

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

**IN RE: E. I. DU PONT DE NEMOURS AND  
COMPANY C-8 PERSONAL INJURY LITIGATION**

MDL No. 2433

**TRANSFER ORDER**

**Before the Panel:**\* Defendants E. I. du Pont de Nemours and Company and The Chemours Company move under Panel Rule 7.1 to vacate our order that conditionally transferred the *Cooper* action listed on Schedule A to the Southern District of Ohio for inclusion in MDL No. 2433. Plaintiffs oppose the motion.

Defendants argue that transfer is not appropriate because plaintiffs failed to timely serve their complaint on defendants. Defendants have moved for dismissal under Federal Rule of Civil Procedure 4(m) and argue that transfer should not occur until the transferor court decides this motion. We do not find this argument persuasive. 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. Defendants' dismissal motion in *Cooper* has been fully briefed for more than two months—adequate time for the transferor court to rule had it chosen to do so.

Likewise, we are not convinced that transfer will result in significant delay or inefficiencies, as the dismissal motion appears to be a straightforward motion that can be resolved by the transferee court. In any event, defendants' argument that transfer will result in delay requires the Panel, at least to some extent, to judge the merits of the dismissal motion. *Cf. 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.”). Defendants may raise their dismissal arguments with the transferee court.

Therefore, after considering the argument of counsel, we find that *Cooper* involves common questions of fact with the actions transferred to MDL No. 2433, 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. The actions in MDL No. 2433 share factual questions arising from allegations that plaintiffs were injured by ingesting drinking water contaminated with C-8 (also known as perfluorooctanoic acid (PFOA) or ammonium perfluorooctanoate (APFO)) that was discharged from DuPont's Washington Works Plant. *See In re E. I. du Pont de Nemours & Co. C-8 Personal Injury Litig.*, 939 F. Supp. 2d 1374, 1374 (J.P.M.L. 2013). *Cooper* involves

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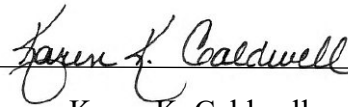
\* Judge David C. Norton did not participate in the decision of this matter.

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substantially similar allegations, and transfer of this action will eliminate duplicative discovery, prevent inconsistent pretrial rulings, 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 Southern District of Ohio and, with the consent of that court, assigned to the Honorable Edmund A. Sargus, Jr., for inclusion in the coordinated or consolidated pretrial proceedings in this docket.

PANEL ON MULTIDISTRICT LITIGATION



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Karen K. Caldwell  
Chair

Nathaniel M. Gorton  
Roger T. Benitez  
Madeline Cox Arleo

Matthew F. Kennelly  
Dale A. Kimball

**IN RE: E. I. DU PONT DE NEMOURS AND  
COMPANY C-8 PERSONAL INJURY LITIGATION**

MDL No. 2433

**SCHEDULE A**

Southern District of West Virginia

COOPER, ET AL. v. E. I. DU PONT DE NEMOURS AND COMPANY, ET AL.,  
C.A. No. 2:23-00678