

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: DAVOL, INC./C.R. BARD, INC.,
POLYPROPYLENE HERNIA MESH
PRODUCTS LIABILITY LITIGATION**

MDL No. 2846

TRANSFER ORDER

Before the Panel: Plaintiffs in the action listed on Schedule A (*Vaughn*) move under Panel Rule 7.1 to vacate our order that conditionally transferred the action to the Southern District of Ohio for inclusion in MDL No. 2846. Defendants C. R. Bard, Inc.; Becton, Dickinson and Company; and Davol Inc. (together, Bard) oppose the motion.

After considering the argument of counsel, we find that this action involves common questions of fact with the actions transferred to MDL No. 2846, 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. In our order centralizing this litigation, we held that centralization was warranted for actions sharing factual questions arising out of allegations that defects in defendants' polypropylene hernia mesh products can lead to complications when implanted in patients including, inter alia, adhesions, damage to organs, and infections. *See In re Davol, Inc./C.R. Bard, Inc., Polypropylene Hernia Mesh Prods. Liab. Litig.*, 316 F. Supp. 3d 1380 (J.P.M.L. 2018). As in many actions in the MDL, the *Vaughn* plaintiffs allege that Ms. Vaughn was implanted with a Bard hernia repair device and, consequently, suffered injury.

Plaintiffs do not dispute that their action and the actions in MDL No. 2846 share common factual questions. Instead, in support of the motion to vacate, plaintiffs argue that removal of the action was improper, and the transferor court should decide their motion for remand to state court. The Panel has held that jurisdictional objections generally do not present an impediment to transfer.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) (“[R]emand motions can be presented to and decided by the transferee judge.”).

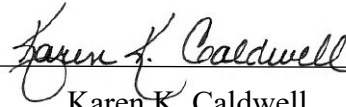
Plaintiffs also argue that transfer will cause them, as well as the non-Bard healthcare defendants, inconvenience. The Panel has held repeatedly that transfer of a particular action often

¹ Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on a remand motion if it chooses to do so.

is necessary to further the expeditious resolution of the litigation taken as a whole, even if it might inconvenience some parties to that action. *See, e.g., In re Crown Life Premium Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001).

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Southern District of Ohio and, with the consent of that court, assigned to the Honorable Edmund A. Sargus, Jr., for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Karen K. Caldwell
Chair

Nathaniel M. Gorton
David C. Norton
Dale A. Kimball

Matthew F. Kennelly
Roger T. Benitez
Madeline Cox Arleo

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POLYPROPYLENE HERNIA MESH
PRODUCTS LIABILITY LITIGATION**

MDL No. 2846

SCHEDULE A

Western District of Kentucky

VAUGHN, ET AL. v. KENTUCKIANA SURGICAL SPECIALISTS, P.S.C., ET AL.,
C.A. No. 3:22-00576