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Bard Mesh Patients Cite Slow MDL Pace In Bid To Move Suits

By **Jody Godoy**

Law360, New York (February 3, 2016, 8:43 PM EST) -- A Philadelphia-based firm representing women in cases against C.R. Bard Inc. over allegedly defective pelvic mesh implants argued on Wednesday that six dozen of the suits should be transferred to Pennsylvania federal court since they're not about to be resolved in the sprawling multidistrict litigation in West Virginia.

Kline & Specter PC told U.S. District Judge Joseph Goodwin that it had negotiated with the medical device maker but had not come close to settling the 72 cases it now seeks to transfer to Pennsylvania.

The suits seek to hold the company liable for marketing and selling what the patients allege is a defective mesh product that caused them internal injuries.

Last summer, the firm **sought to move** 155 of its cases against Bard and hundreds more against Johnson & Johnson's subsidiary Ethicon Inc. to Pennsylvania federal court, pointing to similar concerns with timing in the MDL.

According to court records, there are some 10,000 cases pending against Bard in the MDL in West Virginia.

But those cases are only a part of the giant jigsaw of litigation against mesh device manufacturers including Ethicon, Bard and Boston Scientific Corp.

Seven separate MDLs comprising some 70,000 cases are pending in West Virginia over alleged pelvic mesh implant injuries. Ethicon is facing about 23,000 as part of its MDL, according to court records.

Bard faced the **first jury trial** in the seven multidistrict litigation suits over the use of transvaginal surgical mesh to treat pelvic organ prolapse and stress urinary incontinence. It was hit with a \$2 million verdict in August 2013.

The U.S. Food and Drug Administration **recently reclassified** pelvic mesh devices like those at issue in the suits as high-risk devices that must undergo the agency's most stringent safety evaluation before being put on the market.

Counsel for the parties did not immediately reply to requests for comment after hours on Wednesday.

The plaintiffs are represented by Thomas Kline, Shanin Specter, Lee Balefsky and Michelle Tiger of Kline & Specter PC.

Bard is represented by Lori G. Cohen of Greenberg Traurig LLP and Michael K. Brown of Reed

Smith LLP.

The case is In Re: C.R. Bard Inc. Pelvic Repair Systems Product Liability Litigation, case number 2:10-md-02187, in U.S. District Court for the Southern District of West Virginia.

--Additional reporting by Matt Fair and Kat Greene. Editing by Aaron Pelc.

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