

**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, defendants Cook Inc., Cook Medical Inc., Vance Products Inc. (sued as “Cook Urological Incorporated”), Cook Biotech Inc., and Cook Group Inc. (collectively, Cook) move to partially vacate our orders conditionally transferring the three actions listed on Schedule A to MDL No. 2326. Responding plaintiffs in the *Connell* and *Myers* actions oppose the motions and request transfer of each action in its entirety. Defendant Boston Scientific Corp. (Boston Scientific) does not oppose the request to separate and remand the claims against Cook.

MDL No. 2326 is one of five MDLs pending in the Southern District of West Virginia involving allegations of defects in surgical products manufactured by five separate defendant groups and used to treat pelvic organ prolapse and stress urinary incontinence. *See In re: Avaulta Pelvic Support Sys. Prods. Liab. Litig.*, MDL No. 2187, 746 F. Supp. 2d 1362 (J.P.M.L. 2010); *In re: Am. Med. Sys., Inc., Pelvic Repair Sys. Prods. Liab. Litig., et al.*, MDL Nos. 2325, 2326, and 2327, 844 F. Supp. 2d 1359 (J.P.M.L. 2012); *In re: Coloplast Corp. Pelvic Support Sys. Prods. Liab. Litig.*, MDL No. 2387, 883 F. Supp. 2d 1348, 1348 (J.P.M.L. 2012). The Panel has determined to create a sixth MDL in this district, involving similar claims against Cook. *See In re: Cook Med., Inc., Pelvic Repair Sys. Prods. Liab. Litig.*, MDL No. 2440, Transfer Order, \_\_\_ F. Supp. 2d \_\_\_ (J.P.M.L. Jun. 11, 2013).

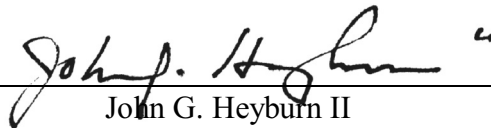
After considering all argument of counsel, we find that these actions share questions of fact with actions in this litigation previously transferred to the Southern District of West Virginia, and that transfer of these actions in their entirety to MDL No. 2326 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Like many of the already-centralized actions, these 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 these 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). Moreover, like the actions recently centralized in MDL No. 2440, these actions also involve factual questions arising from similar allegations regarding products manufactured by Cook. *In re: Cook Med., Inc.*, MDL No. 2440, Transfer Order, \_\_\_ F. Supp. 2d \_\_\_ (J.P.M.L. Jun. 11, 2013).

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In opposing inclusion of the claims against Cook, Cook argues that its products are not “pelvic mesh” and therefore, do not share sufficient questions of fact with the actions in MDL No. 2326 to warrant transfer. As we state in our order creating MDL No. 2440, arguments that go to the merits of the claims against a particular defendant are more appropriately addressed to the transferee court. Given that the newly-established MDL involving Cook products is also pending in the Southern District of West Virginia, such arguments are immaterial.<sup>1</sup> We are confident that the transferee judge can continue to employ pretrial techniques to efficiently manage proceedings among the MDLs pending in the Southern District of West Virginia.

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 occurring there in this docket.

PANEL ON MULTIDISTRICT LITIGATION

  
\_\_\_\_\_  
John G. Heyburn II  
Chairman

Kathryn H. Vratil  
Paul J. Barbadoro  
Charles R. Breyer

W. Royal Furgeson, Jr.  
Marjorie O. Rendell  
Lewis A. Kaplan

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<sup>1</sup> To the extent any of the actions on Schedule A name Cook as the first-named defendant, rather than Boston Scientific, and, pursuant to past practice in MDL Nos. 2187, 2325, 2326, 2327, and 2387, belong in the new MDL No. 2440 involving Cook products, the transferee judge can assign such actions to the proper MDL as has been his past practice.

**IN RE: BOSTON SCIENTIFIC CORP.  
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LIABILITY LITIGATION**

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**SCHEDULE A**

Northern District of Alabama

Patricia Connell v. Cook Group Inc., et al., C.A. No. 3:13-00274

Linda Pickard, et al. v. Boston Scientific Corp., et al., C.A. No. 6:13-00308

Western District of Missouri

Elena Myers, et al. v. Cook Group, Inc., et al., C.A. No. 4:13-00160