

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: SKECHERS TONING SHOE PRODUCTS
LIABILITY LITIGATION**

MDL No. 2308

TRANSFER ORDER

Before the Panel: Plaintiff in a District of Massachusetts action (*Delaney*) moves under Panel Rule 7.1 to vacate the Panel’s order conditionally transferring the action, which is listed on the attached Schedule A, to MDL No. 2308. Defendant Skechers U.S.A., Inc. (Skechers) opposes the motion.

After considering the argument of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2308, 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 out in our order directing centralization. In that order, we held that the Western District of Kentucky was an appropriate transferee forum for actions sharing factual questions regarding injuries plaintiffs sustained as an alleged result of wearing purportedly defective Skechers “Shape-Ups” toning shoes, which contain a rocker bottom sole that plaintiffs contend altered their gait and caused severe lateral instability. *See In re: Skechers Toning Shoe Prods. Liab. Litig.*, 831 F. Supp. 2d 1367, 1369 (J.P.M.L., 2011). This action involves injuries to plaintiff’s wrist arising from her fall while wearing Skechers Shape-Ups, and it clearly falls within the MDL’s ambit.

Plaintiff contends that her action is unique, inasmuch as she brings claims under Massachusetts consumer protection laws and includes in her complaint a claim relating to unfair claims settlement practices. We do not find this argument persuasive. Several actions in the MDL are brought by Massachusetts plaintiffs who assert similar consumer protection law claims as plaintiff. Further, the transferee judge can accommodate any unique discovery regarding plaintiff’s unfair claims settlement practices claim. We likewise reject plaintiff’s contention that she would have to obtain additional counsel upon transfer. Clearly, she may retain her current lawyer in the MDL proceedings. *See* Panel Rule 2.1 (c) (“Any attorney of record in any action transferred under Section 1407 may continue to represent his or her client in any district court of the United States to which such action is transferred. Parties are not required to obtain local counsel.”).

-2-

IT IS THEREFORE ORDERED that this action is transferred to the Western District of Kentucky and, with the consent of that court, assigned to the Honorable Thomas B. Russell 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 Proctor

Charles R. Breyer
Ellen Segal Huvelle
Catherine D. Perry

**IN RE: SKECHERS TONING SHOE PRODUCTS
LIABILITY LITIGATION**

MDL No. 2308

SCHEDULE A

District of Massachusetts

DELANEY V. SKECHERS U.S.A., INC., C.A. No. 14-14164