the *Morrison* plaintiff argues that her claims against Blasingame do not involve factual issues common with those in MDL No. 2187. Plaintiff is incorrect. Actions involving matters relating to a settlement reached in an MDL are appropriate for transfer to that MDL under 28 U.S.C. § 1407.¹ *See In re: Managed Care Litig.*, 246 F. Supp. 2d 1363, 1365 (J.P.M.L. 2003) (“It is established Panel and court of appeals precedent that settlement matters are appropriate pretrial proceedings subject to centralization under § 1407.”) (citing *In re: Patenaude*,

¹ As defendants note, the Master Settlement Agreement provides that claimants “submit to the exclusive jurisdiction of the [transferee court] for any suit, action, proceeding or dispute arising out of or relating to” the settlement.

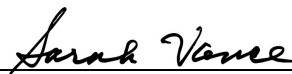
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210 F.3d 135, 142–144 (3d Cir. 2000)). Here, plaintiff alleges misconduct on the part of her MDL No. 2187 attorneys, who are some of the principal attorneys involved in the MDL. The transferee judge has “an undeniable interest in policing the conduct of attorneys who enrolled their clients in” a settlement program. Transfer Order (*Isner*), MDL No. 1657, ECF No. 1551 (J.P.M.L. Oct. 1, 2012) (citing *Poole v. Eichholz Law Firm*, No. 11-1456, 2011 WL 5900797, at *3 (E.D. La. Nov. 23, 2011)). Moreover, *Morrison* relates to factual questions involving the master settlement agreement, the special master appeals process, and the confidentiality provision in the release signed by plaintiff. Thus, transfer “will ensure that disputes under the settlement agreement are decided consistently and that all MDL personal injury plaintiffs who elect to participate in the settlement agreement are treated similarly.” See Transfer Order (*Murphy*), MDL No. 2391, ECF No. 917 (J.P.M.L. Jun. 8, 2015).

Plaintiff also argues that transfer would be inconvenient to the *Morrison* parties and witnesses. But the Panel repeatedly has held that, while it might inconvenience some parties, transfer of an action is appropriate if it furthers the expeditious resolution of the litigation taken as a whole. See, e.g., *In re: IntraMTA Switched Access Charges Litig.*, 67 F. Supp. 3d 1378, 1380 (J.P.M.L. 2014).

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Southern District of West Virginia and, with the consent of that court, assigned to the Honorable Joseph R. Goodwin for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance

Chair

Marjorie O. Rendell
Lewis A. Kaplan
R. David ProctorCharles R. Breyer
Ellen Segal Huvelle
Catherine D. Perry

**IN RE: C.R. BARD, INC., PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION**

MDL No. 2187

SCHEDULE A

Eastern District of Tennessee

MORRISON v. BLASINGAME BURCH GARRARD & ASHLEY, P.C., C.A. No. 1:17-
00165