

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**IN RE: BIOMET M2A MAGNUM HIP IMPLANT  
PRODUCTS LIABILITY LITIGATION**

MDL No. 2391

**TRANSFER ORDER**

**Before the Panel:** Pursuant to Panel Rule 7.1, plaintiff in the action listed on Schedule A moves to vacate our order that conditionally transferred her action to MDL No. 2391. Defendants<sup>1</sup> oppose the motions.

After considering all argument of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2391, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Moreover, transfer is warranted for reasons set out in our order directing centralization. In that order, we held that the Northern District of Indiana was an appropriate Section 1407 forum for actions sharing factual questions arising from alleged injuries from Biomet's M2a Magnum and M2a-38 hip implant products. *See In re: Biomet M2A Magnum Hip Implant Prods. Liab. Litig.*, 896 F. Supp. 2d 1339 (J.P.M.L. 2012). The action before us involves injuries arising from the design, manufacture, marketing and implantation of Biomet M2a Magnum or M2a-38 hip implant components, and clearly fall within the MDL's ambit.

Plaintiff does not dispute that her action shares questions of fact with actions pending in MDL No. 2391. Plaintiff instead bases her arguments against transfer primarily on the pendency of her motion to remand to state court. Plaintiff can present the motion for remand to the transferee judge.<sup>2</sup> *See, e.g., In re Ivy*, 901 F.2d 7, 9 (2nd Cir. 1990); *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

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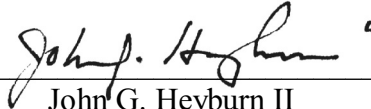
<sup>1</sup> Biomet Orthopaedics, LLC and Biomet, Inc. (collectively Biomet).

<sup>2</sup> Panel Rule 2.1(d) expressly provides that 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 wishing to rule upon the remand motion generally has adequate time in which 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 Northern District of Indiana and, with the consent of that court, assigned to the Honorable Robert L. Miller, Jr., for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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**IN RE: BIOMET M2A MAGNUM HIP IMPLANT  
PRODUCTS LIABILITY LITIGATION**

MDL No. 2391

**SCHEDULE A**

Southern District of Texas

LEIJA V. BIOMET ORTHOPEDICS, LLC, ET AL., C.A. No. 1:14-12