

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: BOSTON SCIENTIFIC CORP.
PELVIC REPAIR SYSTEM PRODUCTS
LIABILITY LITIGATION**

MDL No. 2326

TRANSFER ORDER

Before the Panel: Pursuant to Panel Rule 7.1, plaintiffs in one Western District of Arkansas action, one Eastern District of Missouri action, and ten Eastern District of Pennsylvania actions, listed on Schedule A, move to vacate our orders conditionally transferring the actions to MDL No. 2326. Defendant Boston Scientific Corp. (Boston Scientific) opposes the motions to vacate the Western District of Arkansas and Eastern District of Missouri actions.

After considering all argument of counsel, we find these actions involve common questions of fact with the actions previously transferred to MDL No. 2326, and that transfer 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. 2326. Like many of the already-centralized actions, these actions involve factual questions arising from allegations that pelvic surgical mesh products manufactured by Boston Scientific and related entities were defectively designed, manufactured and marketed, 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: Boston Scientific Corp. Pelvic Repair Sys. Prods. Liab. Litig., et al.*, 844 F. Supp. 2d 1359 (J.P.M.L. 2012).

In support of the motions to vacate, movants argue that these actions were improperly removed. 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).

Plaintiffs in the Eastern District of Pennsylvania actions also argue that transfer will result in dismissal of their claims against defendants Prodesco, Inc., Secant Medical, Inc. and Secant Medical, LLC (Secant), because they are not named in the master complaint in MDL No. 2326. As we have

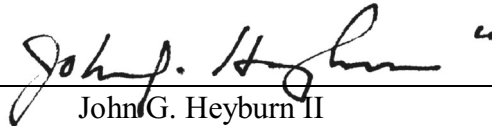
¹ Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand or other motion is filed and the date the Panel finalizes transfer of the action to the MDL, a court wishing to rule upon that motion generally has adequate time to do so.

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held in transferring many similar actions to MDL No. 2326 over plaintiffs' objections,² the transferee court has held that plaintiffs filing claims against defendants not named in the master complaint cannot *directly file* their claims in the Southern District of West Virginia. Plaintiffs' claims against such defendants are free to proceed in the MDL once they are transferred by the Panel pursuant to Section 1407.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, these actions 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



John G. Heyburn II
Chairman

Marjorie O. Rendell
Lewis A. Kaplan
Ellen Segal Huvelle

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

² See, e.g., Transfer Order, MDL No. 2326 (J.P.M.L. Dec. 16, 2013) (transferring 44 such actions).

**IN RE: BOSTON SCIENTIFIC CORP.
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SCHEDULE A

Western District of Arkansas

CLINE v. BOSTON SCIENTIFIC CORPORATION, ET AL., C.A. No. 5:14-05090

Eastern District of Missouri

BELL, ET AL. v. BOSTON SCIENTIFIC CORPORATION, C.A. No. 4:14-00457

Eastern District of Pennsylvania

FLORES v. BOSTON SCIENTIFIC CORP., ET AL., C.A. No. 2:14-01569
DUNCAN v. BOSTON SCIENTIFIC CORP., ET AL., C.A. No. 2:14-01570
FITZGERALD v. BOSTON SCIENTIFIC CORP., ET AL., C.A. No. 2:14-01571
CONNOLLY v. BOSTON SCIENTIFIC CORP., ET AL., C.A. No. 2:14-01572
BELL v. BOSTON SCIENTIFIC CORP., ET AL., C.A. No. 2:14-01573
MELGOZA v. BOSTON SCIENTIFIC CORP., ET AL., C.A. No. 2:14-01574
RUDDEROW v. BOSTON SCIENTIFIC CORP., ET AL., C.A. No. 2:14-01575
LAUGHERY v. BOSTON SCIENTIFIC CORP., ET AL., C.A. No. 2:14-01576
GARCIA v. BOSTON SCIENTIFIC CORP., ET AL., C.A. No. 2:14-01577
BERRY v. BOSTON SCIENTIFIC CORP., ET AL., C.A. No. 2:14-01581