

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: PACQUIAO-MAYWEATHER BOXING
MATCH PAY-PER-VIEW LITIGATION

MDL No. 2639

TRANSFER ORDER

Before the Panel:* Plaintiff moves under Panel Rule 7.1 to vacate our order that conditionally transferred the action listed on Schedule A (*Lake*) to the Central District of California for inclusion in MDL No. 2639. Defendants Top Rank, Inc.; Home Box Office, Inc.; Showtime Networks Inc.; and Mayweather Promotions LLC oppose the motion.

Plaintiff raises several arguments against transfer, but none is persuasive. First, plaintiff argues that defendants untimely notified the Panel that *Lake* was a potential tag-along action. This argument fails because defendants in fact timely notified the Panel of *Lake* on the same day that they removed *Lake* from state court. In any event, the timeliness of a party's notice to the Panel of the pendency of a potential tag-along action does not impact the Panel's authority to transfer that action. See Panel Rule 7.1(b).

Plaintiff also argues that transfer would cause both him and the proposed class in *Lake* inconvenience. While it might inconvenience some parties, transfer of a particular action often is necessary to further the expeditious resolution of the litigation taken as a whole. See, e.g., *In re Darvocet, Darvon & Propoxyphene Prods. Liab. Litig.*, MDL No. 2226, 2012 WL 7764151, at *1 (J.P.M.L. Apr. 16, 2012). The transferee judge is in the best position to structure proceedings so as to minimize inconvenience to any individual party.

Next, plaintiff asserts that *Lake* does not share sufficient common questions of law to warrant transfer. Section 1407, though, concerns actions sharing common questions of fact—which even plaintiff concedes are present here. See 28 U.S.C. § 1407(a). Furthermore, other actions previously transferred to MDL No. 2639 involve claims similar to the ones asserted in *Lake*, including claims under the Missouri Merchandising Practices Act. In any event, we repeatedly have held that Section 1407 does not require a complete identity or even a majority of common factual issues as a prerequisite to transfer. *In re Darvocet, Darvon & Propoxyphene Prods. Liab. Litig.*, 780 F. Supp. 2d 1379, 1381 (J.P.M.L. 2011).

Finally, plaintiff contends that transfer is inappropriate because *Lake* was improperly removed to federal court. A motion to remand, though, generally is an insufficient basis to vacate

* Judge Charles R. Breyer took no part in the decision of this matter.

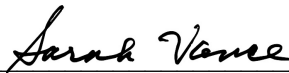
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a conditional transfer order.¹ Plaintiff can present his motion for remand to the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7, 9 (2d Cir. 1990); *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347-48 (J.P.M.L. 2001).

After considering the argument of counsel, we conclude that *Lake* involves common questions of fact with the actions previously transferred to MDL No. 2639, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Like the actions pending in the MDL, plaintiff in *Lake* alleges that defendants fraudulently concealed a shoulder injury suffered by Emmanuel “Manny” Pacquiao approximately one month before a May 2, 2015, professional boxing match between Pacquiao and Floyd Mayweather, Jr., which was broadcast nationally on a “pay-per-view” basis. *See In re Pacquiao-Mayweather Boxing Match Pay-Per-View Litig.*, MDL No. 2639, ___ F. Supp. 3d ___, 2015 WL 4879656 (J.P.M.L. Aug. 14, 2015). *Lake* similarly is based upon the theory that members of the public were fraudulently induced to purchase the pay-per-view showing of the May 2, 2015 match. Transfer of *Lake* thus will eliminate duplicative discovery; prevent inconsistent pretrial rulings, including with respect to class certification; and conserve the resources of the parties, their counsel and the judiciary.

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Central District of California and, with the consent of that court, assigned to the Honorable R. Gary Klausner for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Ellen Segal Huvelle
Catherine D. Perry

Lewis A. Kaplan
R. David Proctor

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 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 decides to do so.

**IN RE: PACQUIAO-MAYWEATHER BOXING
MATCH PAY-PER-VIEW LITIGATION**

MDL No. 2639

SCHEDULE A

Eastern District of Missouri

LAKE, ET AL. v. HOME BOX OFFICE, ET AL., C.A. No. 4:15-01619