

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 in the Northern District of Texas *Garcia* action; the Southern District of Texas *Alaniz* and *Guzman* actions; and the Western District of Texas *Dimas* action move to vacate our orders conditionally transferring the actions to MDL No. 2325. Healthcare defendants in the *Dimas* and *Alaniz* actions and the Southern District of Texas *Alanis* action¹ also move to vacate our orders conditionally transferring these actions to MDL No. 2325. Defendant American Medical Systems, Inc. (AMS) opposes the motions to vacate. All actions are listed on Schedule A.

After considering all argument of counsel, we find these actions involve 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 their actions share questions of fact with MDL No. 2325. Like many of the already-centralized actions, these actions involve factual questions arising from allegations that pelvic surgical mesh products manufactured by AMS and related entities 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 devices. *See In re: Am. Med. Sys., Inc., Pelvic Repair Sys. Prods. Liab. Litig., et al.*, 844 F. Supp. 2d 1359 (J.P.M.L. 2012).

In support of the motions to vacate, movants argue that these actions were improperly removed. 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. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

¹ Juan Reyna, M.D. in *Dimas*, Ellen Eye, M.D. in *Alaniz*, and Henry Ruiz, M.D. in *Alanis*.

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 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.

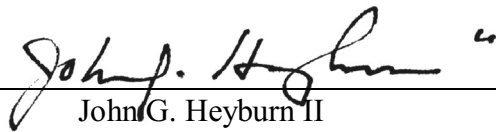
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We are unpersuaded that plaintiffs' claims of inconvenience or delay justify exclusion of these actions from centralized proceedings. The Panel repeatedly has held that, while it might inconvenience some parties, transfer of a particular action often 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). The transferee judge is in the best position to structure proceedings so as to minimize inconvenience to any individual party.

The *Garcia* plaintiffs argue that their claims against their healthcare providers involve unique issues of fact and law. We are not persuaded that the existence of these claims weighs against transfer. There are many claims against healthcare defendants included in the various pelvic mesh MDLs pending in the Southern District of West Virginia, including MDL No. 2325. *Cf. Transfer Order (Malcolm)*, MDL No. 2327 (J.P.M.L. Oct. 17, 2013) ("There are numerous medical negligence claims pending in MDL No. 2327 against various healthcare defendants, most of whom are not named in more than one action."). Moreover, Section 1407 transfer "does not require a complete identity or even majority of common factual and legal issues as a prerequisite to centralization." *See In re: Satyam Computer Servs., Ltd., Sec. Litig.*, 712 F. Supp. 2d 1381, 1382 (J.P.M.L. 2010).

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A are 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



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SCHEDULE A

Northern District of Texas

GARCIA v. ETHICON, INC., ET AL., C.A. No. 3:13-04775

Southern District of Texas

ALANIZ v. ELLEN EYE, M.D., ET AL., C.A. No. 7:14-00111

GUZMAN v. MARTINEZ, ET AL., C.A. No. 7:14-00116

ALANIS, ET AL. v. RUIZ, ET AL., C.A. No. 7:14-00119

Western District of Texas

DIMAS v. REYNA, ET AL., C.A. No. 5:14-00207