

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: MIRENA IUD PRODUCTS LIABILITY LITIGATION

MDL No. 2434

TRANSFER ORDER

Before the Panel: Pursuant to Panel Rule 7.1, plaintiffs in the action listed on Schedule A (*Stoker*) move to vacate our order conditionally transferring this action to MDL No. 2434. Defendant Bayer HealthCare Pharmaceuticals, Inc., opposes the motion to vacate.

In support of the motion to vacate, plaintiffs argue that this action was improperly removed and their motion to remand to state court is pending. The Panel often has held that jurisdictional issues do not present an impediment to transfer, as plaintiffs can present such arguments to the transferee judge.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).

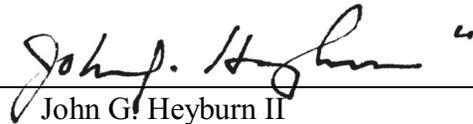
After considering all argument of counsel, we find that the *Stoker* action shares common questions of fact with the actions previously transferred to MDL No. 2434, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Like many of the already-centralized actions, plaintiffs allege that they experienced injuries resulting from migration of the Mirena IUD from its intended location, and do not dispute that their action shares questions of fact with MDL No. 2434. We further find that transfer of this action is appropriate for the reasons that we set out in our original order directing centralization in this docket. In that order, we held that the Southern District of New York was an appropriate Section 1407 forum for actions involving the alleged risk of uterine perforation and migration associated with the Mirena IUD and the adequacy of the product's warning label with respect to those risks. *See In re: Mirena IUD Prods. Liab. Litig.*, 938 F. Supp. 2d 1355, 1356 (J.P.M.L. 2013).

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 or other motion is filed and the date the Panel finalizes transfer of the action to the MDL, a court wishing to rule upon that motion generally has adequate time to do so.

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IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Cathy Seibel for coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "John G. Heyburn II", is written above a horizontal line. The signature is cursive and includes a small mark at the end.

John G. Heyburn II
Chairman

Marjorie O. Rendell
Lewis A. Kaplan
Ellen Segal Huvelle

Charles R. Breyer
Sarah S. Vance
R. David Proctor

IN RE: MIRENA IUD PRODUCTS LIABILITY LITIGATION

MDL No. 2434

SCHEDULE A

Eastern District of Missouri

STOKER, ET AL. v. BAYER HEALTHCARE PHARMACEUTICALS, INC.,
C.A. No. 4:14-00396