

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:* Defendant Boston Scientific Corp. moves under 28 U.S.C. § 1407(c) for transfer of the action listed on Schedule A (*Saldierna*) to the Southern District of West Virginia for inclusion in MDL No. 2326. Plaintiff opposes the motion.

After considering the argument of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2326, and 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. The actions encompassing MDL No. 2326 involve factual questions arising from allegations that Boston Scientific defectively designed, manufactured, and marketed pelvic surgical mesh products, 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: Boston Scientific Corp., Pelvic Repair Sys. Prods. Liab. Litig., et al.*, 844 F. Supp. 2d 1359 (J.P.M.L. 2012).

Plaintiff in *Saldierna* alleges that she was implanted with a Boston Scientific pelvic mesh product that defendant represented was made from “authentic” Marlex mesh, but instead was made from lower quality and lower value, counterfeit mesh smuggled from China. The complaint does not include allegations of personal injury, but alleges plaintiff suffered economic damages by paying for lower quality mesh than was advertised. Plaintiff argues that her claims are unique from the personal injury claims in MDL No. 2326.

Plaintiff also has filed a short form complaint in the transferee court, alleging personal injury from the implantation of the same Boston Scientific product on the same date. It is most efficient for plaintiff’s claims to proceed together before one court for pretrial purposes. Discovery between *Saldierna* and plaintiff’s MDL No. 2326 case undoubtedly will overlap, as the cases involve the same product, the same surgery, and the same witnesses. Moreover, we have held that “the presence of differing theories or remedies is outweighed when the underlying actions still arise from a

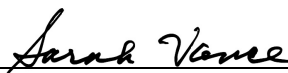
* Judge Lewis A. Kaplan and Judge Catherine D. Perry did not participate in the Panel’s decision.

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common factual core.” *See In re: Ford Motor Co. Speed Control Deactivation Switch Prods. Liab. Litig.*, 398 F. Supp. 2d 1365, 1367 (J.P.M.L. 2005).

IT IS THEREFORE ORDERED that 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



Sarah S. Vance

Chair

Marjorie O. Rendell
Ellen Segal Huvelle

Charles R. Breyer
R. David Proctor

**IN RE: BOSTON SCIENTIFIC CORP.
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SCHEDULE A

Southern District of Texas

SALDIERNA v. BOSTON SCIENTIFIC CORP., C.A. No. 4:16-00329