

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN RE: BIOMET M2a MAGNUM HIP)
IMPLANT PRODUCTS LIABILITY)
LITIGATION (MDL 2391))
) Cause No. 3:12-MD-2391
)
_____)
)
This Document Relates to the Cases)
Listed in Exhibit A)
_____)

ORDER

The Joint Proposed Remand Group 2 List [Doc. No. 3726] submitted by the parties raise questions about the proper venue for remand or transfer in the cases listed in attached Exhibit A. In each case, the complaint alleges that venue is proper in a jurisdiction other than the one proposed by the Plaintiffs Steering Committee and Biomet.

In suggesting remand of Group 1 cases, the court concluded that it didn't have authority under 28 U.S.C. § 1407 to remand a case to any district other than "the district from which it was transferred," and advised the parties that "[a]ny motion for change of venue must be directed to the original transferor court following remand." [Doc. No. 3708]. The parties objected, and the issue is set for argument in three weeks before the Judicial Panel on Multidistrict Litigation. Three of the cases on the Joint Proposed Remand Group 2 List raise the same issue: *Cochran v. Biomet, Inc.*, 3:14-CV-1560; *Morningstar v. Biomet, Inc.*, 3:15-CV-470; and *Herrera v. Biomet, Inc.*, 3:15-CV-490. In the interest of judicial economy,

the court will defer ruling on the requests for remand in those cases until the Panel has issued a decision on the prior objections.

The other cases listed on Exhibit A involve requests to transfer following direct filings. Pursuant to 28 U.S.C. § 1404(a), the court “may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.” But it’s not clear where venue properly lies in these cases and whether the self-represented plaintiffs have consented to the venues proposed in the joint submission – the objection filed in *Edwards v. Biomet*, 3:16cv105, indicates that at least one of the plaintiffs has not.

Accordingly, the court:

(1) DEFERS ruling on the request to remand in *Cochran*, *Morningstar*, and *Herrera* until the Panel has issued a decision on the objections to the suggestion of remand in Group 1;

(2) DEFERS ruling on the request to transfer in the eight remaining cases listed in Exhibit A, and GIVES the plaintiffs in those cases until **November 28, 2018** to: (a) confirm in writing that they have consented to the venues proposed in the Joint Proposed Remand Group 2 List [Doc. No. 3726], or (b) file an objection to the proposed venue and provide supporting documentation for an alternate venue. If no timely objection is received, the court will assume that the plaintiffs have consented to the venue proposed in the joint submission.

SO ORDERED.

ENTERED: November 7, 2018

/s/ Robert L. Miller, Jr.
Judge, United States District Court
Northern District of Indiana

EXHIBIT A

<u>Case No.</u>	<u>Case Name</u>	<u>Proposed Venue</u>
3:14-CV-1560	Cochran v. Biomet, Inc.	EDTX
3:15-CV-470	Morningstar v. Biomet, Inc.	DMD
3:15-CV-490	Herrera v. Biomet, Inc.	DAZ
3:14-CV-1055	Slater v. Biomet, Inc.	WDNC
3:14-CV-1582	Milligan v. Biomet, Inc.	NDIL
3:15-CV-90	Hippe et al v. Biomet, Inc.	EDVA
3:15-CV-166	George v. Biomet, Inc.	DNV
3:15-CV-416	Kleinhuizen v. Biomet, Inc.	NDIL
3:15-CV-434	Cutter v. Biomet, Inc.	WDWA
3:16-CV-9	Mason v. Biomet, Inc.	EDNC
3:16-CV-105	Edwards v. Biomet, Inc.	DMD