

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: DEALER MANAGEMENT SYSTEMS
ANTITRUST LITIGATION**

MDL No. 2817

TRANSFER ORDER

Before the Panel: Plaintiffs in the Western District of Louisiana action listed on the attached Schedule A (*Paramount*) move under Panel Rule 7.1 to vacate our order conditionally transferring the action to the Northern District of Illinois for inclusion in MDL No. 2817. Defendant The Reynolds and Reynolds Company opposes the motion.

In support of their motions to vacate, the *Paramount* plaintiffs, which are four automobile dealerships, argue that their action involves certain unique claims concerning marketing agreements that plaintiffs entered into with “Naked Lime,” which they allege is a division of Reynolds.¹ But, as we frequently have noted, Section 1407 transfer does not require a complete identity or even a majority of common factual or legal issues. *See, e.g., In re: Zimmer NexGen Knee Implant Prods. Liab. Litig.*, 802 F.Supp.2d 1374, 1376–77 (J.P.M.L.2011). Plaintiffs also argue that they intend to opt out of a settlement reached in the MDL between Reynolds and plaintiffs in a dealership class action. Plaintiffs assert that if *Paramount* is transferred, they may be the only dealership plaintiffs in the MDL with antitrust claims against Reynolds. Be that as it may, that settlement has not removed Reynolds as a defendant in the MDL,² much less resolved issues concerning its alleged anticompetitive conduct.³

After considering the argument of counsel, we find that the *Paramount* action involves common questions of fact with actions transferred to MDL No. 2817, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The actions in the MDL share factual issues stemming from allegations that the Reynolds and CDK

¹ Plaintiffs allege that Naked Lime breached the marketing agreements by, *inter alia*, (1) using stolen photographs on the website of one of the plaintiffs – a website that Naked Lime designed and operated, (2) failing to keep plaintiffs’ websites current, and (3) failing to provide sufficient experienced personnel to adequately handle plaintiffs’ accounts.

² For example, Reynolds is sued in both the *Authenticom* (N.D. Illinois C.A. No. 1:18-868) and *MVSC* (C.A. No. 1:18-865) actions already in the MDL, as well as *i3 Brands* (C.A. No. 1:19-1412), which was transferred to the MDL in February 2019.

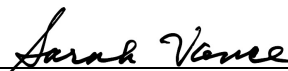
³ The relationship between Reynolds and CDK Global, LLC, another defendant in the MDL, remains central to the dealership class plaintiffs’ still-pending claims against CDK, as well as the claims of other plaintiffs in the MDL.

- 2 -

defendants illegally (1) used their purported dominance in the Dealer Management System⁴ (DMS) marketplace to force motor vehicle dealerships to enter into long-term DMS contracts at artificially inflated prices, (2) blocked data integrators⁵ from access to dealer data, (3) tied the provision of data integration services to the supply of DMS, and (4) used their control of data integration services to impose exclusive dealing restrictions on vendors (*e.g.*, prohibiting vendors from using other data integration providers and charging vendors inflated prices for data integration). *See In re: Dealer Mgmt. Sys. Antitrust Litig.*, 291 F. Supp. 3d 1367, 1368-69 (J.P.M.L. 2018). The *Paramount* plaintiffs do not dispute that their action “asserts certain claims against Reynolds that arise from the same anticompetitive and unfair conduct that forms the basis for Reynolds’ inclusion in [the MDL].” *Paramount Pls.’ Br. in Supp. of Mot. to Vacate*, at 2 (ECF No. 81-1).

IT IS THEREFORE ORDERED that the *Paramount* action is transferred to the Northern District of Illinois, and, with the consent of that court, assigned to the Honorable Robert M. Dow, Jr., for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

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

Ellen Segal Huvelle
Catherine D. Perry
Nathaniel M. Gorton

⁴ A DMS is the software and hardware system that manages numerous functions of a motor vehicle dealership, which the dealership uses to enter data concerning inventory, buyers, financing, etc.

⁵ A data integrator extracts raw data from a dealership’s DMS and transforms it into data appropriate for use by the various vendors that provide services to the dealership – services such as inventory management, customer relations management, and electronic vehicle registration and titling.

**IN RE: DEALER MANAGEMENT SYSTEMS
ANTITRUST LITIGATION**

MDL No. 2817

SCHEDULE A

Western District of Louisiana

PARAMOUNT COMPANY 2, LLC, ET AL. v. REYNOLDS & REYNOLDS COMPANY,
C.A. No. 2:18-01132