

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

IN RE: KEURIG GREEN MOUNTAIN
SINGLE-SERVE COFFEE ANTITRUST LITIGATION

MDL No. 2542

ORDER DENYING REMAND

Before the Panel: Plaintiff in the action listed on Schedule A (*JBR*), which previously was transferred from the Eastern District of California to the Southern District of New York District for inclusion in MDL No. 2542, moves under Panel Rule 10.3 for an order remanding the action to the Eastern District of California. Defendant Keurig Green Mountain, Inc., opposes the motion.

After considering the argument of counsel, we conclude that remand is not appropriate at this time, and therefore deny plaintiff's motion. In considering the question of Section 1407 remand, we accord great weight to the transferee judge's determination that remand of a particular action at a particular time is appropriate, given that he or she has supervised the day-to-day pretrial proceedings in the MDL. *See In re Holiday Magic Sec. & Antitrust Litig.*, 433 F. Supp. 1125, 1126 (J.P.M.L. 1977). A transferee judge's suggestion of remand to the Panel, *see* Panel Rule 10.1(b), indicates that the judge perceives his or her role under Section 1407 to have ended. *See In re Columbia/HCA Healthcare Corp. Qui Tam Litig. (No. II)*, 560 F. Supp. 2d 1349, 1350 (J.P.M.L. 2008) (quoting *In re Holiday Magic*, 433 F. Supp. at 1126). Here, the transferee judge has denied plaintiff's request for such a suggestion, observing that, although discovery is complete, "summary judgment and *Daubert* motions remain outstanding" and retaining *JBR* in the MDL thus maximizes overall efficiencies and "avoid[s] inconsistent rulings." *See In re Keurig Green Mountain Single-Serve Coffee Antitrust Litig.*, No. 14-MD-2542, 2021 WL 2983141, at *2-3 (S.D.N.Y. July 15, 2021). We have reviewed the record and find that it amply supports the transferee judge's determination.

In support of remand, plaintiff *JBR* principally argues that (1) the *Daubert* and summary judgment issues in *JBR* are largely case-specific; (2) the class certification issues in the MDL are irrelevant to *JBR* and will delay resolution of the remaining pretrial motions; and (3) continued inclusion in the MDL will delay its cases, resulting in significant prejudice to *JBR*. These arguments are unpersuasive. First, the transferee judge considered them and found that remand is premature. *See id.* at *2-4. Moreover, *JBR*'s arguments simply ignore the common issues that are raised in the pending *Daubert* and summary judgment motions. These common issues include defining the relevant market, determining whether harm to competition occurred, and determining whether Keurig's acquisitions, brewer redesign, alleged tying arrangements, and agreements with

distributors, suppliers, and other entities violated federal antitrust law. These are among the core factual and legal issues in the MDL.

Second, JBR's concerns about the potential for delay from class issues unrelated to the *JBR* action is speculative. The transferee court addressed this concern, noting that "any delay [from class certification briefing] is not prejudicial because JBR will presumably be working on its summary judgment briefing during this time." *See* 2021 WL 2983141, at *4. Additionally, the transferee court docket indicates that class certification briefing is complete, and briefing on the parties' *Daubert* and summary judgment motions is underway.

Third, JBR's alleged prejudice from a delay in proceeding to trial also is unpersuasive. Centralization is based on "the overall convenience of the parties and witnesses, not just those of a single plaintiff or defendant in isolation." *See, e.g., In re Watson Fentanyl Patch Prods. Liab. Litig.*, 883 F. Supp. 2d 1350, 1351-52 (J.P.M.L. 2012) ("While we are aware that centralization may pose some inconvenience to some parties, in deciding issues of transfer under Section 1407, we look to the overall convenience of the parties and witnesses, not just those of a single plaintiff or defendant in isolation."). Here, as the transferee court determined, the interests of the parties, witnesses, and overall efficiency are best served by the continued inclusion of the *JBR* action in the MDL for resolution of *Daubert* and summary judgment motions.

IT IS THEREFORE ORDERED that the motion for Section 1407 remand is denied.

PANEL ON MULTIDISTRICT LITIGATION



Karen K. Caldwell

Chair

Catherine D. Perry
Matthew F. Kennelly
Roger T. Benitez

Nathaniel M. Gorton
David C. Norton
Dale A. Kimball

**IN RE: KEURIG GREEN MOUNTAIN
SINGLE-SERVE COFFEE ANTITRUST LITIGATION**

MDL No. 2542

SCHEDULE A

Southern District of New York

JBR, INC. v. KEURIG GREEN MOUNTAIN, INC., C.A. No. 1:14-04242
(E.D. California, C.A. No. 2:14-00677)