

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: SYNGENTA AG MIR162
CORN LITIGATION**

MDL No. 2591

TRANSFER ORDER

Before the Panel: Defendant Interstate Grain Corp. (Interstate Grain) moves under Panel Rule 7.1 to vacate the Panel's orders conditionally transferring two Southern District of Texas actions, which are listed on the attached Schedule A, to MDL No. 2591. Defendants Syngenta Corp., Syngenta Seeds, Inc., and Syngenta Crop Protection, LLC (collectively Syngenta) oppose the motion.

After considering the argument of counsel, we find these actions involve common questions of fact with the actions previously transferred to MDL No. 2591, 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. Moreover, transfer is warranted for the reasons set out in our order directing centralization. In that order, we held that the District of Kansas was an appropriate transferee forum for actions sharing allegations regarding Syngenta's decision to commercialize the MIR162 genetically modified corn trait in the absence of Chinese approval to import corn with that trait. *See In re: Syngenta AG MIR162 Corn Litig.*, ___ F. Supp. 3d. ___, 2014 WL 7006999 (J.P.M.L. Dec. 11, 2014). These actions, which involve alleged injuries arising from Syngenta's commercialization of MIR162 corn, clearly fall within the MDL's ambit.

Defendant Interstate Grain opposes transfer primarily because it prefers that the transferor court rule on its motions to dismiss. But Interstate Grain can present its motions to dismiss to the transferee judge.¹ *See, e.g., In re: Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

¹ Panel Rule 2.1(d) expressly provides that 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 motion to dismiss is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on such motion if it chooses to do so.

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IT IS THEREFORE ORDERED that these two actions are transferred to the District of Kansas and, with the consent of that court, assigned to the Honorable John W. Lungstrum for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Charles R. Breyer
R. David Proctor

Lewis A. Kaplan
Ellen Segal Huvelle
Catherine D. Perry

**IN RE: SYNGENTA AG MIR162
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SCHEDULE A

Southern District of Texas

LUTRINGER v. SYNGENTA CORP., ET AL., C.A. No. 4:14-03664
KALINA, ET AL. v. SYNGENTA CORP., ET AL., C.A. No. 4:14-03666