

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: GARDASIL PRODUCTS LIABILITY
LITIGATION**

MDL No. 3036

TRANSFER ORDER

Before the Panel:* Plaintiffs in the District of New Jersey action listed on Schedule A move under Panel Rule 7.1 to vacate the order that conditionally transferred their action to MDL No. 3036. Defendants Merck & Co., Inc., and Merck Sharp & Dohme LLC oppose the motion.

After considering the argument of counsel, we find that these actions involve common questions of fact with the actions previously transferred to MDL No. 3036 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 alleging that plaintiffs, or their minor children, developed postural orthostatic tachycardia syndrome (POTS) and various other injuries as the result of an autoimmune reaction to the Gardasil vaccine, which is recommended for the prevention of certain strains of the human papillomavirus and various cancers. *See Gardasil Prods. Liab. Litig.*, 619 F. Supp. 3d 1356 (J.P.M.L. 2022). Plaintiffs in this action allege that they suffered various autoimmune injuries after receiving the Gardasil vaccine.

Plaintiffs do not deny that their actions share common questions of fact with the MDL. In opposing transfer, they argue instead that their action was improperly removed from state court and that federal subject matter jurisdiction is lacking. As plaintiffs acknowledge, “it is well-established that jurisdictional objections, including objections to removal, are not relevant to transfer” under 28 U.S.C. § 1407. *In re Ford Motor Co. DPS6 PowerShift Transmission Prods. Liab. Litig.*, 289 F. Supp. 3d 1350, 1352 (J.P.M.L. 2018). Plaintiffs nonetheless ask that we either vacate the conditional transfer order temporarily or stay execution of the order until the transferor court has ruled on their motion for remand to state court. We routinely deny such requests. Plaintiffs’ motion for remand can be addressed to the transferee court.¹

* Judge David C. Norton did not participate in the decision of this matter.

¹ Although plaintiffs state that the MDL court has not ruled on any motions for remand, they concede that to date no MDL plaintiffs have sought remand to state court.

- 2 -

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Western District of North Carolina and, with the consent of that court, assigned to the Honorable Kenneth D. Bell for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "Karen K. Caldwell", is positioned above a horizontal line.

Karen K. Caldwell
Chair

Nathaniel M. Gorton
Roger T. Benitez
Madeline Cox Arleo

Matthew F. Kennelly
Dale A. Kimball

**IN RE: GARDASIL PRODUCTS LIABILITY
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SCHEDULE A

District of New Jersey

BEDNARCZYK, ET AL. v. MERCK & CO., INC., ET AL., C.A. No. 2:25-02044