

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: ASBESTOS PRODUCTS LIABILITY
LITIGATION (NO. VI)**

MDL No. 875

SEPARATION OF CLAIMS AND REMAND ORDER

Before the Panel: Defendant Dana Companies, LLC, moves under Panel Rule 10.2 to vacate the Panel’s order, issued at the suggestion of the transferee judge, conditionally remanding the action (*Franklin*) listed on the attached Schedule A to the Northern District of Alabama, with the exception of any claims for punitive or exemplary damages that the transferee court has already severed.¹ Responding plaintiff opposes the motion.

In opposing remand, defendant principally argues that it still needs to conduct expert discovery, and that plaintiff should have disclosed to the transferee court the existence of another asbestos action that she commenced in March 2013. We find these arguments unconvincing. In her brief to the Panel, plaintiff states that she has no objection to conducting expert discovery post-remand.² Defendant does not explain whether and, if so, how it has been prejudiced by its belated discovery of plaintiff’s other asbestos action, which, until recently, was pending in the Northern District of Alabama. Whether plaintiff was obligated to disclose the existence of that action to the transferee court is at least debatable, and, in any event, plaintiff also states in her brief that she is agreeable to providing defendant with information regarding that action.

¹ See *In re Collins*, 233 F.3d 809, 812 (3d Cir. 2000).

² Section 1407 does not require that all pretrial proceedings be completed prior to remand. See 28 U.S.C. § 1407(a) (“Each action so transferred shall be remanded by the panel at or before the conclusion of such pretrial proceedings to the district from which it was transferred unless it shall have been previously terminated . . .”).

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IT IS THEREFORE ORDERED that all claims in *Franklin*, except the severed claims for punitive or exemplary damages, are remanded to the Northern District of Alabama.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in cursive script, reading "Sarah S. Vance", is positioned above a horizontal line.

Sarah S. Vance
Chair

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

Charles R. Breyer
Ellen Segal Huvelle
Catherine D. Perry

**IN RE: ASBESTOS PRODUCTS LIABILITY
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SCHEDULE A

Northern District of Alabama

FRANKLIN v. BILL VANN COMPANY, INC., ET AL., C.A. No. 1:11-02731