

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: IMPRELIS HERBICIDE MARKETING, SALES
PRACTICES AND PRODUCTS LIABILITY LITIGATION**

James G. Bordas, Jr., et al. v. E.I. du Pont de Nemours &)
Co., et al., E.D. Pennsylvania, C.A. No. 2:12-6446)
(N.D. West Virginia, C.A. No. 5:12-00164))

MDL No. 2284

ORDER DENYING REMAND

Before the Panel:* Pursuant to Panel Rule 10.3, plaintiffs in the *Bordas* action, which was previously transferred from the Northern District of West Virginia to MDL No. 2284, moves for an order remanding his action to the Northern District of West Virginia. Responding defendants E.I. du Pont de Nemours and Company (DuPont) and Terry Pugh d/b/a St. Clair Lawn Care oppose the motion.

After considering all arguments of counsel, we conclude that remand is not appropriate at this time, and therefore will deny plaintiffs' motion. In considering the question of Section 1407 remand, we have consistently accorded great weight to the transferee judge's determination that remand of a particular action at a particular time is appropriate, given that he or she has supervised the day-to-day pretrial proceedings in the MDL. *See In re: Holiday Magic Sec. & Antitrust Litig.*, 433 F. Supp. 1125, 1126 (J.P.M.L. 1977). The transferee judge's suggestion of remand to the Panel, *see* Panel Rule 10.1(b), is obviously an indication that he or she perceives his role under Section 1407 to have ended. *See In re: Columbia/HCA Healthcare Corp. Qui Tam Litig. (No. II)*, 560 F. Supp. 2d 1349, 1350 (J.P.M.L. 2008). Here, Judge Gene E.K. Pratter of the Eastern District of Pennsylvania has not issued such a suggestion.

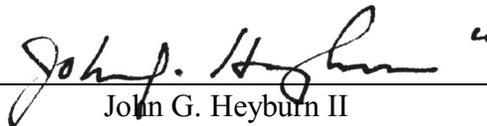
Plaintiffs do not dispute that their action shares questions of fact with the actions in MDL No. 2284; nor do they argue that their action has reached a procedural posture whereby common discovery and pretrial proceedings are at or near their conclusion. Plaintiffs' arguments in favor of remand rest primarily upon their assertion that *Bordas* was improperly removed and should be remanded to state court. The Panel has often held that jurisdictional issues do not present an impediment to transfer, as plaintiffs can present such arguments to the transferee judge. *See, e.g., In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001). Indeed, plaintiffs' motion to remand to state court was recently denied by the transferee court.

* Judge Kathryn H. Vratil took no part in the decision of this matter.

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IT IS THEREFORE ORDERED that the motion for Section 1407 remand of this action is denied.

PANEL ON MULTIDISTRICT LITIGATION



A handwritten signature in black ink, reading "John G. Heyburn II", is positioned above a horizontal line. The signature is written in a cursive style with a double underline at the end.

John G. Heyburn II
Chairman

W. Royal Furgeson, Jr.
Marjorie O. Rendell
Lewis A. Kaplan

Paul J. Barbadoro
Charles R. Breyer