

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: TAKATA AIRBAG PRODUCTS
LIABILITY LITIGATION**

MDL No. 2599

TRANSFER ORDER

Before the Panel:* Plaintiff in the Central District of California action listed on the attached Schedule A (*Flores*) moves under Panel Rule 7.1 to vacate our order conditionally transferring the action to the Southern District of Florida for inclusion in MDL No. 2599. Responding defendant Toyota Motor Sales, U.S.A., Inc. (Toyota) opposes the motion.

After considering the arguments of counsel, we find that *Flores* involves common questions of fact with actions transferred to MDL No. 2599, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The actions in the MDL “share factual questions arising from allegations that certain Takata-manufactured airbags are defective in that they can violently explode and eject metal debris, resulting in injury or even death.” *See In re: Takata Airbag Prods. Liab. Litig.*, 84 F. Supp. 3d 1371, 1372 (J.P.M.L. 2015). The *Flores* action plainly involves those same questions, as plaintiff seeks damages because her vehicle allegedly is equipped with a defective Takata airbag system.¹

In opposition to transfer, plaintiff argues that she has not sued any Takata entity, and that her case involves not only her vehicle’s allegedly defective airbags but also its power sliding doors. But Toyota also is a defendant in the MDL, and, in any event, Section 1407 does not require a complete identity of factual issues or parties. *See In re: Zimmer NexGen Knee Implant Prods. Liab. Litig.*, 802 F.Supp.2d 1374, 1376–77 (J.P.M.L.2011) (“[C]entralization under Section 1407 does not require a complete identity or even a majority of common factual or legal issues as a prerequisite to transfer.”); *In re: Bank of N.Y. Mellon Corp. Foreign Exch. Transactions Litig.*, 857 F. Supp. 2d 1371, 1373 (J.P.M.L. 2012) (“Centralization also does not require a complete identity of parties.”).

* Judge Ellen Segal Huvelle took no part in the decision of this matter.

¹ *See, e.g., Flores* Compl. ¶ 27 (“[T]here was no reasonable way Plaintiff could have discovered that the Automobile’s airbags contained ‘An inflator rupture may result in metal fragments striking the vehicle occupants resulting in serious injury or death’ until NHTSA Recall Campaign 17V-006 was initiated.”); *id.* ¶ 29 (“Defendant also breached their express and implied warranties, as they did not deliver airbags or warranty goods and services having the characteristics, uses and benefits portrayed by Defendant, and Defendant has failed to replace the airbags in accordance with the express promises of their written warranties.”).

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Plaintiff also argues that transfer would inconvenience her. This argument is unconvincing, because in deciding issues of transfer under Section 1407, the Panel looks to the overall convenience of the parties and witnesses, not just that of a single plaintiff or defendant in isolation. *See, e.g., In re: ClassicStar Mare Lease Litig.*, 528 F.Supp.2d 1345, 1347 (J.P.M.L. 2007). Furthermore, transfer almost certainly will inure to plaintiff's benefit, given the numerous other actions against Toyota that have been involved in the MDL, the transferee judge's familiarity with the issues, and the substantial discovery that has occurred in the centralized proceedings.

Finally, plaintiff raises jurisdictional objections to transfer. The Panel often has held that jurisdictional issues do not present an impediment to transfer, as plaintiffs can present their arguments regarding those issues to the transferee judge.² *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).

IT IS THEREFORE ORDERED that the *Flores* action is transferred to the Southern District of Florida, and, with the consent of that court, assigned to the Honorable Federico A. Moreno for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Lewis A. Kaplan
Catherine D. Perry

Charles R. Breyer
R. David Proctor

² 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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SCHEDULE A

Central District of California

FLORES v. TOYOTA MOTOR SALES, U.S.A., INC., ET AL., C.A. No. 2:17-08334