

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

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

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 orders conditionally transferring four actions listed on Schedule A to MDL No. 2333. Liaison counsel for the homeowner plaintiffs in MDL No. 2333 opposes the motions.

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 five other actions to MDL No. 2333.¹ In addition to unpersuasive arguments already advanced, MIWD argues that plaintiffs in MDL No. 2333 impermissibly have sought—by filing an amended complaint in the MDL No. 2333 District of South Carolina *Johnson* action—to expand the scope of this litigation to encompass windows not at issue when the Panel initially granted centralization in this docket. The *Johnson* action is not currently before the Panel and whether plaintiffs may amend their complaint is an issue for the transferee judge to decide.² The Panel is faced only with whether to transfer these four actions, which allege—like the actions originally centralized in MDL No. 2333—defects in MIWD windows with model numbers 3500/8500/4300 that result in a loss of seal and allow water intrusion. We have repeatedly rejected defendant's remaining arguments. Consequently, after considering all argument of counsel, we find

* Judge John G. Heyburn II did not participate in the disposition of this matter.

¹ *See id.*; MDL No. 2333, Transfer Order, Aug. 3, 2012; MDL No. 2333, Transfer Order, Oct. 1, 2012; MDL No. 2333, Transfer Order, Feb. 26, 2013.

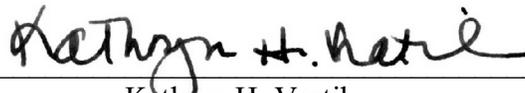
² Defendant's primary basis for objecting to transfer of these actions thus amounts to a request for reconsideration of our initial transfer order in this litigation, in which we found centralization to be appropriate, on the basis that defendant is not happy with the manner in which MDL No. 2333 is proceeding. No motion for reconsideration is currently before us, nor would such a motion be well-taken.

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these actions involve common questions of fact with the actions previously transferred to MDL No. 2333, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation.

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



Kathryn H. Vratil
Acting Chairman

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

Paul J. Barbadoro
Charles R. Breyer

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

MDL No. 2333

SCHEDULE A

Middle District of Florida

John Oriolt v. MI Windows and Doors, Inc., C.A. No. 5:13-00003

Northern District of Georgia

James R. Lovingood, et al. v. MI Windows and Doors, Inc., C.A. No. 1:12-04369

Eastern District of Virginia

Jessica Meghan Zepeda v. MI Windows and Doors, Inc., C.A. No. 1:12-01512

Northern District of West Virginia

Larry L. Taylor v. MI Windows and Doors, Inc., C.A. No. 3:12-00165