

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: AMERICAN MEDICAL SYSTEMS, INC.,
PELVIC REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION**

MDL No. 2325

TRANSFER ORDER

Before the Panel:* Pursuant to Panel Rule 7.1, plaintiffs move to vacate our order that conditionally transferred this action (*Hall*) to MDL No. 2325.¹ Defendant American Medical Systems, Inc. (AMS) opposes the motion to vacate.

After considering all argument of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2325, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Plaintiffs do not dispute that this action shares questions of fact with MDL No. 2325. Like many of the already-centralized actions, *Hall* involves factual questions arising from allegations that pelvic surgical mesh products manufactured by AMS were defectively designed, manufactured and marketed, resulting in serious injuries, and that defendants failed to provide appropriate warnings and instructions regarding the risks and dangers posed by the device. *See In re: Am. Medical Sys., Inc., Pelvic Repair Sys. Prods. Liab. Litig., et al.*, 844 F. Supp. 2d 1359 (J.P.M.L. 2012).

In support of the motion to vacate, movants argue that (1) *Hall* was improperly removed and plaintiffs' motion to remand to state court is pending; (2) *Hall* is unique because it names as defendant Total Petrochemical & Refining USA, Inc. (Total Petrochemical)—a manufacturer of polypropylene resin; and (3) transfer would inconvenience the *Hall* parties and witnesses.

The Panel often has held that jurisdictional issues do not present an impediment to transfer, as plaintiffs can present such arguments to the transferee judge.² *See, e.g., In re: Prudential Ins. Co.*

* Judge Marjorie O. Rendell and Judge Lewis A. Kaplan did not participate in the disposition of this matter.

¹ An additional action in this docket, *Senaida Garcia v. Ethicon Inc., et al.*, N.D. Texas, C.A. No. 3:13-04775, was included on the Panel's March 27, 2014, hearing session order but will be considered at the next Panel hearing session on May 29, 2012.

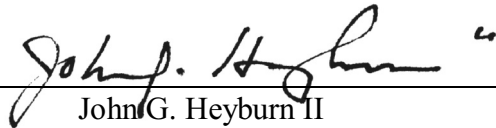
² Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a
(continued...)

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of Am. Sales Practices Litig., 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001). Furthermore, the inclusion of Total Petrochemical as a defendant does not preclude transfer, which does not require a complete identity of parties. *See In re Navistar 6.0 L Diesel Engine Prods. Liab. Litig.*, 777 F. Supp. 2d 1347, 1348 (J.P.M.L. 2011). Indeed, other pelvic mesh MDLs involve as defendants manufacturers of component parts of the pelvic mesh products at issue. *See, e.g.*, Transfer Order, MDL No. 2327 (J.P.M.L. Feb. 14, 2014); Transfer Order, MDL No. 2326 (J.P.M.L. Dec. 16, 2013). Finally, the Panel repeatedly has held that, while it might inconvenience some parties, transfer of a particular action often is necessary to further the expeditious resolution of the litigation taken as a whole. *See, e.g., In re: Crown Life Ins. Premium Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001).

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action 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



John G. Heyburn II
Chairman

Charles R. Breyer
Ellen Segal Huvelle

Sarah S. Vance

²(...continued)

remand or other motion is filed and the date the Panel finalizes transfer of the action to the MDL, a court wishing to rule upon that motion generally has adequate time to do so.

**IN RE: AMERICAN MEDICAL SYSTEMS, INC.,
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SCHEDULE A

Southern District of Texas

HALL V. AMERICAN MEDICAL SYSTEMS, INC., C.A. No. 4:14-00081