

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: TEAMSTER CAR HAULER
PRODUCT LIABILITY LITIGATION**

MDL No. 2339

ORDER DENYING TRANSFER

Before the entire Panel:* Pursuant to 28 U.S.C. § 1407, common defendant Cottrell, Inc. (Cottrell), moves to centralize this litigation in the Eastern District of Missouri. This litigation currently consists of eleven actions pending in eight districts as listed on Schedule A.¹

Defendants Auto Handling Corp., Jack Cooper Transport Co., and Pacific Motor Trucking Co. support centralization in either the Eastern District of Missouri or the Western District of Missouri. Plaintiffs in all actions oppose centralization. If the Panel deems centralization appropriate, several plaintiffs suggest the Southern District of Illinois as transferee district.

After considering the argument of counsel, the Panel is not persuaded that Section 1407 centralization would serve the convenience of the parties and witnesses or further the just and efficient conduct of this litigation. While plaintiffs in each action allege that trailers manufactured by Cottrell were defective and caused them injury, the defects alleged and injuries suffered vary among these actions, and various additional defendants are named based on different theories of liability. Cottrell argues that the issue of complete preemption under the Labor Management Relations Act is common to, and must be resolved in all actions, whether in the context of removal or motions for summary judgment. Section 1407 does not, as a general rule, empower the Panel to transfer cases involving only common legal issues. Furthermore, we find that centralization is not warranted here, as some of the actions have been pending in state or federal court for several years, and several are procedurally so far advanced that discovery is completed or nearly completed. *See In re Ambulatory Pain Pump-Chondrolysis Prods. Liab. Litig.*, 709 F. Supp. 2d 1375 (J.P.M.L. 2010); *In re Telecomm. Providers' Fiber Optic Cable Installation Litig.*, 199 F. Supp. 2d 1377 (J.P.M.L. 2002).

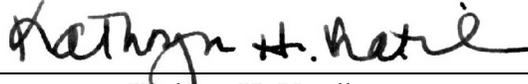
IT IS THEREFORE ORDERED that the motion, pursuant to 28 U.S.C. § 1407, for centralization of these actions is denied.

* Judge John G. Heyburn II took no part in the decision of this matter.

¹ An additional ten actions were pending, eight actions in the Southern District of Illinois and one action each in the Eastern District of Missouri and the Western District of Missouri, but motions to remand to state court were granted in each action.

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PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "Kathryn H. Vratil". The signature is written in a cursive style with a large initial 'K' and a distinct 'V'.

Kathryn H. Vratil
Acting Chairman

W. Royal Furgeson, Jr.
Paul J. Barbadoro
Charles R. Breyer

Barbara S. Jones
Marjorie O. Rendell

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SCHEDULE A

Northern District of Georgia

Steve Bailey, et al. v. Cottrell, Inc., C.A. No. 2:11-00330
Ken Spencer, et al. v. Cottrell, Inc., C.A. No. 2:11-00331

Northern District of Illinois

Louis Hernandez v. Cottrell, Inc., C.A. No. 1:10-01522

Southern District of Illinois

John Dorrell, et al. v. Cottrell, Inc., et al., C.A. No. 3:11-01115
James Longstreet, et al. v. Cottrell, Inc., et al., C.A. No. 3:11-01125

District of Maryland

Joyce Lewis, et al. v. Cottrell, Inc., et al., C.A. No. 1:11-02632

Eastern District of Missouri

Timmy A. Taylor, et al. v. Cottrell, Inc., et al., C.A. No. 4:09-00536
Luther Stanley v. Cottrell, Inc., C.A. No. 4:10-01505

Western District of Missouri

Stephen J. Hale, et al. v. Cottrell, Inc., et al., C.A. No. 4:11-01273

Western District of New York

Kent Sullivan, et al. v. Cottrell, Inc., et al., C.A. No. 1:11-01076

Middle District of Tennessee

James Powers, et al. v. Cottrell, Inc., et al., C.A. No. 3:11-01209