UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: COLOPLAST CORP. PELVIC SUPPORT SYSTEMS PRODUCTS LIABILITY LITIGATION MDL No. 2387

TRANSFER ORDER

Before the Panel:[*] Pursuant to Panel Rule 7.1, plaintiff in the Western District of Pennsylvania action (*Hart*) listed on the attached Schedule A has moved to vacate our order conditionally transferring the action to the Southern District of West Virginia for inclusion in MDL No. 2387. Defendant Coloplast Corp. opposes the motion.

In her motion to vacate, the *Hart* plaintiff argues that she should be allowed to add her physician as a defendant in the action, and that doing so would destroy complete diversity, necessitating remand. We lack the authority to rule on the propriety of adding a party to an action subject to transfer under 28 U.S.C. § 1407. *See In re Ivy*, 901 F.2d 7, 9 (2d Cir. 1990) ("Section 1407 does not empower the MDL Panel to decide . . . issues relating to a motion to remand"). We note that although the Western District of Pennsylvania court previously denied plaintiff's motion to add her physician as a defendant, that denial was without prejudice to plaintiff's re-raising the matter post-transfer.

After considering all argument of counsel, we find that *Hart* involves common questions of fact with actions previously transferred to MDL No. 2387, 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 the reasons set out in our original order directing centralization. As mentioned above, in that order, we held that the Southern District of West Virginia was an appropriate Section 1407 forum for actions "shar[ing] factual issues arising from allegations that defects in Coloplast's pelvic surgical mesh products cause various and serious injuries to women who are treated with the products to address certain medical conditions (*e.g.*, pelvic organ prolapse and stress urinary incontinence)." *See In re: Coloplast Corp. Pelvic Support Prods. Liab. Litig.*, 883 F. Supp. 2d 1348, 1348 (J.P.M.L. 2012). The *Hart* plaintiff does not dispute that her action shares multiple factual issues with those already in the MDL.

[*] Judge Ellen Segal Huvelle took no part in the decision of this matter.

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is 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
R. David Proctor
Charles R. Breyer
Sarah S. Vance

IN RE: COLOPLAST CORP. PELVIC SUPPORT SYSTEMS PRODUCTS LIABILITY LITIGATION MDL No. 2387

SCHEDULE A

Western District of Pennsylvania

HART v. COLOPLAST CORP., ET AL., C.A. No. 2:14-00473