

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: MI WINDOWS AND DOORS, INC.,
PRODUCTS LIABILITY LITIGATION**

Stevenson T. Womack v. MI Windows and Doors, Inc.,)
D. New Jersey, C.A. No. 1:12-06279) MDL No. 2333

TRANSFER ORDER

Before the Panel: Pursuant to Panel Rule 7.1, defendant MI Windows and Doors, Inc. (MIWD) moves to vacate our order that conditionally transferred this action (*Womack*) to MDL No. 2333. Plaintiff opposes the motion and favors inclusion of this action in MDL No. 2333.

The actions encompassing MDL No. 2333 involve allegations that various windows manufactured by MIWD contain one or more defects that result in the loss of seal at the bead along the bottom of the glass, allowing water to enter the inside of the window and leak into structures owned by plaintiffs and putative class members. *See In re: MI Windows & Doors, Inc., Prods. Liab. Litig.*, 857 F. Supp. 2d 1374, 1375 (J.P.M.L. 2012).

The Panel has now rejected MIWD's arguments against the creation of MDL No. 2333 as well as its arguments against transfer of four other actions to MDL No. 2333.¹ In addition to unpersuasive arguments already advanced, MIWD argues that motions practice in MDL No. 2333 has proven to be expensive and inefficient, requiring counsel to travel to South Carolina to defend against claims that have been found to be barred by law. Given that the actions comprising MDL No. 2333 were originally pending in nine different districts, defendant does not persuasively argue that travel to these nine districts would be more efficient or inexpensive than travel to one court. Similarly, defendant fails to show why allowing the District of New Jersey to consider and rule upon a motion to dismiss would be more efficient than allowing the transferee judge to apply his familiarity with the issues involved in this litigation in the context of motions to dismiss.² We also find unpersuasive defendant's argument that the parties can informally coordinate to minimize duplicative discovery and pretrial proceedings. The MDL already pending in the District of South Carolina provides a superior mechanism to minimize any overlap and to streamline pretrial proceedings.

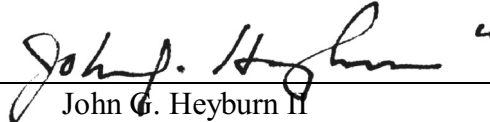
¹ *See id.*; MDL No. 2333, Transfer Order, Aug. 3, 2012; MDL No. 2333, Transfer Order, Oct. 1, 2012.

² Although defendant argues that it would be more efficient if the District of New Jersey were to rule upon a motion to dismiss, there is no such motion pending in the *Womack* action and, in fact, there has been no activity in the docket since the action was filed four months ago.

-2-

IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the District of South Carolina and, with the consent of that court, assigned to the Honorable David C. Norton for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "John G. Heyburn II", is written above a horizontal line. The signature is cursive and includes a small mark at the end.

John G. Heyburn II
Chairman

Kathryn H. Vratil
Paul J. Barbadoro
Charles R. Breyer

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