

Jun 09, 2008

FILED
CLERK'S OFFICE

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: BP PRODUCTS NORTH AMERICA, INC.,
ANTITRUST LITIGATION (No. II)**

MDL No. 1946

TRANSFER ORDER

Before the entire Panel*: Defendant BP Products North America, Inc., has moved, pursuant to 28 U.S.C. § 1407, for centralization of a total of seventeen actions in the Northern District of Illinois. Plaintiff in the Southern District of Texas action (*Koch*) opposes centralization. Other responding plaintiffs¹ support centralization in the Northern District of Illinois.

This litigation currently consists of seventeen actions listed on Schedule A and pending in two districts as follows: sixteen actions in the Northern District of Illinois and an action in the Southern District of Texas.²

On the basis of the papers filed and hearing session held, we find that these seventeen actions involve common questions of fact, and that centralization under Section 1407 in the Northern District of Illinois will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. All actions arise from allegations that defendants monopolized, artificially inflated and/or otherwise improperly manipulated the price of TET propane³ in the United States, in violation of, *inter alia*, state and federal antitrust laws. Centralization under Section 1407 will eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel and the judiciary.

* Judge Heyburn took no part in the disposition of this matter.

¹ ScharinGas Co.; Styer Propane, LLC; Parke J. Patten, Inc.; and SHV Gas Supply & Trading SAS (n/k/a SHV Gas Supply and Risk Management).

² In addition to the seventeen actions now before the Panel, the parties have notified the Panel of three related actions pending in the Northern District of Illinois. These actions and any other related 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. at 435-36.

³ "TET propane" refers to propane that is deliverable at the Texas Eastern Products Pipeline Co., LLC (TEPPCO) storage facility located in Mont Belvieu, Texas, or anywhere within the TEPPCO system.

Plaintiff opposing the motion argues, *inter alia*, that (1) there are only a few actions involved, by virtue of several plaintiffs in the Northern District of Illinois actions joining consolidated amended complaints on behalf of either direct or indirect purchasers; (2) the moving defendant has not shown that any unresolved common questions of fact are so complex and discovery so time-consuming as to overcome the burden that centralization will place on objecting plaintiff; and (3) alternative means of coordination among the actions would be preferable to centralization. Based upon the Panel's precedents and for the following reasons, we respectfully disagree with these arguments. These seventeen actions present overlapping and, in many instances, nearly identical factual allegations that will likely require duplicative discovery and motion practice. Centralizing these actions under Section 1407 will ensure streamlined resolution of this litigation to the overall benefit of the parties and the judiciary.

We are persuaded that the Northern District of Illinois, where all but one action is now pending and where most actions were filed in mid-2006, is an appropriate transferee district for pretrial proceedings in this litigation. By centralizing this litigation before Judge James B. Zagel, we are assigning this litigation to a jurist who is already familiar with the contours of this litigation and who has the experience to steer this litigation on a prudent course.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the action listed on Schedule A and pending outside the Northern District of Illinois is transferred to the Northern District of Illinois and, with the consent of that court, assigned to the Honorable James B. Zagel for coordinated or consolidated pretrial proceedings with the actions pending there and listed on Schedule A.

PANEL ON MULTIDISTRICT LITIGATION



D. Lowell Jensen
Acting Chairman

John G. Heyburn II, Chairman*
Robert L. Miller, Jr.
David R. Hansen

J. Frederick Motz
Kathryn H. Vratil
Anthony J. Scirica

**IN RE: BP PRODUCTS NORTH AMERICA, INC.,
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SCHEDULE A

Northern District of Illinois

Richard Dennison, et al. v. BP Products North America, Inc., et al., C.A. No. 1:06-3541
Donald Terry, et al. v. BP Products North America, Inc., C.A. No. 1:06-3551
Myles Levin v. BP Products North America, Inc., C.A. No. 1:06-3570
Schagringas Co., et al. v. BP Products North America, Inc., et al., C.A. No. 1:06-3621
Michael Withum v. BP Products North America, Inc., C.A. No. 1:06-3744
Deborah Cassells, et al. v. BP Products North America, Inc., et al., C.A. No. 1:06-3837
Gregory Sydor v. BP Products North America, Inc., C.A. No. 1:06-4188
Kurt Nebel v. BP Products North America, Inc., et al., C.A. No. 1:06-4363
H. Steven Plaut, et al. v. BP Products North America, Inc., et al., C.A. No. 1:06-4577
Donald Mowers v. BP Products North America, Inc., C.A. No. 1:06-4680
Drew Halpern v. BP Products North America, Inc., et al., C.A. No. 1:06-4736
Scott Meharg v. BP Products North American, Inc., et al., C.A. No. 1:06-5293
Craig Ridgway v. BP Products North America, Inc., C.A. No. 1:06-6108
Anita White v. BP Products North America, Inc., C.A. No. 1:06-6994
David Guin v. BP Products North America, Inc., C.A. No. 1:07-3531
Amerigas Propane, L.P., et al. v. BP North America, Inc., et al., C.A. No. 1:08-981

Southern District of Texas

KOCH Supply & Trading, L.P. v. BP Products North America, Inc., C.A. No. 4:08-377