

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: BOSTON SCIENTIFIC CORP.
PELVIC REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION**

MDL No. 2326

TRANSFER ORDER

Before the Panel:* Pursuant to Panel Rule 7.1, plaintiffs in 44 actions move to vacate our orders conditionally transferring the actions to MDL No. 2326. The 44 actions, which are listed on the attached Schedule A, are pending in the Eastern District of Arkansas, the Western District of Arkansas, the Southern District of Indiana (fourteen actions), the Eastern District of Missouri, the District of Nevada, and the Eastern District of Pennsylvania (26 actions). Responding defendant Boston Scientific Corp. (Boston Scientific) opposes the motions.

After considering all argument of counsel, we find these actions involve common questions of fact with the actions previously transferred to MDL No. 2326, 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. 2326. Like many of the already-centralized actions, these 44 actions involve factual questions arising from allegations that pelvic surgical mesh products manufactured by Boston Scientific 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: Boston Scientific Corp. 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, plaintiffs primarily argue that these actions were improperly removed and plaintiffs' motions to remand to state court are pending. The Panel often has held that jurisdictional issues do not present an impediment to transfer, as plaintiff 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 Marjorie O. Rendell and Judge Lewis A. Kaplan did not participate in the disposition of this matter.

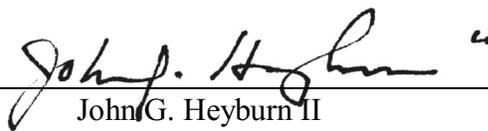
¹ Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand or other motion is filed and the date the Panel finalizes transfer of the action to the MDL, a court wishing to rule upon that motion generally has adequate time to do so.

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Plaintiffs in the Eastern District of Pennsylvania actions argue that transfer will result in dismissal of their claims against defendants Secant Medical, Inc. and Secant Medical, LLC (Secant), because they are not named in the master complaint in MDL No. 2326. As we recently held in transferring three similar actions to MDL No. 2327 over plaintiffs' objections,² the transferee court has held that plaintiffs filing claims against defendants not named in the master complaint cannot *directly file* their claims in the Southern District of West Virginia. Plaintiffs' claims against such defendants are free to proceed in the MDL once they are transferred by the Panel pursuant to Section 1407.

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



John G. Heyburn II
Chairman

Paul J. Barbadoro
Sarah S. Vance

Charles R. Breyer
Ellen Segal Huvelle

² See Transfer Order, MDL No. 2327 (J.P.M.L. Oct. 17, 2013).

**IN RE: BOSTON SCIENTIFIC CORP.
PELVIC REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION**

MDL No. 2326

SCHEDULE A

Eastern District of Arkansas

Judith Johnson, et al. v. Baptist Health, et al., C.A. No. 4:13-00509

Western District of Arkansas

Belinda Walton v. Baptist Health, et al., C.A. No. 6:13-06097

Southern District of Indiana

Lisa Rinker v. Medventure Technology Corporation, et al., C.A. No. 1:13-01233
Amanda Smith v. Medventure Technology Corporation, et al., C.A. No. 1:13-01234
Judith Penn, et al. v. Medventure Technology Corporation, C.A. No. 4:13-00108
Julie Bocoock, et al. v. Medventure Technology Corporation, et al., C.A. No. 4:13-00109
Della Cross, et al. v. Medventure Technology Corporation, et al., C.A. No. 4:13-00110
Martina Adkins, et al. v. Medventure Technology Corporation, et al., C.A. No. 4:13-00111
Rita Kwasniewski, et al. v. Medventure Technology Corporation, et al., C.A. No. 4:13-00112
Diana Lindeman, et al. v. Medventure Technology Corporation, et al., C.A. No. 4:13-00113
Tina Hardy, et al. v. Medventure Technology Corporation, et al., C.A. No. 4:13-00116
Ada Herrmann, et al. v. Medventure Technology Corporation, et al., C.A. No. 4:13-00117
Barbara Brown, et al. v. Medventure Technology Corporation, et al., C.A. No. 4:13-00118
Adrienne Burton, et al. v. Medventure Technology Corporation, et al., C.A. No. 4:13-00119
Suzanne Seeley, et al. v. Medventure Technology Corporation, et al., C.A. No. 4:13-00120
Terry Strawser, et al. v. Medventure Technology Corporation, et al., C.A. No. 4:13-00121

Eastern District of Missouri

Janice Pierson, et al. v. Boston Scientific Corporation, C.A. No. 4:13-01509

District of Nevada

Amber Martinez, et al. v. Rafael G. Juarez, M.D., et al., C.A. No. 2:13-01653

Eastern District of Pennsylvania

Dorothea Matthews v. Boston Scientific Corporation, et al., C.A. No. 2:13-04393
Patricia Stiger v. Boston Scientific Corporation, et al., C.A. No. 2:13-04394
Susan Irene Sullivan v. Boston Scientific, Inc., et al., C.A. No. 2:13-04589

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MDL No. 2326 Schedule A (continued)

Eastern District of Pennsylvania (continued)

Gertrude J. Addison v. Boston Scientific, Inc., et al., C.A. No. 2:13-04697
Judy K. Farmer v. Boston Scientific, Inc., et al., C.A. No. 2:13-04698
Sue Ann Dickerson v. Boston Scientific, Inc., et al., C.A. No. 2:13-04699
Peggy L. Favors v. Boston Scientific, Inc., et al., C.A. No. 2:13-04700
Shavaughn L. White v. Boston Scientific, Inc., et al., C.A. No. 2:13-04710
Amy Mettie v. Boston Scientific, Inc., et al., C.A. No. 2:13-04711
Joyce Gibson v. Boston Scientific Corp., et al., C.A. No. 2:13-04712
Kay Frances Rockwell, et al. v. Boston Scientific, Inc., et al., C.A. No. 2:13-04713
Marcy Marie Pruitt, et al. v. Boston Scientific, Inc., et al., C.A. No. 2:13-04714
Charlene Faye Allin, et al. v. Boston Scientific Corp., et al., C.A. No. 2:13-04813
Cindy L. Marshall v. Boston Scientific, Inc., et al., C.A. No. 2:13-04828
Lisa A. Harpold v. Boston Scientific, Corp., et al., C.A. No. 2:13-04829
C. Jane Mowry, et al. v. Boston Scientific Corp., et al., C.A. No. 2:13-04891
Doris Olewnik v. Boston Scientific Corporation, et al., C.A. No. 2:13-04892
Diane Disanto, et al. v. Boston Scientific Corp., et al., C.A. No. 2:13-04893
Beverly Ann Sexton v. Boston Scientific, Inc., et al., C.A. No. 2:13-04908
Billie Jo Shull v. Boston Scientific, Inc., et al., C.A. No. 2:13-04909
Marilyn Robinson Sevilla v. Boston Scientific, Inc., et al., C.A. No. 2:13-04910
Rhoda Goodman, et al. v. Boston Scientific Corp., et al., C.A. No. 2:13-04911
Adela C. Soliz v. Boston Scientific Corp., et al., C.A. No. 2:13-05003
Diana F. Montemayor v. Boston Scientific Corp., et al., C.A. No. 2:13-05004
Lisa Meatrice Brown v. Boston Scientific, Inc., et al., C.A. No. 2:13-05005
Rosanna DiBiase v. Boston Scientific Corp., et al., C.A. No. 5:13-04701