

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: ETHICON PHYSIOMESH FLEXIBLE
COMPOSITE HERNIA MESH PRODUCTS
LIABILITY LITIGATION**

MDL No. 2782

TRANSFER ORDER

Before the Panel:* Defendants Ethicon, Inc., and Johnson & Johnson move under 28 U.S.C. § 1407(c) for transfer of the action listed on Schedule A (*MSP Recovery*) to the Northern District of Georgia for inclusion in MDL No. 2782. Plaintiffs do not respond to the motion and, therefore, are deemed to acquiesce in the relief sought. *See* Panel Rule 6.1(c).

After considering the argument of counsel, we find that *MSP Recovery* involves common questions of fact with the actions transferred to MDL No. 2782, 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. No party disputes that, like many of the already-centralized actions, *MSP Recovery* involves factual questions arising out of allegations that defects in defendants' Physiomesh hernia mesh can lead to complications when implanted in patients. *See In re: Ethicon Physiomesh Flexible Composite Hernia Mesh Prods. Liab. Litig.*, 254 F. Supp. 3d 1381 (J.P.M.L. 2017).


Plaintiffs in *MSP Recovery* seek a pure bill of discovery against defendants, in support of a planned future action to recoup the costs that may have been incurred by Medicare payors as a result of patients' implantation with defendants' Physiomesh product. The discovery they seek includes identifying information on patients who have been implanted with Physiomesh. The requested discovery thus likely overlaps with the common discovery in MDL No. 2782. It appears that defendants will oppose production of this information, and transfer may prevent inconsistent rulings on this discovery issue. If the transferee judge determines that *MSP Recovery* is best excluded from centralized proceedings, procedures are available to accomplish this with a minimum of delay. *See* Panel Rules 10.1-10.3.

* Judge Nathaniel M. Gorton did not participate in the Panel's decision.

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IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Northern District of Georgia and, with the consent of that court, assigned to the Honorable Richard W. Story for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in cursive script, reading "Sarah S. Vance", is positioned above a horizontal line.

Sarah S. Vance
Chair

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

Ellen Segal Huvelle
Catherine D. Perry

**IN RE: ETHICON PHYSIOMESH FLEXIBLE
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SCHEDULE A

Southern District of Florida

MSP RECOVERY CLAIMS, SERIES LLC, ET AL. v. JOHNSON & JOHNSON, ET
AL., C.A. No. 1:18-24580