

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

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

Veronica Cortez, et al. v. Gholam A. Kiani-Khozani, M.D., )  
et al., S.D. Texas, C.A. No. 7:13-00036 )

MDL No. 2326

**TRANSFER ORDER**

**Before the Panel:** Pursuant to Panel Rule 7.1, plaintiffs and defendants Gholam A. Kiani, M.D., P.A. and Gholam A. Kiani-Khozani, M.D. move to vacate our order conditionally transferring this action (*Cortez*) to MDL No. 2326. Defendant Boston Scientific Corp. (Boston Scientific) opposes the motions.

After considering all argument of counsel, we find that *Cortez* shares questions of fact with actions in this litigation previously transferred to the Southern District of West Virginia, and that transfer of this action to MDL No. 2326 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Movants do not dispute that this action shares questions of fact with MDL No. 2326. Like many of the already-centralized actions, *Cortez* involves 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).

In support of the motions to vacate, movants argue that this action was improperly removed and motions to remand to state court are pending, and that transfer will result in undue delay. The Panel often has held that jurisdictional issues do not present an impediment to transfer, as the parties can present such arguments to the transferee judge.<sup>1</sup> *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). Moreover, the Panel has repeatedly 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. Co. Premium Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001).

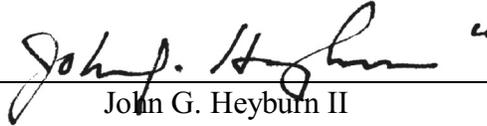
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<sup>1</sup> Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand or other motion is filed and the date 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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IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action 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 occurring there in this docket.

PANEL ON MULTIDISTRICT LITIGATION



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