

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

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

MDL No. 2308

TRANSFER ORDER

Before the Panel: Plaintiffs in two Eastern District of Missouri actions listed on Schedule A move under Panel Rule 7.1 to vacate the Panel’s order conditionally transferring these actions to MDL No. 2308. Defendants Skechers U.S.A., Inc., Skechers U.S.A., Inc. II, and Skechers Fitness Group (collectively, Skechers) oppose the motion.

After considering the argument of counsel, we find these actions involve 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). These actions involve injuries that plaintiffs suffered allegedly as a result of wearing Skechers Shape-Ups, and they clearly fall within the MDL’s ambit.

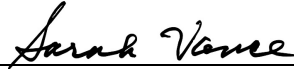
Plaintiffs do not dispute that these actions share questions of fact concerning Skechers Shape-Ups with actions pending in MDL No. 2308. Plaintiffs instead base their arguments against transfer primarily on the pendency of their motions to remand the actions to state court and their preference that the Eastern District of Missouri judges assigned to those actions rule on their motions. These arguments are not persuasive. Plaintiffs can present their motions for remand to the transferee judge.¹ *See, e.g., In re: Ivy*, 901 F.2d 7, 9 (2nd Cir. 1990); *In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001).

¹ Panel Rule 2.1(d) expressly provides that 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 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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IT IS THEREFORE ORDERED that these actions are 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

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SCHEDULE A

Eastern District of Missouri

ALFONSO, ET AL. v. SKECHERS U.S.A., INC. I, ET AL., E.D. Missouri, C.A. No. 4:15-543
ATKINSON, ET AL. v. SKECHERS U.S.A., INC. I, ET AL., E.D. Missouri, C.A. No. 4:15-545