

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**IN RE: PHILIPS RECALLED CPAP, BI-LEVEL PAP,  
AND MECHANICAL VENTILATOR PRODUCTS  
LIABILITY LITIGATION**

MDL No. 3014

**TRANSFER ORDER**

**Before the Panel:**\* Plaintiffs in the action listed on Schedule A (*Chance*) move under Panel Rule 7.1 to vacate the order conditionally transferring the action to MDL No. 3014. Defendants Philips RS North America LLC and Philips North America LLC oppose the motion and support transfer.

After considering the argument of counsel, we find that this action involves common questions of fact with the actions transferred to MDL No. 3014, 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 this MDL, we held that centralization was warranted for actions “shar[ing] factual questions arising from Philips’ recall of certain Continuous Positive Airway Pressure (CPAP), Bi-Level Positive Airway Pressure (Bi-Level PAP), and mechanical ventilator devices on June 14, 2021.” *In re Philips Recalled CPAP, Bi-Level PAP, and Mech. Ventilator Prods. Liab. Litig.*, 568 F. Supp. 3d 1408 (J.P.M.L. 2021). Plaintiffs allege that Joseph Chance was injured by the PE-PUR sound abatement foam in a Philips DreamStation CPAP device, which brings *Chance* squarely within the MDL’s ambit.

Plaintiffs do not dispute that their action and the actions in MDL No. 3014 share common factual questions. Instead, they argue that federal subject matter jurisdiction over their action is lacking and their pending motion for remand to state court should be decided before transfer. We are not persuaded by these arguments. We have long held that such jurisdictional objections generally do not present an impediment to transfer.<sup>1</sup> *See, e.g., In re Prudential Ins. Co. of Am. Sales Pracs. 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.”). “This is so even where, as here, plaintiffs assert that the removals were patently improper.” *In re Ford Motor Co. DPS6 PowerShift Transmission Prods. Liab. Litig.*, 289 F. Supp. 3d 1350, 1352 (J.P.M.L. 2018).

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\* Judge Dale A. Kimball took no part in the decision of this matter.

<sup>1</sup> Panel Rule 2.1(d) expressly provides that 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.

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IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Western District of Pennsylvania and, with the consent of that court, assigned to the Honorable Joy Flowers Conti for inclusion in the 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  
Madeline Cox Arleo

Matthew F. Kennelly  
Roger T. Benitez

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**SCHEDULE A**

Northern District of Alabama

CHANCE ET AL. v. PHILIPS NORTH AMERICA LLC ET AL., C.A. No. 2:25-00338