

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: 100% GRATED PARMESAN CHEESE
MARKETING AND SALES PRACTICES LITIGATION**

MDL No. 2705

TRANSFER ORDER

Before the Panel: Plaintiff in the action listed on Schedule A (*Greenstein*) moves under Panel Rule 7.1 to vacate our order conditionally transferring the action to MDL No. 2705. Defendant Kraft Heinz Company (Kraft) opposes the motion and supports transfer.

After considering the argument of counsel, we find that this action shares common questions of fact with the actions previously transferred to MDL No. 2705, 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 this litigation. Like many of the already-centralized actions, *Greenstein* involves factual questions arising from allegations that products labeled “100%” grated parmesan cheese improperly contain significant amounts of cellulose as filler in the products. *See In re: 100% Grated Parmesan Cheese Mktg. and Sales Practices Litig.*, — F. Supp. 3d —, 2016 WL 3190426 (J.P.M.L. June 2, 2016). Kraft, the defendant in *Greenstein*, is a defendant in over 20 actions in the MDL.

In support of the motion to vacate, plaintiff argues that his action was improperly removed to federal court, and remand to state court is required. The Panel often has held that jurisdictional issues do not present an impediment to transfer, as the parties can present these arguments to the transferee judge. *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 suggests that the Panel itself order remand of his action to state court. Section 1407 does not authorize such action. *See In re Ivy*, 901 F.2d 7, 9 (2d Cir. 1990) (“Section 1407 does not empower the MDL Panel to decide questions going to the jurisdiction or the merits of a case, including issues relating to a motion to remand.”).

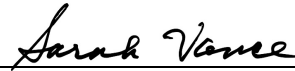
Plaintiff further argues that (1) he was not provided adequate notice of and opportunity to oppose transfer; (2) the class-related issues in the MDL do not apply to his individual *pro se* action; and (3) he will suffer inconvenience and hardship from the potential burdens of an MDL. These arguments are unconvincing. First, the record demonstrates that, consistent with the process established by Panel Rule 7.1, plaintiff was provided an opportunity to object to the conditional transfer order (CTO) and submit a motion to vacate the CTO, which he has done. Additionally, that *Greenstein* is an individual action while the actions in the MDL are putative class actions is no impediment to transfer, as the Panel often centralizes individual actions with putative class actions. *See, e.g., In re: Convergent Tele. Consumer Prot. Act Litig.*, 981 F. Supp. 2d 1385, 1386 (J.P.M.L. 2013). Even if plaintiff opts out of any class proceedings, inclusion of *Greenstein* still is appropriate for coordination of common discovery and motions. Furthermore, while we are sympathetic to plaintiff’s concerns of inconvenience and hardship, they are insufficient to justify denial of transfer.

-2-

While transfer of a particular action might inconvenience some parties to that action, such transfer is often necessary to further the expeditious resolution of the litigation taken as a whole. *See, e.g., In re Crown Life Ins. Premium Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001).

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

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Lewis A. Kaplan
R. David Proctor

Charles A. Breyer
Ellen Segal Huvelle
Catherine D. Perry

**IN RE: 100% GRATED PARMESAN CHEESE
MARKETING AND SALES PRACTICES LITIGATION**

MDL No. 2705

SCHEDULE A

Central District of California

GREENSTEIN V. KRAFT HEINZ COMPANY, C.A. No. 2:16-03345