

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: ETHICON, INC., PELVIC
REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION**

MDL No. 2327

TRANSFER ORDER

Before the Panel:* Plaintiffs in the five actions listed on Schedule A move under Panel Rule 7.1 to vacate our order conditionally transferring their actions to MDL No. 2327. Responding defendant Ethicon, LLC (Ethicon) opposes the motion to vacate.

The actions before the Panel, along with 59 others, were originally filed as one action in California state court and were severed and removed to the Central District of California.¹ We recently transferred the other 59 actions to MDL No. 2327, over plaintiffs' objections. *See* Transfer Order, MDL No. 2327 (J.P.M.L. Oct. 13, 2015), ECF No. 2190.

After considering the argument of counsel, we find these actions involve common questions of fact with the actions previously transferred to MDL No. 2327, 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. Plaintiffs do not dispute that their actions share questions of fact with MDL No. 2327. Like many of the already-centralized actions, the actions at bar involve factual questions arising from allegations that Ethicon and related entities defectively designed, manufactured, and marketed pelvic surgical mesh products, resulting in serious injuries, and that defendants failed to provide appropriate warnings and instructions regarding the risks and dangers posed by the devices. *See In re: Ethicon, Inc., Pelvic Repair Sys. Prods. Liab. Litig., et al.*, 844 F. Supp. 2d 1359 (J.P.M.L. 2012).

In support of the motion to vacate, plaintiffs argue that removal of these actions was improper, and the transferor courts should be allowed to rule on pending jurisdictional motions. But plaintiffs' remand motions already have been denied by the Central District of California. Moreover,

* Judge Marjorie O. Rendell and Judge Lewis A. Kaplan took no part in the decision of this matter.

¹ All actions were placed on the same conditional transfer order, but the five actions now before the Panel were remanded to state court, and the conditional transfer order as to those actions was vacated. The original transferor judge in the Central District of California since has vacated his order of remand, denied another motion to remand to state court, and transferred, under 28 U.S.C. § 1404(a), the actions to the five different district courts in which they now are pending.

the Panel often has held that jurisdictional issues do not present an impediment to transfer, as plaintiffs can present these arguments to the transferee judge. *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). Plaintiffs also argue that transfer will cause them inconvenience and delay. We have found that, while transfer of a particular action might inconvenience some parties to that action, transfer often is necessary to further the expeditious resolution of the litigation taken as a whole. *See In re: Crown Life Ins. Premium Ins. Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001).

IT IS THEREFORE ORDERED that the actions listed on Schedule A are transferred to the Southern District of West Virginia and, with the consent of that court, assigned to the Honorable Joseph R. Goodwin for inclusion in the coordinated or consolidated pretrial proceedings.



PANEL ON MULTIDISTRICT LITIGATION

TERESA L. DEPPNER, CLERK
U.S. District Court
Southern District of West Virginia

By s/ **Tina Smith** Deputy
Charles R. Breyer
R. David Proctor

Sarah S. Vance
Chair

Ellen Segal Huvelle
Catherine D. Perry

**IN RE: ETHICON, INC., PELVIC
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LIABILITY LITIGATION**

MDL No. 2327

SCHEDULE A

Eastern District of Arkansas

SKELTON v. ETHICON INC., ET AL., C.A. No. 4:15-00648

Eastern District of California

ROBINSON v. JOHNSON AND JOHNSON, ET AL., C.A. No. 1:15-01601

Southern District of Florida

CARMONA v. JOHNSON & JOHNSON, ET AL. , C.A. No. 1:15-23913

Eastern District of Missouri

BUCHANAN v. JOHNSON AND JOHNSON, ET AL., C.A. No. 1:15-00184

Western District of Washington

ORSI v. JOHNSON AND JOHNSON, ET AL., C.A. No. 3:14-05754