

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

**IN RE: FORD MOTOR CO. DPS6 POWERSHIFT TRANSMISSION  
PRODUCTS LIABILITY LITIGATION**

MDL No. 2814

**TRANSFER ORDER**

**Before the Panel:** Plaintiff in the action listed on Schedule A (*Grago*) moves under Panel Rule 7.1 to vacate our order conditionally transferring his action to MDL No. 2814. Defendant Ford Motor Company opposes the motion to vacate and supports transfer.

After considering the parties' arguments, we find that this action shares questions of fact with the actions transferred to MDL No. 2814, 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 this litigation. The actions in MDL No. 2814 share factual questions arising out of allegations that the DPS6 PowerShift transmission installed in certain Ford Fiesta and Ford Focus vehicles is defective and negatively affects the drivability, safety, and useful life of the vehicles.<sup>1</sup> *See In re Ford Motor Co. DPS6 PowerShift Transmission Prods. Liab. Litig.*, 289 F. Supp.3d 1350 (J.P.M.L. 2018). The *Grago* action alleges defects in the DPS6 PowerShift transmission in a 2015 Ford Focus, and plainly involves the same questions.

In opposition to transfer, plaintiff argues that his action presents unique and individualized factual issues. He emphasizes those portions of his complaint alleging that Ford fraudulently concealed the vehicle's transmission repair history before he purchased the vehicle, and that Ford wrongfully refused to buy back the vehicle. But significant common factual issues concerning the allegedly defective DPS6 PowerShift transmission are obvious on the face of the complaint.<sup>2</sup> As defendant points out, the allegation that the transmission is defective is central to plaintiff's alleged fraud and buyback claims. In any event, the presence of additional facts and legal theories is not significant when, as here, the actions arise from a common factual core. *See, e.g., In re Auto Body Shop Antitrust Litig.*, 37 F. Supp. 3d 1388, 1390 (J.P.M.L. 2014). *Grago* will require the same

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<sup>1</sup> The models at issue in MDL No. 2814 are Ford Fiesta model years 2011 to 2016 and Ford Focus model years 2012 to 2016.

<sup>2</sup> *See, e.g., Grago* Compl. ¶ 9 ("No one disclosed to Grago, prior to his purchase of the Subject Vehicle, that there was a problem with the DPS6 transmission generally, or that the Subject Vehicle had any transmission problems. No one disclosed to Grago that . . . the Subject Vehicle's transmission was defective in design and . . . could never be conformed to [the express] warranties.").

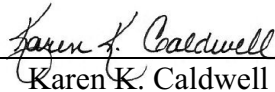
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discovery of Ford's conduct as the actions in the MDL; that plaintiff's claims may require additional case-specific discovery does not bar transfer.

Plaintiff also objects to transfer on the ground that MDL No. 2814 is at a mature stage and informal coordination of any overlapping discovery therefore is preferable to transfer. These arguments are unconvincing. Common pretrial proceedings are ongoing. Thus, transfer will facilitate coordinated pretrial proceedings in all related actions, including *Grago*. Additionally, informal coordination would be inefficient, given the extent of overlap in plaintiff's action and the actions in the MDL, especially in light of the complexity of the litigation.<sup>3</sup>

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Central District of California and, with the consent of that court, assigned to the Honorable André Birotte, Jr., for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

  
Karen K. Caldwell

Chair

Ellen Segal Huvelle  
Catherine D. Perry  
Matthew F. Kennelly

R. David Proctor  
Nathaniel M. Gorton  
David C. Norton

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<sup>3</sup> See *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, MDL No. 1720, Transfer Order at 2-3, Doc. No. 386 (J.P.M.L. Oct. 3, 2016) (rejecting informal coordination as an alternative to transfer, where there were over 90 actions pending in the MDL and the factual and legal issues were complex).

**IN RE: FORD MOTOR CO. DPS6 POWERSHIFT TRANSMISSION  
PRODUCTS LIABILITY LITIGATION**

MDL No. 2814

**SCHEDULE A**

Northern District of California

GRAGO V. FORD MOTOR COMPANY, C.A. No. 4:19-04043