

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**IN RE: STRYKER REJUVENATE AND ABG II HIP  
IMPLANT PRODUCTS LIABILITY LITIGATION**

MDL No. 2441

**TRANSFER ORDER**

**Before the Panel:** Plaintiffs in the Northern District of Texas action (*Morgan*) listed on the attached Schedule A move under Panel Rule 7.1 to vacate the Panel's order conditionally transferring their action to MDL No. 2441. Defendants Howmedica Osteonics Corp., Stryker Corp., and Stryker Sales Corp. oppose the motion.

After considering all argument of counsel, we find that this action involves common questions of fact with the actions previously transferred to MDL No. 2441, 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. Moreover, transfer is warranted for reasons set out in our order directing centralization. In that order, we held that the District of Minnesota was an appropriate Section 1407 forum for actions sharing factual questions arising from alleged injuries from Stryker Rejuvenate and ABG II hip implants. *See In re: Stryker Rejuvenate and ABG II Hip Implant Prods. Liab. Litig.*, 949 F. Supp. 2d 1378 (J.P.M.L. 2013). This action involves injuries arising from implantation of Rejuvenate or AGB II hip implants and falls within the MDL's ambit.

*Morgan* is brought by an orthopaedic surgeon and his practice for injuries to the business, with claims of negligence, negligent misrepresentation and fraud based on defendants' alleged statements concerning the Stryker hip implants. At the core of the action are allegations related to defendants' statements about the safety of recalled Stryker hip implants and their propensity to generate excessive metal debris and/or metal ions, kill surrounding tissue and prematurely fail, which are typical of the allegations in MDL No. 2441 actions. Plaintiffs oppose transfer by arguing that, as a provider physician, his claims and that of his practice are unique. While that may be true, that does not provide a sufficient reason to deny transfer in light of the significant overlapping factual allegations regarding the Stryker hip implants. Moreover, defendants correctly note that *Morgan* is not the sole non-recipient case in the MDL. *See Public Employees Local 71 Trust Fund v. Howmedica Osteonics Corp.*, C.A. No. 14-131 (D. Alaska) (transferred via CTO in September 2014).

We are persuaded that this action will benefit from the framework provided by the centralized proceedings for discovery and motion practice. As the litigation progresses, however, if the transferee judge determines that these claims or another action will no longer benefit from inclusion in MDL No. 2441, we encourage him to promptly suggest that the Panel remand that action or claim to the transferor

-2-

court. *See* Panel Rule 10.1(b); *In re: ClassicStar Mare Lease Litig.*, 528 F. Supp. 2d 1345, 1347 (J.P.M.L. 2007).

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the District of Minnesota and, with the consent of that court, assigned to the Honorable Donovan W. Frank 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

Charles R. Breyer  
Ellen Segal Huvelle  
Catherine D. Perry

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**SCHEDULE A**

Northern District of Texas

MORGAN, ET AL. v. STRYKER CORPORATION, ET AL., C.A. No. 2:15-198