

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: FCA US LLC MONOSTABLE ELECTRONIC
GEARSHIFT LITIGATION**

MDL No. 2744

TRANSFER ORDER

Before the Panel: Defendant FCA US LLC (FCA) moves under Panel Rule 7.1 to vacate our order conditionally transferring the five actions listed on Schedule A to MDL No. 2744. Plaintiffs in the five actions oppose the motion and support transfer. The initial transfer order in MDL No. 2744 centralized putative class actions alleging that certain vehicles manufactured by FCA were equipped with an allegedly defective gearshift and seeking economic damages and related injunctive relief on behalf of various proposed classes of owners and lessees of the vehicles. The actions listed on Schedule A are individual personal injury actions alleging the same defect and vehicle models at issue in the MDL.

In opposition to transfer, defendant argues that (1) transfer of single-plaintiff actions to an MDL involving putative class actions will not yield efficiencies, given the focus of class action proceedings; (2) the personal injury actions assert different kinds of causes of actions and will require individualized discovery; (3) state court personal injury actions provide the most efficient forum for developing the body of discovery relevant to personal injury issues; and (4) informal coordination is preferable given that a single law firm represents plaintiffs in the subject actions. We find these arguments unconvincing.

That the personal injury actions are individual actions while the actions in the MDL are putative class actions is no impediment to transfer, as the Panel routinely centralizes individual actions with putative class actions when, as here, they arise from a common factual core. *See, e.g., In re: U.S. Office of Personnel Mgmt. Data Sec. Breach Litig.*, 138 F. Supp. 3d 1379 (J.P.M.L. 2015). Similarly, differing theories of liability are not significant when common factual issues exist. *Id.* Moreover, in several instances, the Panel has transferred individual personal injury actions to automotive defect MDLs involving economic loss class actions.¹ In doing so, we have explained that “liability discovery in all the cases will certainly overlap,” and emphasized that the transferee

¹ *See, e.g., In re: Toyota Motor Corp. Unintended Acceleration Mktg., Sales Practices, & Prod. Liab. Litig.*, 704 F. Supp. 2d 1379, 1382 (J.P.M.L. 2010); *In re: General Motors LLC Ignition Switch Litig.*, MDL No. 2543, Transfer Order, Doc. No. 871, at 1 n.1 (J.P.M.L. Dec. 9, 2015) *In re: Takata Airbag Prods. Liab. Litig.*, MDL No. 2599, Transfer Order, Doc. No. 416, at 1 (J.P.M.L. June 8, 2015).

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judge has the discretion to structure discovery in a manner that takes into account issues unique to personal injury actions.²

The reported pendency of state court personal injury actions across the country weighs in favor of transfer, rather than against it. Centralization “likely will make it easier to coordinate, as needed, pretrial proceedings in both the state and federal cases, because there will now be just one judge handling the latter.”³ In fact, the transferee court already has entered an order directing Liaison Counsel to coordinate pretrial activities with parallel state court litigation involving the alleged product defects.⁴

We find that informal coordination of the personal injury actions will not be efficient in the circumstances presented. Although a single firm represents the five personal injury actions before the Panel, those actions are pending in five dispersed districts – the District of Colorado, the Northern District of Georgia, the District of Massachusetts, the District of New Hampshire, and the Western District of Virginia. Transfer is preferable to informal coordination given the number of involved districts and the transferee court’s management of the common issues raised by the alleged defects.

After considering the argument of counsel, we find that the actions on Schedule A involve common questions of fact with the actions transferred to MDL No. 2744, 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. All of these actions “share complex factual questions arising out of allegations that the monostable electronic gearshift installed in certain vehicles manufactured by FCA US LLC is defective and unreasonably dangerous in that it allegedly fails to provide the driver with an adequate indication of whether the vehicle is in the ‘park’ position and lacks a safety override function that would place the vehicle in ‘park’ automatically when a driver exits the vehicle while it is in another gear.” *See In re: FCA US LLC Monostable Electronic Gearshift Litig.*, — F. Supp. 3d —, 2016 WL 5845989 (J.P.M.L. Oct. 5, 2016) (footnote omitted). The vehicles at issue in these personal injury actions – all Jeep Grand Cherokees (model years 2014 and 2015) – are the same vehicles at issue in MDL No. 2744. Thus, they likely will involve overlapping discovery on

² *See Toyota*, 704 F. Supp. 2d at 1381-82; *accord In re: Bridgestone/Firestone, Inc., ATX, ATX II and Wilderness Tires Prods. Liab. Litig.*, 2000 WL 33416573 (J.P.M.L. Oct. 24, 2000). In our experience, a single judge can resolve common issues expeditiously and then, at the appropriate time, suggest Section 1407 remand of actions to their transferor courts for more individual discovery and trial, if necessary.

³ *See In re: Lipitor (Atorvastatin Calcium) Mktg., Sales Practices and Prods. Liab. Litig. (No. II)*, 997 F. Supp. 2d 1354, 1356 (J.P.M.L. 2014).

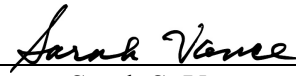
⁴ *See In re: FCA US LLC Monostable Electronic Gearshift Litig.*, C.A. No. 16-md-2744, Doc. No. 16, at 5 (E.D. Mich. Nov. 16, 2016) (Pretrial Order No. 2: Appointment of Lead and Liaison Counsel).

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matters such as the alleged governmental investigation, voluntary safety recall, and the supplier of the gearshift at issue. *See id.*

IT IS THEREFORE ORDERED that the actions listed on Schedule A are transferred to the Eastern District of Michigan and, with the consent of that court, assigned to the Honorable David M. Lawson, for coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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Chair

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SCHEDULE A

District of Colorado

MANEOTIS v. FCA US LLC, C.A. No. 1:16-02048

Northern District of Georgia

RIVERA, ET AL. v. FCA US LLC, C.A. No. 1:16-03650

District of Massachusetts

MALONE v. FCA US LLC, C.A. No. 1:16-11753

District of New Hampshire

PEOPLES v. FCA US LLC, C.A. No. 1:16-00414

Western District of Virginia

HOLCOMB v. FCA US LLC, C.A. No. 3:16-00067