

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION**

MDL No. 2741

ORDER VACATING CONDITIONAL TRANSFER ORDERS

Before the Panel:* Defendant Monsanto Company moves under Panel Rule 7.1 to vacate our orders that conditionally transferred the three actions listed on Schedule A to the Northern District of California for inclusion in MDL No. 2471. Plaintiffs oppose the motions to vacate.

In support of its motions to vacate, Monsanto primarily argues that inclusion of these three cases, in which plaintiffs allege that their non-Hodgkin's lymphoma was caused by exposure to both Roundup and polychlorinated biphenyls (PCBs), would disrupt proceedings in this relatively advanced MDL. Monsanto further argues that counsel for these plaintiffs have filed more than one hundred actions (naming nearly 2,000 plaintiffs) in multiple different state courts that involve similar "Roundup + PCB" claims, and that these actions already are being coordinated informally by the parties and the involved courts. In opposition, plaintiffs argue that the presence of issues relating to another Monsanto product does not preclude transfer of actions that share common factual questions relating to Roundup. *See In re Roundup Prods. Liab. Litig.*, 214 F. Supp. 3d 1346, 1348 (J.P.M.L. 2016) (centralizing actions that "share common factual questions arising out of allegations that Monsanto's Roundup herbicide, particularly its active ingredient, glyphosate, causes non-Hodgkin's lymphoma").

As a general matter, plaintiffs are correct that Section 1407 does not require a complete identity of factual and legal issues when the actions arise from a common factual core. *See In re Oxycontin Antitrust Litig.*, 542 F. Supp. 2d 1359, 1360 (J.P.M.L. 2008). Multidistrict litigation, though, "is not static." *In re Bridgestone/Firestone, Inc., Tires Prods. Liab. Litig.*, 659 F. Supp. 2d 1371, 1372 (J.P.M.L. 2009). Here, the Roundup MDL has reached an advanced procedural posture. The general causation and bellwether phases of the litigation are complete, and the transferee court has implemented a wave-based remand and mediation program, through which case-specific discovery is completed and case-specific summary judgment and *Daubert* motions relating to causation are adjudicated prior to Section 1407 remand of the actions to their transferor courts for trial. This process has resulted in the just and efficient resolution of hundreds of actions.

* Judge Karen K. Caldwell did not participate in the decision of this matter.


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“Over the course of time, the relative merits of transferring additional cases can change as the transferee court completes its primary tasks.” *Id.* The transfer of Roundup actions to the MDL remains warranted as these actions are being efficiently resolved through the wave-based remand and mediation process. Transfer of these three “Roundup + PCB” actions, however, would inject unique factual and legal issues into the MDL at a late hour, and likely would require significant judicial and party effort to allow for litigation of plaintiffs’ PCB-related claims. Given the large number of similar Roundup + PCB actions in various state courts that are, according to both parties, being litigated in a coordinated fashion, the inefficiencies that would result from transfer of these actions to the MDL outweigh any efficiencies to be gained with respect to plaintiffs’ Roundup-related claims.

Accordingly, we will grant Monsanto’s motions to vacate the conditional transfer orders. With respect to plaintiffs’ Roundup-specific claims, we see no reason why the parties, subject to the same conditions imposed on the parties in MDL No. 2741, should not be able to avail themselves of the documents and depositions accumulated in this MDL. The involved courts may find useful guidance in the numerous pretrial rulings of the Honorable Vince Chhabria in this docket. The parties also can employ alternatives to transfer to minimize whatever, if any, possibilities may arise from duplicative discovery or inconsistent pretrial rulings. *See, e.g., In re Eli Lilly & Co. (Cephalexin Monohydrate) Patent Litig.*, 446 F. Supp. 242, 244 (J.P.M.L. 1978); *see also* Manual for Complex Litigation, Fourth, § 20.14 (2004). Thus, even absent transfer, most of the benefits of the MDL are available to expedite resolution of these cases.

IT IS THEREFORE ORDERED that the Panel’s conditional transfer orders designated as “CTO-413” and “CTO-417” are vacated as to the actions listed on Schedule A.

PANEL ON MULTIDISTRICT LITIGATION



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**IN RE: ROUNDUP PRODUCTS
LIABILITY LITIGATION**

MDL No. 2741

SCHEDULE A

District of Hawaii

MANGOBA v. MONSANTO COMPANY, C.A. No. 1:23-00248
ADAMS v. MONSANTO COMPANY, C.A. No. 1:23-00285
INFANTE v. MONSANTO COMPANY, ET AL., C.A. No. 1:23-00339