

**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:** Plaintiffs in the three actions listed on Schedule A move under Panel Rule 7.1 to vacate the orders that conditionally transferred the actions to the District of Minnesota for inclusion in MDL No. 2666. Defendant 3M Company opposes the motions to vacate.

After considering the argument of counsel, we find that these actions involve 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, all three actions involve allegations that plaintiffs suffered injuries caused by a Bair Hugger warming blanket used during their surgeries. *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”).

Plaintiffs oppose transfer on the grounds that pretrial proceedings in the MDL are essentially complete and that their actions will be delayed if included in the MDL. Their arguments are identical to those raised in a motion we considered at our last hearing session. We denied that motion, concluding that pretrial proceedings in the MDL are not at an end and that transfer would serve the interests of convenience and judicial economy. Transfer Order in *Moore v. 3M Co., et al.*, E.D. Pennsylvania, C.A. No. 23-1388, ECF doc. 395 (Aug. 9, 2023). The same reasoning applies here. On July 26, 2023, the court approved the parties’ plan to choose 375 cases in which plaintiff fact sheets, medical records, and any data relating to product use are to be exchanged; 34 of those cases then are to be selected for trial. Although transfer of the instant cases may delay their progress somewhat, the resolution of the litigation as a whole will be best served by including them 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”).

IT IS THEREFORE ORDERED that the actions listed on Schedule A are 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  
David C. Norton  
Dale A. Kimball

Matthew F. Kennelly  
Roger T. Benitez  
Madeline Cox Arleo

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

District of Montana

GEORGE, ET AL. v. 3M COMPANY, ET AL., C.A. No. 6:23-00044  
BARRY v. 3M COMPANY, ET AL., C.A. No. 6:23-00045

Southern District of Texas

KELSO v. 3M COMPANY, ET AL., C.A. No. 4:23-02690