

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

**IN RE: BAIR HUGGER FORCED AIR WARMING  
DEVICES PRODUCTS LIABILITY LITIGATION**

MDL No. 2666

**TRANSFER ORDER**

**Before the Panel:**\* Plaintiff in the Eastern District of Pennsylvania action listed on the attached Schedule A (*Moore*) moves under Panel Rule 7.1 to vacate the order conditionally transferring the action to the District of Minnesota for inclusion in MDL No. 2666. Defendant 3M Company 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. 2666, 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. Like the actions in the MDL, *Moore* involves allegations that plaintiff suffered injuries caused by a Bair Hugger warming blanket used during his surgery. See *In re Bair Hugger Forced Air Warming Devices Prods. Liab. Litig.*, 148 F. Supp. 3d 1383, 1384 (J.P.M.L. 2015) (centralizing actions involving allegations that “plaintiffs developed serious infections during their orthopedic surgeries due to the introduction of contaminants into their open wounds as a result of the use of a Bair Hugger Forced Air Warming system”).

Plaintiff moves to vacate the conditional transfer order on the ground that the MDL is in an advanced posture and that his action will be delayed if included in the MDL. However, while much has been accomplished in the MDL, pretrial proceedings are not yet at an end. In March 2023, the transferee court appointed a former federal district court judge as special master to assist with mediation efforts and advise the parties on how further litigation may facilitate a resolution. After meeting with the special master, the parties on July 24, 2023, submitted a proposal for the screening of several hundred cases, from which 34 cases are to be selected for further proceedings. On July 26, 2023, the court accepted the parties’ proposal, stating that it will consider the parties’ proposals regarding the nature of such further proceedings after the selection process has been completed. The efficient resolution of the litigation will be best served by including *Moore* in the ongoing litigation and mediation efforts in the MDL. See *In re IntraMTA Switched Access Charges Litig.*, 67 F. Supp. 3d 1378, 1380 (J.P.M.L. 2014) (“while transfer of a particular action might inconvenience some parties to that action, such transfer often is necessary to further the expeditious resolution of the litigation taken as a whole”).

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\* Judge David C. Norton did not participate in the decision of this matter.

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 Joan N. Ericksen for coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in cursive script, reading "Karen K. Caldwell", is positioned above a horizontal line.

Karen K. Caldwell  
Chair

Nathaniel M. Gorton  
Roger T. Benitez  
Madeline Cox Arleo

Matthew F. Kennelly  
Dale A. Kimball

**IN RE: BAIR HUGGER FORCED AIR WARMING  
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**SCHEDULE A**

Eastern District of Pennsylvania

MOORE v. 3M COMPANY, ET AL., C.A. No. 2:23-01388