

**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:** Plaintiffs in the three actions listed on Schedule A move under Panel Rule 7.1 to vacate our orders conditionally transferring their actions to MDL No. 2327. Defendants Johnson & Johnson, Ethicon, Inc., and Ethicon, LLC (together, Ethicon), oppose the motion to vacate as to the two actions pending in the Eastern District of Missouri, and defendant Boston Scientific Corporation opposes the motion as to the action pending in the Eastern District of Pennsylvania.

After considering the argument of counsel, we find these actions involve common questions of fact with the actions previously transferred to MDL No. 2327, and that 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. Plaintiffs do not dispute that these actions share questions of fact with MDL No. 2327. Like many of the already-centralized actions, they involve factual questions arising from allegations that Ethicon and related entities 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: 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 argue that federal subject matter jurisdiction is lacking, 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 these 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).

The Eastern District of Pennsylvania plaintiff also argues that transfer will cause a delay in the resolution of her action because she contends the case was scheduled for trial in state court. We have found that, while transfer of a particular action might inconvenience some parties to that action, transfer often is necessary to further the expeditious resolution of the litigation taken as a whole. *See*

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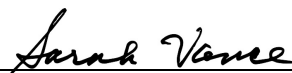
<sup>1</sup> Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on a remand motion if it chooses to do so.

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*In re: Crown Life Ins. Premium Ins. Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001). Moreover, plaintiff's argument is based on the case's procedural posture in state court, where it is not presently pending.

IT IS THEREFORE ORDERED that the actions listed on Schedule A 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



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Sarah S. Vance

Chair

Marjorie O. Rendell

Lewis A. Kaplan

R. David Proctor

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Ellen Segal Huvelle

Catherine D. Perry

**IN RE: ETHICON, INC., PELVIC  
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MDL No. 2327

**SCHEDULE A**

Eastern District of Missouri

BRAWLEY, ET AL. v. JOHNSON & JOHNSON, ET AL., C.A. No. 4:16-01439  
RAY, ET AL. v. JOHNSON & JOHNSON, ET AL., C.A. No. 4:16-01441

Eastern District of Pennsylvania

TALLO v. ETHICON, INC., ET AL., C.A. No. 2:16-04974