

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: ZIMMER DUROM HIP CUP
PRODUCTS LIABILITY LITIGATION

Albert W. Block, et al. v. Zimmer, Inc., et al.,)
W.D. Louisiana, C.A. No. 3:11-02048)

MDL No. 2158

TRANSFER ORDER

Before the Panel: Pursuant to Panel Rule 7.1, plaintiffs in this action move to vacate our order conditionally transferring the action (*Block*) to the District of New Jersey for inclusion in MDL No. 2158. Responding defendant Zimmer, Inc., (*Zimmer*) opposes the motion.

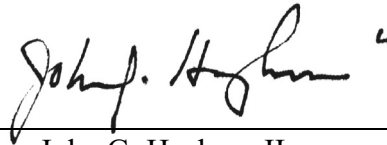
In opposing transfer, plaintiffs contend that litigating in the MDL will result in their incurring additional burden and expense. In deciding issues of transfer under Section 1407, however, we look to the overall convenience of the parties and witnesses, not just those of the parties to a single action. *See, e.g., In re Watson Fentanyl Patch Prods. Liab. Litig.*, — F. Supp. 2d —, 2012 WL 3244183, at *2 (J.P.M.L. Aug. 7, 2012) (“While we are aware that centralization may pose some inconvenience to some parties, in deciding issues of transfer under Section 1407, we look to the overall convenience of the parties and witnesses, not just those of a single plaintiff or defendant in isolation.”). Furthermore, because Section 1407 transfer is for pretrial proceedings only, there is usually no need for the parties and witnesses to travel to the transferee district for depositions or otherwise. *See In re MLR, LLC, Patent Litig.*, 269 F. Supp. 2d 1380, 1381 (J.P.M.L. 2003).

After considering all argument of counsel, we find that *Block* involves common questions of fact with actions in this litigation previously transferred to MDL No. 2158, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Moreover, transfer is warranted for reasons set out in our original order directing centralization. In that order, we held that the District of New Jersey was an appropriate Section 1407 forum for actions “shar[ing] factual issues as to whether Zimmer’s Durom Acetabular Component (or Durom Cup), a device used in hip replacement surgery, was defectively designed and/or manufactured, and whether Zimmer failed to provide adequate warnings concerning the device.” *See In re: Zimmer Durom Hip Cup Prods. Liab. Litig.*, 717 F. Supp. 2d 1376, 1377 (J.P.M.L. 2010). Similar to plaintiffs in other actions previously transferred to the MDL, the *Block* plaintiffs allege that the Durom Cup implanted in the plaintiff husband “contained a defect in [its] design which cause[d] the [device] not to properly adhere to the bone, resulting in the Cup[’]s becoming loose soon after implantation.” Complaint ¶ 4.

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IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the District of New Jersey, and, with the consent of that court, assigned to the Honorable Susan D. Wigenton for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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