

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

In re KUGEL MESH HERNIA PATCH
PRODUCTS LIABILITY LITIGATION

MDL Docket No. 07-1842

As it relates to:

Bowersock v. Davol, Inc., et al.

CA 08-2635 (S.D.Ind. No. 08-cv-01313)

Olmo v. Davol, Inc., et al.

CA 13-3820 (S.D.Fla. No. 13-cv-62260)

Hanks v. Davol, Inc., et al.

CA 10-3048 (D.Ma. No. 09-cv-11901)

Pointdexter v. Davol, Inc., et al.

CA 09-2756 (W.D.Mo. No. 08-CV-00976)

Wiechering v. Davol, Inc., et al.

CA 07-1943 (E.D.Tx. Beaumont No. 07-00639)

SUGGESTION OF REMAND

On June 28, 2007, the Judicial Panel on Multidistrict Litigation (“MDL”) transferred to the District of Rhode Island a number of product liability cases involving several models of the Kugel Mesh hernia repair patch for coordinated and consolidated pretrial proceedings. Under the initial transfer order and 210 subsequent conditional transfer orders, the MDL panel transferred 2023 cases to this multidistrict litigation. This Court has met periodically with lead counsel in this MDL and, with the concurrence of counsel, the Court now makes its suggestion to the Judicial Panel on Multidistrict Litigation that the Panel remand to the originating districts the five cases listed below:

1. Bowersock v. Davol, Inc., et al. CA 08-2365 – the parties have completed discovery and submitted dispositive motions (the determination of the dispositive motions is dependent on a determination of related motions to strike certain expert testimony; it is, therefore, the opinion of the undersigned that judicial resource economy is best served by having the trial judge make these rulings), witness lists, exhibit lists, and motions *in limine*. The parties are awaiting a scheduling order setting a trial date.

This case should be remanded to the Southern District of Indiana.

2. Olmo v. Davol, Inc., et al. CA 13-3820 – the parties have completed discovery and submitted dispositive motions (the determination of the dispositive motions is dependent on a determination of related motions to strike certain expert testimony; it is, therefore, the opinion of the undersigned that judicial resource economy is best served by having the trial judge make these rulings), witness lists, exhibit lists, and motions *in limine*. The parties are awaiting a scheduling order setting a trial date. This case should be remanded to the Southern District of Florida.
3. Hanks v. Davol, Inc., et al. CA 10-3048 – putative class action. This case should be remanded to the District of Massachusetts.
4. Pointdexter v. Davol, Inc., et al. CA 09-2756 – while a settlement was reached in the case, plaintiff rejected the settlement offer. According to plaintiff’s counsel, plaintiff is willing to take her claims to trial. This case should be remanded to the Western District of Missouri.
5. Wiechering v. Davol, Inc., et al. CA 07-1943 – this case resolved, but a release has not yet been sent to defendants’ counsel. According to plaintiff’s counsel, plaintiff’s heirs are in agreement on the settlement amount but plaintiff’s counsel is having a difficult time getting all of the heirs to sign off on the release. Plaintiff’s counsel agreed to get the signatures as soon as possible. This case should be remanded to the Eastern District of Texas Beaumont.

It is further recommended that this multidistrict litigation be dissolved.

The Clerk is directed to forward a copy of this Suggestion of Remand to the Judicial Panel for Multidistrict Litigation.

Dated this 14th day of November, 2016 at Providence, Rhode Island.

/s/ Mary M. Lisi
Mary M. Lisi
Senior United States District Judge

General Information

Court	United States District Court for the District of Rhode Island; United States District Court for the District of Rhode Island
Federal Nature of Suit	Personal Injury - Product Liability[365]
Docket Number	1:07-md-01842
Status	CLOSED