

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**IN RE: CLASSICSTAR MARE LEASE LITIGATION**

MDL No. 1877

**REMAND ORDER**

**Before the Panel:** Plaintiffs<sup>1</sup> and defendant David Lieberman move under Panel Rule 10.2 to vacate our order that conditionally remanded the action (*Goyak*) listed on Schedule A to the Eastern District of Michigan. The Panel placed these actions on a conditional remand order after receiving the transferee judge's suggestion of remand. No party opposes the motions.

After considering the argument of counsel, the Panel finds that remand of this action under 28 U.S.C. § 1407 is warranted. In considering the question of remand, the Panel consistently gives great weight to the transferee judge's determination that remand of a particular action at a particular time is appropriate because the transferee judge, after all, supervises the litigation's pretrial proceedings. *See, e.g., In re: Columbia/HCA Healthcare Corp. Qui Tam Litig. (No. II)*, 560 F. Supp. 2d 1349, 1350 (J.P.M.L. 2008). The transferee judge's suggestion of remand obviously indicates that "he perceives his role under Section 1407 to have ended." *Id.* at 1350 (quoting *In re: Holiday Magic Secs. and Antitrust Litig.*, 433 F. Supp. 1125, 1126 (J.P.M.L. 1977)). Here, the transferee judge explained why Section 1407 remand is appropriate, noting that consolidated pretrial proceedings, including facilitation of discovery from Track I cases, have concluded. His determination was based on the totality of circumstances involved in the docket. *See In re: Brand-Name Prescription Drugs Antitrust Litig.*, 170 F. Supp. 2d 1350, 1352 (J.P.M.L. 2001) ("Whether Section 1407 remand is appropriate for actions or claims in any particular multidistrict docket is based upon the totality of circumstances involved in that docket.").

Plaintiffs and defendant Lieberman oppose remand until certain pending pretrial motions, such as motions to dismiss and for summary judgment, are decided. But the pendency of dispositive motions is not an obstacle to remand under Section 1407. *See In re: Baseball Bat Antitrust Litig.*, 112 F. Supp. 2d 1175, 1177 (J.P.M.L. 2000) (ordering remand in accordance with suggestion of remand issued by transferee judge, despite remaining pretrial discovery and pending motions to dismiss). Indeed, plaintiffs themselves requested Section 1407 remand in January 2012. The suggestion of remand thus is well-taken.

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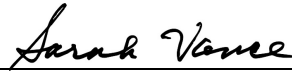
<sup>1</sup> Dana Goyak, John Goyak, John Goyak & Associates, Inc., and Jupiter Ranches, LLC.

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Because of the lengthy and complicated procedural history of *Goyak* and its interrelation with the heavily litigated MDL proceedings,<sup>2</sup> the transferor court may wish to deny all pending motions without prejudice and allow the parties that remain in this action to refile any motions they intend to pursue. Ultimately though, how to best proceed is best dedicated to the transferor court's discretion. As the transferor judge becomes familiar with the precise contours of *Goyak*, he may find it useful to consult with the transferee judge, who has extensive knowledge of the parties and issues in this litigation.

IT IS THEREFORE ORDERED that this action is remanded to the Eastern District of Michigan.

PANEL ON MULTIDISTRICT LITIGATION



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Sarah S. Vance  
Chair

Lewis A. Kaplan  
R. David Proctor  
Karen K. Caldwell

Ellen Segal Huvelle  
Catherine D. Perry  
Nathaniel M. Gorton

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<sup>2</sup> After what the Sixth Circuit noted were “years of contentious pretrial proceedings and discovery,” Judge Hood ruled upon plaintiffs’ motion for summary judgment in a Track I bellwether case in September 2011, granting summary judgment on investors’ RICO, fraud, and breach of contract claims against defendants ClassicStar, GeoStar and certain organizer defendants (including David and Spencer Plummer, Thom Robinson, Tony Ferguson, and John Parrott). The Sixth Circuit affirmed this ruling in July 2013. *See In re ClassicStar Mare Lease Litigation*, 727 F.3d 473, 482 (6<sup>th</sup> Cir. 2013).

**IN RE: CLASSICSTAR MARE LEASE LITIGATION**

MDL No. 1877

**SCHEDULE A**

Eastern District of Kentucky

GOYAK, ET AL. v. CLASSICSTAR RACING STABLE, LLC, ET AL., C.A. No. 5:08-00053  
(E.D. Michigan, C.A. No. 1:07-15260)