UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: ALLERGAN BIOCELL TEXTURED BREAST IMPLANT PRODUCTS LIABILITY LITIGATION MDL No. 2921

TRANSFER ORDER

Before the Panel: Defendant Allergan USA, Inc., moves under 28 U.S.C. § 1407(c) for transfer of the action listed on Schedule A (*Skuba*) to the District of New Jersey for inclusion in MDL No. 2921. Plaintiffs did 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 *Skuba* involves common questions of fact with the actions transferred to MDL No. 2921, 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 establishing MDL No. 2921, we held that centralization was warranted for actions arising out of "Allergan's announcement on July 24, 2019, of a voluntary worldwide recall of its BIOCELL textured breast implants and tissue expanders" related to an investigation by the U.S. Food and Drug Administration into the risk of breast-implant associated anaplastic large cell lymphoma (BIA-ALCL) associated with the products. *See In re Allergan BIOCELL Textured Breast Implant Prods. Liab. Litig*., 412 F. Supp. 3d 1361, 1362 (J.P.M.L. 2019). The centralized actions present common factual questions pertaining to the allegation "that Allergan's BIOCELL textured breast implants and tissue expanders significantly increase the risk of developing BIA-ALCL, and that Allergan failed to warn the FDA, patients, and healthcare providers of this risk." *See id.* at 1362. The *Skuba* action undisputedly involves the same core factual allegations and thus is appropriate for transfer.

The *Skuba* action alleges that plaintiff Kathryn Skuba was implanted with Allergan breast implants and tissue expanders, including both BIOCELL textured implants and various smooth implants[1] and that, as a result, she suffers from BIA-ALCL and other injuries. The allegations concerning the smooth implants present distinct factual and legal questions not at issue in the MDL. Still, the overall interests of convenience and efficiency will be served by transfer of *Skuba,* as the action likely will involve common discovery, dispositive motions, and other pretrial proceedings as to the textured implant issues.[2] If the transferee judge finds at any point in the pretrial

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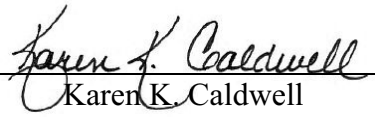
[1] Smooth implants have a smooth outer shell, in contrast to textured implants.

[2] An action involving claims based on smooth implants alone would not be appropriate for inclusion in MDL No. 2921. As noted above, *Skuba* asserts claims relating to both smooth and textured implants.

proceedings that the inclusion of *Skuba* will not serve the convenience of the parties and witnesses or promote the just and efficient conduct of this litigation, Section 1407 remand of the action to its transferor court can be accomplished with a minimum of delay. *See* Panel Rules 10.1-10.3.

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the District of New Jersey and, with the consent of that court, assigned to the Honorable Brian R. Martinotti for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Karen K. Caldwell
Chair

Ellen Segal Huvelle
Catherine D. Perry
Matthew F. Kennelly
R. David Proctor
Nathaniel M. Gorton
David C. Norton

IN RE: ALLERGAN BIOCELL TEXTURED BREAST IMPLANT PRODUCTS LIABILITY LITIGATION MDL No. 2921

SCHEDULE A

Eastern District of Louisiana

SKUBA, ET AL. V. ALLERGAN PCL, ET AL., C.A. No. 2:20-cv-01599