

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: STRYKER LFIT V40 FEMORAL HEAD
PRODUCTS LIABILITY LITIGATION**

MDL No. 2768

TRANSFER ORDER

Before the Panel:* Defendant Howmedica Osteonics Corp. moves under Panel Rule 7.1 to vacate the Panel's order conditionally transferring the Western District of New York action (*Adelman*) listed on the attached Schedule A to MDL No. 2768. Plaintiff in *Adelman* opposes 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. 2768, 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. Transfer is warranted for reasons set out in our order centralizing this litigation. In that order, we held that the District of Massachusetts was an appropriate Section 1407 forum for actions sharing factual questions arising from alleged defects in Stryker-branded LFIT Anatomic CoCR V40 femoral heads, a prosthetic hip replacement device. *See In re: Stryker LFIT V40 Femoral Head Prods. Liab. Litig.*, ___ F. Supp. 3d ___, 2017 WL 1283672 (J.P.M.L., Apr. 5, 2017). This action involves injuries arising, in part, from the implantation of a Stryker LFIT V40 femoral head and falls within the MDL's ambit.

Defendant opposes transfer by arguing that *Adelman* involves the fracture of plaintiff's Restoration Modular femoral stem and not alleged defects in the LFIT V40 femoral head. Plaintiff responds that she, in fact, alleges that her LFIT V40 femoral head was defective. In particular, plaintiff argues that she alleged a collective failure of her entire hip system, of which the femoral head was a component. Plaintiff further notes that there were necrosis and bone destruction in the same general area as the femoral head/taper junction, which is where the defect is alleged to have occurred in most centralized actions. Plaintiff theorizes that the problematic femoral head may have, in some fashion, caused the femoral stem to fracture. Defendant did not reply to plaintiff's assertions.

We are of the opinion that, at this early stage, plaintiff has alleged sufficient facts in her complaint and in her responsive brief to justify transfer of *Adelman* to the MDL. Plaintiff certainly could have alleged the facts of her case in greater detail, rather than broadly referring to the collective failure of her hip system in her seven-page complaint. *See* Complaint at ¶ 6. But plaintiff's response to defendant's motion to vacate makes clear that she is placing a portion of the

* Judge Marjorie O. Rendell did not participate in the decision of this matter.

blame for the fracture of her femoral stem on the alleged defects of her Stryker LFIT V40 head. Thus, *Adelman* should benefit from the framework provided by the centralized proceedings for discovery and motion practice with respect to the LFIT V40 device.

As the litigation progresses, the parties may discover that the available evidence does not support plaintiff's theory that the LFIT V40 device played a role in her injuries, or the transferee judge may determine that actions like this one – which involves a stem fracture as opposed to the more typical wear and corrosion at the femoral neck-head junction – will not benefit from inclusion in the MDL. If either event occurs, the transferee judge can promptly suggest that the Panel remand the action to the transferor 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 Massachusetts and, with the consent of that court, assigned to the Honorable Indira Talwani for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Charles R. Breyer
Ellen Segal Huvelle
Catherine D. Perry

Lewis A. Kaplan
R. David Proctor

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PRODUCTS LIABILITY LITIGATION**

MDL No. 2768

SCHEDULE A

Western District of New York

ADELMAN v. STRYKER CORPORATION, ET AL., C.A. No. 1:17-00367