

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: Plaintiffs in a Southern District of Illinois action move under Panel Rule 7.1 to vacate the Panel’s order conditionally transferring the action (*Lakeland Regional*) listed on the attached Schedule A to MDL No. 2768. Defendant Howmedica Osteonics Corp. 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 Orthopaedics LFIT V40 Femoral Head Prods. Liab. Litig.*, 249 F. Supp. 3d 1353 (J.P.M.L. 2017). This action involves injuries arising from the implantation of a Stryker LFIT V40 femoral head and clearly falls within the MDL’s ambit.

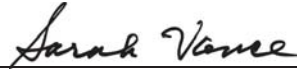
In opposing transfer, plaintiffs argue that federal jurisdiction is lacking over their action and that their case is unique because it involves claims against a treating physician and a metal-on-polyurethane hip implant. These arguments do not persuade us that transfer is inappropriate. Arguments concerning the propriety of federal jurisdiction are insufficient to warrant vacatur.¹ Many medical device product liability actions include claims against treating surgeons and physicians. Where, as here, “common factual issues exist, . . . the presence of different legal theories among the subject actions is not a bar to centralization.” *In re: Bank of New York Mellon Corp. Foreign Exch. Transactions Litig.*, 857 F. Supp. 2d 1371, 1372 (J.P.M.L. 2012). Moreover, plaintiffs’ attempt to distinguish their case as involving a metal-on-polyurethane device (i.e., a metal femoral head that articulates within a polyurethane acetabular cup) misses the mark, as the MDL allegations involving the Stryker LFIT V40 femoral head focus on corrosion at the taper junction when paired with femoral stems that are made from different alloys. Indeed, as defendants note (and plaintiffs do not rebut), many MDL actions involve the LFIT V40 head paired with the same type of Accolade femoral stem that plaintiff received. Should the need arise, the transferee judge can accommodate any unique discovery needs that this case presents or remand any claims that, in her judgment, deserve separate treatment.

¹ *See, e.g., In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

-2-

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

Lewis A. Kaplan
R. David Proctor
Karen K. Caldwell

Ellen Segal Huvelle
Catherine D. Perry
Nathaniel M. Gorton

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

MDL No. 2768

SCHEDULE A

Southern District of Illinois

DENNINGER, ET AL. v. ANDERSON, ET AL., C.A. No. 3:19-665