

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: GENERAL MOTORS LLC
IGNITION SWITCH LITIGATION**

MDL No. 2543

TRANSFER ORDER

Before the Panel:* Certain defendants¹ in this Western District of Pennsylvania action (*Byrd*) move under Panel Rule 7.1 to vacate our order conditionally transferring the action to MDL No. 2543. Plaintiffs move under Panel Rule 7.1 to partially vacate the conditional transfer order, seeking separation and remand of the claims against the non-General Motors defendants. Defendant Pennsylvania Department of Transportation (PennDOT) similarly seeks severance of the claims against it. The responding General Motors defendants² oppose the motions to vacate and support transfer of *Byrd* in its entirety.

After considering the argument of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2543, and that transfer under 28 U.S.C. § 1407 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The actions in MDL No. 2543 involve factual questions arising from an alleged defect in certain General Motors vehicles that causes the vehicle's ignition switch to move unintentionally from the "run" position to the "accessory" or "off" position. *See In re: General Motors LLC Ignition Switch Litig.*, 26 F. Supp. 3d 1390, 1391 (J.P.M.L. 2014). *Byrd* involves allegations of (1) hazardous road conditions caused or permitted by the non-General Motors defendants, and (2) a defective ignition switch resulting in injury to the decedent.

* Judge Lewis A. Kaplan and Judge Catherine D. Perry did not participate in the Panel's decision.

Certain Panel members who could be members of the putative classes in MDL No. 2543 have renounced their participation in these classes and have participated in the decision.

¹ Range Resources-Appalachia, LLC; Range Resources Development Company; Range Resources Pine-Mountain, Inc.; Great Lakes Energy, LLC; Great Lakes Energy Partners, LLC; National Fuel Company; National Fuel Gas Corporation; National Fuel Gas Distribution Corporation; National Fuel Gas Supply Corporation; Springboro Area Water Authority; Borough of Springboro a/k/a Springboro Borough; and Keith Shidemantle. Defendants Chupp's Country Cupboard and Henry L. Chupp have joined the motion to vacate filed by the National Fuel defendants.

² General Motors LLC, General Motors Company, and General Motors Holdings LLC.

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The moving defendants variously argue that the hazardous road claims do not share factual issues with the claims in MDL No. 2543, significant unique discovery will be needed on the hazardous road claims, and inclusion of *Byrd* in centralized proceedings would not serve the just and efficient conduct of the litigation. Plaintiffs similarly argue that the hazardous road claims will involve unique discovery, but they argue that transfer of the related ignition switch defect claims against General Motors and separation and remand of the hazardous road claims will best serve the just and efficient conduct of the litigation. PennDOT argues that a Pennsylvania judge would be more familiar with relevant Pennsylvania law, and that transfer would impose a significant burden. We are not persuaded that either vacatur or separation of claims would be efficient in this instance.

No party disputes that the claims in *Byrd* relating to the ignition switch defect share questions of fact with the claims in MDL No. 2543. While the hazardous road claims will involve unique discovery, as certain defendants argue, they are “inextricably bound” with the ignition switch claims, particularly regarding causation. *See* Range Resources Defts.’ Br. in Support of Mot. to Vacate at p. 6; National Gas Fuel Defts.’ Br. in Support of Mot. to Vacate at p. 7. Indeed, there are other cases pending in MDL No. 2543 that involve causation and liability issues related to non-General Motors parties, including other drivers who are alleged to have caused or contributed to an accident. The Panel has held that transfer of an action often is necessary to further the expeditious resolution of the litigation taken as a whole, even if transfer might inconvenience some parties. *See, e.g., In re: Crown Life Ins. Premium Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001). Moreover, it is “within the very nature of coordinated or consolidated pretrial proceedings in multidistrict litigation for the transferee judge to be called upon to apply the law of more than one state.” *In re: CVS Caremark Corp. Wage & Hour Emp’t Practices Litig.*, 684 F. Supp. 2d 1377, 1378 (J.P.M.L. 2010) (quoting *In re: Air Crash Disaster at John F. Kennedy Int’l Airport on June 24, 1975*, 407 F. Supp. 244 (J.P.M.L. 1976)).

Finally, certain defendants’ argument that the Panel should not transfer *Byrd* because motions to remand to state court are pending is not persuasive. The Panel often has held that jurisdictional issues do not present an impediment to transfer, as plaintiffs can present these arguments to the transferee judge.³ *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).

³ Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on a remand motion if it chooses to do so.

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IT IS THEREFORE ORDERED that this action is transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Jesse M. Furman for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance

Chair

Marjorie O. Rendell
Ellen Segal Huvelle

Charles R. Breyer
R. David Proctor

**IN RE: GENERAL MOTORS LLC
IGNITION SWITCH LITIGATION**

MDL No. 2543

SCHEDULE A

Western District of Pennsylvania

BYRD, ET AL. v. CHUPP'S COUNTRY CUPBOARD, ET AL., C.A. No. 2:16-00316