

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 this District of New Mexico action (*Martinez*), listed on Schedule A, move to vacate our order conditionally transferring the action to MDL No. 2325. Defendants oppose 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 *Martinez* shares questions of fact with MDL No. 2325. Like many of the already-centralized actions, this action involves factual questions arising from allegations that pelvic surgical mesh products manufactured by American Medical Systems, Inc. (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 motion to vacate, plaintiffs argue that this action was 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.¹ *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).

* Judge Ellen Segal Huvelle took no part in the decision of this matter.

¹ 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.

-2-

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

A handwritten signature in black ink, appearing to read "John G. Heyburn II", is written above a horizontal line.

John G. Heyburn II
Chairman

Marjorie O. Rendell
Lewis A. Kaplan
R. David Proctor

Charles R. Breyer
Sarah S. Vance

**IN RE: AMERICAN MEDICAL SYSTEMS, INC.,
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LIABILITY LITIGATION**

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SCHEDULE A

District of New Mexico

MARTINEZ, ET AL., v. AMERICAN MEDICAL SYSTEMS, INC., ET AL.,
C.A. No. 1:14-00251