

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: CHINESE-MANUFACTURED DRYWALL
PRODUCTS LIABILITY LITIGATION**

MDL No. 2047

TRANSFER ORDER

Before the Panel:* Plaintiffs in the Southern District of Mississippi action listed on the attached Schedule A (*Descher*) move under Panel Rule 7.1 to vacate our order conditionally transferring the action to the Eastern District of Louisiana for inclusion in MDL No. 2047. Responding defendants Knauf Plasterboard (Tianjin) Co., Ltd. and Knauf Gips KG oppose the motion.

After considering the arguments of counsel, we find that *Descher* involves common questions of fact with actions transferred to MDL No. 2047, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The actions in the MDL “share factual questions concerning drywall manufactured in China, imported to and distributed in the United States, and used in the construction of houses; plaintiffs in all actions allege that the drywall emits smelly, corrosive gases.” *See In re: Chinese-Manufactured Drywall Prods. Liab. Litig.*, 626 F. Supp. 2d 1346, 1347 (J.P.M.L. 2009). The *Descher* plaintiffs do not dispute that their action involves those same questions.

In opposing transfer, plaintiffs contend that with respect to the Knauf defendants, the transferee judge has stated that the MDL is essentially over. Although the record offers some support for this contention, we conclude that transfer is appropriate. The judge has not indicated that he believes transfer of newly-filed tag-along actions such as this one should be discontinued. And, given his intimate familiarity with the issues, transfer almost certainly will inure to the parties’ benefit, including facilitating their access to discovery already taken in the MDL. If, following transfer, the transferee judge determines that *Descher*’s inclusion in the MDL is unwarranted, he is free to suggest remand in accordance with Panel Rule 10.1(b).

* Judge Lewis A. Kaplan and Judge Ellen Segal Huvelle took no part in the decision of this matter.

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IT IS THEREFORE ORDERED that the *Descher* action is transferred to the Eastern District of Louisiana, and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
R. David Proctor

Charles R. Breyer
Catherine D. Perry

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PRODUCTS LIABILITY LITIGATION**

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SCHEDULE A

Southern District of Mississippi

DESCHER, ET AL. v. KNAUF GIPS KG, ET AL., C.A. No. 1:17-00249