

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: CHIQUITA BRANDS INTERNATIONAL, INC.,
ALIEN TORT STATUTE AND SHAREHOLDERS
DERIVATIVE LITIGATION**

MDL No. 1916

ORDER VACATING, IN PART, CONDITIONAL REMAND ORDER

Before the Panel:* Plaintiffs in the two actions listed on the attached Schedule A collectively move under Panel Rule 10.3 to vacate, in part, the Panel's order conditionally remanding the actions to the District of District of Columbia and District of New Jersey, respectively. Plaintiffs seek vacatur only to the extent the order encompasses their claims against defendant Chiquita Brands International, Inc. (Chiquita). Responding defendants¹ oppose the motion insofar as they argue the order should be vacated in its entirety.²

After considering the argument of counsel, we grant plaintiffs' motion. We issued the conditional remand order based on a suggestion of remand issued by the transferee judge, the Honorable Kenneth A. Marra. *See In re: Chiquita Brands Int'l, Inc., Alien Tort Statute & S'holder Derivative Litig.*, — F. Supp. 3d —, 2016 WL 3247913 (S.D. Fla. June 1, 2016). The judge issued the suggestion in conjunction with a ruling on a motion to dismiss filed by seven individual defendants in the MDL.³ The suggestion was made for the purpose of allowing plaintiffs to seek transfer, post-remand, to another judicial district or districts in order to cure a possible lack of personal jurisdiction over those defendants in the two transferor courts. *See id.* at *15-17, *19. Chiquita did not join in that motion to dismiss, and the judge's ruling did not address personal jurisdiction issues as to Chiquita. Accordingly, based on the record as a whole, we conclude that the suggestion was not intended to include plaintiffs' claims against Chiquita.

* Judge Ellen Segal Huvelle and Judge R. David Proctor took no part in the decision of this matter.

¹ Responding defendants are Chiquita, Fernando Aguirre, Cyrus Freidheim, Charles Keiser, Robert Kistingner, Robert Olson, William Tsacalis, Steven Warshaw, and Carla A. Hills, as personal representative of the Estate of Roderick M. Hills, Sr.

² By separate orders, we address whether the conditional remand order should be vacated as to defendants other than Chiquita.

³ These defendants are Aguirre, Freidheim, Keiser, Kistingner, Olson, Tsacalis, and Warshaw.

IT IS THEREFORE ORDERED that the Panel's conditional remand order filed June 9, 2016 (ECF No. 77) is vacated insofar as it includes plaintiffs' claims against Chiquita.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Lewis A. Kaplan

Charles R. Breyer
Catherine D. Perry

**IN RE: CHIQUITA BRANDS INTERNATIONAL, INC.,
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SCHEDULE A

District of District of Columbia

DOES (1-144) v. CHIQUITA BRANDS INTERNATIONAL, INC., ET AL.,
C.A. No. 1:07-01048

District of New Jersey

DOE 1, ET AL. v. CHIQUITA BRANDS INTERNATIONAL, INC., ET AL.,
C.A. No. 2:07-03406