UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: ETHICON, INC., PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION

Kelley Lange, et al. v. Mentor Worldwide LLC, et al., et al., C.D. California, No. 2:13-06287) MDL No. 2327

ORDER VACATING CONDITIONAL TRANSFER ORDER

Before the Panel:[*] Pursuant to Panel Rule 7.1, plaintiffs in this Central District of California action (*Lange*) move to vacate our order conditionally transferring their action to MDL No. 2327. Responding defendants Johnson & Johnson and Ethicon, Inc. (collectively Ethicon) and Mentor Worldwide LLC (Mentor) oppose the motion to vacate and request transfer of this action to MDL No. 2004 – *In re: Mentor Corp. ObTape Transobturator Sling Prods. Liab. Litig.*

The actions encompassing MDL No. 2327 involve allegations that pelvic surgical mesh products manufactured by Ethicon 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 device. *See In re: Ethicon, Inc., Pelvic Repair Sys. Prods. Liab. Litig., et al.*, 844 F. Supp. 2d 1359 (J.P.M.L. 2012). The actions encompassing MDL No. 2004 involve similar allegations regarding pelvic surgical mesh products manufactured by Mentor. *See In re: Mentor Corp. ObTape Transobturator Sling Prods. Liab. Litig.*, 588 F. Supp. 2d 1374 (J.P.M.L. 2008).

The *Lange* complaint alleges that plaintiffs were implanted with pelvic surgical mesh products manufactured by defendants, without further specificity. However, in their motion to vacate, plaintiffs argue that their claims "all involved injuries suffered as a direct and proximate result of a Mentor ObTape product, which is not at issue in MDL No. 2327." It is unclear from this assertion whether all twelve plaintiffs were implanted with both Mentor and Ethicon pelvic surgical mesh products, or whether they were implanted with only Mentor products. Mentor and Ethicon argue in favor of the latter interpretation and seek transfer to MDL No. 2004. Plaintiffs' initial argument is brief and ambiguous, and they have not provided a clarification in response to Mentor and Ethicon's interpretation. Thus, we are left to assume plaintiffs agree with defendants' characterization of their claims. Consequently, given that it seems this action involves only Mentor pelvic surgical mesh products, we conclude that inclusion of this action in MDL No. 2327 would not

[*] Judge Marjorie O. Rendell and Judge Lewis A. Kaplan did not participate in the disposition of this matter.

serve the convenience of the parties and witnesses or promote the just and efficient conduct of the litigation.

IT IS THEREFORE ORDERED that the Panel's conditional transfer order designated as "CTO-98" is vacated insofar as it relates to this action. This action will be placed on a conditional transfer order for MDL No. 2004.

PANEL ON MULTIDISTRICT LITIGATION

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