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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 IN RE: Bard IVC Filters Products Liability
10 Litigation,

No. MDL 15-02641-PHX DGC

11 _____
12 George Leus, an individual,
13 Plaintiff,

No. CV-15-01623-PHX-DGC

14 v.

15 C. R. Bard, Inc., a New Jersey corporation;
16 and Bard Peripheral Vascular, Inc., an
17 Arizona corporation,
18 Defendants.

ORDER

19 Plaintiff George Leus has filed a motion for remand. Doc. 11876. The motion is
20 fully briefed, and oral argument will not aid the Court's decision. For reasons that
21 follow, the Court will deny the motion.

22 Plaintiff contends that his case should be remanded because he filed suit five years
23 ago, he is disabled and suffers financial hardship, and he will not benefit from the
24 remaining bellwether process. Doc. 11876 at 5-6. Defendants contend that Plaintiff's
25 personal circumstances are not unique and a remand would open the door to a myriad
26 other plaintiffs seeking the same relief. Doc. 12014 at 2. Defendants argue that Plaintiff
27 has not shown good cause for a remand, and that having chosen to be part of this MDL,
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1 Plaintiff must await the results of the bellwether and settlement processes like other
2 litigants. *Id.* at 4-8.

3 The power to remand MDL cases rests solely with the United States Judicial Panel
4 for Multidistrict Litigation (the “Panel”). *See* 28 U.S.C. § 1407(a); *Lexecon Inc. v.*
5 *Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 28 (1998). The transferee judge
6 may suggest to the Panel that a case be remanded where the action is “ready for trial,
7 or . . . would no longer benefit from inclusion in the coordinated or consolidated pretrial
8 proceedings.” *In re Multi-Piece Rim Prods. Liab. Litig.*, 464 F. Supp. 969, 975 (J.P.M.L.
9 1979); *see In re Motor Fuel Temperature Sales Practices Litig.*, No. 07-MD-1840-KHV,
10 2012 WL 1963350, at *2 (D. Kan. May 30, 2012). Plaintiff does not claim that his case
11 is ready for trial, nor has he shown that the bellwether process will provide him no
12 benefit.

13 Moreover, Plaintiff’s counsel affirmatively requested that his case be transferred
14 to this MDL when the case already had been pending for almost two years. Doc. 90 at 2,
15 Case No. CV-15-1623-PHX-DGC. The case had been stayed to allow Plaintiff to litigate
16 a parallel state court action, but Plaintiff chose to dismiss the state action and move
17 forward with his federal case in this MDL. Doc. 11876-1. Having chosen not to pursue
18 his state case, Plaintiff should not now be heard to complain that he has waited too long
19 for the resolution of this MDL.

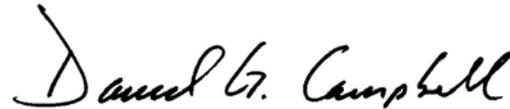
20 Plaintiff asserts that his case would have been one of the “mature” cases the
21 parties agree should be remanded if his case had not been stayed. Doc. 11876 at 10. But
22 the parties did not agree, and Plaintiff has not shown that his case is ready for trial.

23 The Court finds that a suggestion of remand is not warranted. *See In re Maxim*
24 *Integrated Prods., Inc.*, MDL No. 2354, 2015 WL 1757779, at *3 (W.D. Pa. Apr. 17,
25 2015) (declining to suggest remand where the case was “not trial-ready”); *In re*
26 *Reciprocal of Am. (ROA) Sales Practices Litig.*, No. CV 04-2410, 2012 WL 13018843,
27 at *3 (W.D. Tenn. Apr. 11, 2012) (finding no basis for a suggestion of remand where the
28 plaintiff asserted that his case had been “pending for some years [and] progressing

1 slowly”); *In re Ameriquest Mortg. Co. Mortg. Lending Practices Litig.*, No. 05-7097,
2 2010 WL 1418399, at *2 (N.D. Ill. Apr. 6, 2010) (“Although we acknowledge that
3 [plaintiff] may feel that the [MDL] has not benefitted her, she has not identified any
4 authority which would permit us to suggest a remand because of the alleged uniqueness
5 of her claims or the delay associated with inclusion in the MDL.”).

6 **IT IS ORDERED** that Plaintiff George Leus’s motion for remand to the
7 transferor district court (Doc. 11876) is **denied**.

8 Dated this 3rd day of August, 2018.

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13 David G. Campbell
14 United States District Judge
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