

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: Plaintiffs in the Eastern District of Louisiana action listed on the attached Schedule A (*Marie*) move under Panel Rule 7.1 to vacate the Panel's order conditionally transferring their action to MDL No. 2391. Biomet defendants¹ oppose the motion.

After considering the argument of counsel, we find that 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 hip implant components, and thus clearly falls within the MDL's ambit.

Plaintiffs do not dispute that their action shares questions of fact with actions pending in MDL No. 2391. Plaintiffs instead base their arguments against transfer primarily on the pendency of their motion to remand to state court and their preference that it be ruled upon in the transferor court. Plaintiffs can present the motion for remand to the transferee judge.² *See, e.g., In re Ivy*, 901 F.2d 7, 9 (2d Cir. 1990); *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

¹ Biomet Orthopedics, LLC; Biomet, Inc.; Biomet U.S. Reconstruction, LLC; and Biomet Manufacturing, LLC.

² 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.

-2-

IT IS THEREFORE ORDERED that 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



Sarah S. Vance
Chair

Marjorie O. Rendell
Lewis A. Kaplan
R. David Proctor

Charles R. Breyer
Ellen Segal Huvelle
Catherine D. Perry

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

MDL No. 2391

SCHEDULE A

Eastern District of Louisiana

MARIE, ET AL. V. BONEAFIED ORTHOPAEDICS, INC., ET AL., C.A. No. 2:16-cv-13138