

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

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

MDL No. 2327

TRANSFER ORDER

Before the Panel:* Pursuant to Panel Rule 7.1, plaintiffs in 49 actions move to vacate our orders conditionally transferring the actions to MDL No. 2327. The 49 actions, which are listed on the attached Schedule A, are pending in the Central District of California (four actions), the Eastern District of Missouri (two actions), the Eastern District of Pennsylvania (42 actions), and the Southern District of Texas. Responding defendants Johnson & Johnson and Ethicon, Inc. (collectively Ethicon) oppose the motions to vacate.

After considering all argument of counsel, we find these actions involve common questions of fact with the actions previously transferred to MDL No. 2327, 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. 2327. Like many of the already-centralized actions, these 49 actions involve factual questions arising from 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 devices. *See In re: Ethicon, Inc., 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 plaintiffs 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., Secant Medical, LLC, and Prodesco, Inc. (Secant), because they are not named in the master complaint in MDL No. 2327. 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: ETHICON, INC., PELVIC
REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION**

MDL No. 2327

SCHEDULE A

Central District of California

Amber Clavesilla, et al. v. Johnson & Johnson, et al., C.A. No. 2:13-06284
Joan Miller, et al. v. Johnson & Johnson, et al., C.A. No. 2:13-06285
Megan Moses, et al. v. Johnson & Johnson, et al., C.A. No. 2:13-06288
Pamela Ruiz, et al. v. Johnson & Johnson, et al., C.A. No. 2:13-06289

Eastern District of Missouri

Rhonda Johnson, et al. v. Johnson & Johnson, et al., C.A. No. 4:13-01763
Angela Davidson, et al. v. Johnson & Johnson, et al., C.A. No. 4:13-01765

Eastern District of Pennsylvania

Kathryn McGee, et al. v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-04388
Carla Hibler v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-04932
Leeanna Turner v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-04933
Cassandra E. Dawson v. Johnson & Johnson, et al., C.A. No. 2:13-04934
Doris R. Carter, et al. v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-04953
Bernadette Ely v. Johnson & Johnson, et al., C.A. No. 2:13-04954
Brenda Jo French v. Johnson & Johnson, et al., C.A. No. 2:13-04955
Theresa Dempsey v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-04956
Christine Greenwood, et al. v. Ethicon Women's Health & Urology, et al.,
C.A. No. 2:13-04957
Brenda J. Carson v. Johnson & Johnson, et al., C.A. No. 2:13-04958
Barbara N. Bagwell v. Johnson & Johnson, et al., C.A. No. 2:13-04959
Lana Holt, et al. v. Ethicon Women's Health & Urology et al., C.A. No. 2:13-04960
Connie Sue Berry v. Johnson & Johnson, et al., C.A. No. 2:13-04961
Cynthia Dawn Nicholson v. Johnson & Johnson, et al., C.A. No. 2:13-04962
Gina Marie Collins v. Johnson & Johnson, et al., C.A. No. 2:13-04963
Kimberly L. Adkins v. Johnson & Johnson, et al., C.A. No. 2:13-04964
Iliana A. Perez v. Johnson & Johnson, et al., C.A. No. 2:13-05010
Betty Anne Giove, et al. v. Ethicon, Inc., et al., C.A. No. 2:13-05011
Kathleen J. Tomer v. Johnson & Johnson, et al., C.A. No. 2:13-05013
Connie Rubio v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05014
Ann Porter-Toure, et al. v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05015
Geraldine Barry v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05016

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MDL No. 2327 Schedule A (continued)

Eastern District of Pennsylvania (continued)

Susan McFarland, et al. v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05017
Alice Deimler, et al. v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05018
Ella Cederberg-Ebaugh, et al. v. Ethicon Women's Health and Urology, et al.,
C.A. No. 2:13-05292
Caroline Holbrook, et al. v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05294
Cathy Eifert, et al. v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05295
Patsy Cousins v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05296
Irene Gordon, et al. v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05297
Patricia Tallo v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05301
Debbie Zimmers, et al. v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05302
Theresa Lynn Thomas v. Johnson & Johnson, et al., C.A. No. 2:13-05303
Cheryl Veri, et al. v. Ethicon Women's Health and Urology, et al., C.A. No. 2:13-05304
Kelley Owens, et al. v. Ethicon, Inc., et al., C.A. No. 2:13-05305
Julie Carr v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05306
Elizabeth Peil v. Ethicon Women's Health and Urology, et al., C.A. No. 2:13-05307
Patricia Hebert v. Ethicon Women's Health & Urology, et al., C.A. No. 2:13-05308
Sharon Beltz v. Ethicon Women's Health & Urology, et al., C.A. No. 5:13-04931
Kelly Mohn, et al. v. Ethicon Women's Health & Urology, et al., C.A. No. 5:13-05012
Diana Perigo, et al. v. Ethicon Women's Health & Urology, et al., C.A. No. 5:13-05293
Margaret Klima-Mills, et al. v. Ethicon Women's Health & Urology, et al.,
C.A. No. 5:13-05298
Suzanne M. Emmett, et al. v. Ethicon Women's Health & Urology, et al., C.A. No. 5:13-05299

Southern District of Texas

Maria DeLeon v. Alejandro Tey, M.D., et al., C.A. No. 7:13-00439