

MDL 1845

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BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE CONAGRA PEANUT BUTTER PRODUCTS LIABILITY LITIGATION

**BEFORE WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J.
FREDERICK MOTZ, ROBERT L. MILLER, JR.,* KATHRYN H. VRATIL,
DAVID R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE PANEL**

TRANSFER ORDER

This litigation currently consists of twenty actions listed on the attached Schedule A and pending in thirteen districts as follows: five actions in the District of South Carolina; three actions in the Northern District of Georgia; two actions in the Middle District of Georgia; and one action each in the Middle District of Florida, the Southern District of Florida, the Northern District of Mississippi, the Western District of Missouri, the Western District of New York, the Eastern District of Oklahoma, the Eastern District of Pennsylvania, the Middle District of Pennsylvania, the Eastern District of Tennessee, and the Western District of Washington.¹ Before the Panel are three motions, brought by various plaintiffs, pursuant to 28 U.S.C. § 1407, for an order centralizing this litigation, respectively, in the Northern District of Georgia, the District of South Carolina or the Western District of Washington.² All responding parties support centralization, but disagree as to the selection of a transferee forum. Common defendant ConAgra Foods, Inc. (ConAgra) supports centralization in the Western District of Missouri or, alternatively, the Northern District of Georgia or the Western District of Washington. Responding plaintiffs have suggested several additional districts in which to centralize the actions, including the District of Colorado, the Northern District of Illinois, the Southern District of Mississippi, the District of New Jersey, or the Middle District of Pennsylvania.

On the basis of the papers filed and hearing session held, the Panel finds that the actions in this litigation involve common questions of fact, and that centralization under Section 1407 in the Northern

* Judge Miller took no part in the decision of this matter.

¹ The Panel has been notified of 34 potentially related actions pending in multiple federal districts. In light of the Panel's disposition of this docket, these actions will be treated as potential tag-along actions. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

² Moving plaintiff in the Northern District of Mississippi action initially failed to designate a desired transferee forum, but in a later submission expressed support for transfer to the Western District of Washington.

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District of Georgia will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Plaintiffs in all actions allege harm from consuming and/or purchasing contaminated peanut butter that was manufactured and packaged at ConAgra's Sylvester, Georgia, plant. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery, prevent inconsistent pretrial rulings (especially with respect to questions of class certification), and conserve the resources of the parties, their counsel and the judiciary.

The Panel is persuaded that the Northern District of Georgia is an appropriate transferee forum for this litigation. This district, where three actions and two potential tag-along actions are pending, enjoys the support of several plaintiffs and, in the alternative, ConAgra. Likely relevant documents and witnesses may be found in this district, inasmuch as the manufacturing plant where the contamination occurred and the governmental agency that investigated the contamination are located there. By centralizing this litigation before Judge Thomas W. Thrash, Jr., we are selecting a jurist experienced in multidistrict litigation to steer this matter on a prudent course.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the Northern District of Georgia are transferred to the Northern District of Georgia and, with the consent of that court, assigned to the Honorable Thomas W. Thrash, Jr., for coordinated or consolidated pretrial proceedings with the actions listed on Schedule A and pending in that district.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

SCHEDULE A
MDL NO. 1845
IN RE CONAGRA PEANUT BUTTER PRODUCTS LIABILITY LITIGATION

Middle District of Florida

Marion Calderera v. ConAgra Foods, Inc., et al., C.A. No. 8:07-384

Southern District of Florida

Charles Stafford v. ConAgra Foods, Inc., C.A. No. 9:07-80178

Middle District of Georgia

Karen Klepsig, et al. v. ConAgra Foods, Inc., C.A. No. 1:07-37
Geoffrey Midler v. ConAgra Foods, Inc., C.A. No. 1:07-42

Northern District of Georgia

Anne Cease, et al. v. ConAgra Foods, Inc., C.A. No. 1:07-425
John Harper v. ConAgra Foods, Inc., C.A. No. 1:07-538
Grady Ware, et al. v. ConAgra Foods, Inc., C.A. No. 4:07-40

Northern District of Mississippi

Pamela Gateley, etc. v. ConAgra Foods, Inc., C.A. No. 2:07-35

Western District of Missouri

Brian Cox, et al. v. ConAgra Foods, Inc., C.A. No. 5:07-6027

Western District of New York

Mark Avalone, et al. v. ConAgra Foods, Inc., C.A. No. 6:07-6084

Eastern District of Oklahoma

Esther Cranford v. ConAgra Foods, Inc., C.A. No. 6:07-56

Eastern District of Pennsylvania

Lucille A. Knight v. ConAgra Foods, Inc., C.A. No. 2:07-818

MDL No. 1845 Schedule A (Continued)

Middle District of Pennsylvania

Kathleen Nieves, et al. v. ConAgra Foods, Inc., C.A. No. 3:07-327

District of South Carolina

Annie Blackwell v. ConAgra Foods, Inc., C.A. No. 0:07-529

Thomas B. Price v. ConAgra Foods, Inc., C.A. No. 3:07-536

Jerry Shawn Medford v. ConAgra Foods, Inc., C.A. No. 3:07-611

Jamie S. Jeffords v. ConAgra Foods, Inc., C.A. No. 4:07-530

Jennifer Ann Hoey, et al. v. ConAgra Foods, Inc., C.A. No. 7:07-544

Eastern District of Tennessee

Cynthia Woodlee, et al. v. ConAgra Foods, Inc., C.A. No. 4:07-15

Western District of Washington

James Winston Daniels, II, et al. v. ConAgra, Inc., C.A. No. 2:07-259