

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 Middle District of Georgia action listed on the attached Schedule A (*Fite*) 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. Defendants Takata Corporation, TK Holdings Inc., Michael J. Criddle, Eddie F. Stone, John Ganong, Shunkichi Shimizu, Mark Matthews, Gregory A. Barfield, Joshua D. Malone, and Joseph Clay oppose the motion.

In his motion to vacate, the *Fite* plaintiff principally argues that the action was improperly removed, and his motion for remand to state court is pending. 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).

Plaintiff also argues that transfer is not warranted because he asserts fraudulent misrepresentation claims, and because it would result in significant inconvenience. These arguments are unconvincing. The Panel frequently centralizes cases involving fraudulent misrepresentation claims. *See, e.g., In re: Bair Hugger Forced Air Warming Devices Prods. Liab. Litig.*, 148 F. Supp. 3d 1383 (J.P.M.L. 2015). In deciding issues of transfer under Section 1407, the Panel looks to the overall convenience of the parties and witnesses, not just those 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).

After considering the argument of counsel, we find that the *Fite* action 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

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

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.

-2-

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 *Fite* action plainly involves those same questions.³

IT IS THEREFORE ORDERED that the *Fite* 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

³ *E.g.*, *Fite* Compl. ¶ 17 (“Upon Plaintiff’s driver’s steering column airbag deploying in the accident, metal shrapnel was thrown about the occupant compartment of the vehicle, causing severe injuries to Plaintiff’s face.”); ¶ 29 (“Defendants . . . concealed from or failed to notify Plaintiff and the public of the full and complete nature of the defective airbag system.”); ¶ 54 (“Rather than properly deploying, these defective airbags literally blow up like hand-grenades, sending lethal metal and plastic shrapnel into the vehicle compartment . . .”).

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SCHEDULE A

Middle District of Georgia

FITE v. TAKATA CORPORATION, ET AL., C.A. No. 4:16-00373