

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

**IN RE: JUUL LABS, INC., MARKETING, SALES PRACTICES,  
AND PRODUCTS LIABILITY LITIGATION**

MDL No. 2913

**TRANSFER ORDER**

**Before the Panel:** Plaintiff in the Northern District of New York (*Browne*) action listed on the attached Schedule A moves under Panel Rule 7.1 to vacate the Panel’s order conditionally transferring her action to MDL No. 2913. The Juul defendants<sup>1</sup> oppose the motion.

After considering the argument of counsel, we find that this action involves common questions of fact with the actions previously transferred to MDL No. 2913, 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. Thus, transfer is warranted for the reasons set out in our order directing centralization. The actions in the MDL share factual questions arising from allegations that “JLI has marketed its JUUL nicotine delivery products in a manner designed to attract minors, that JLI’s marketing misrepresents or omits that JUUL products are more potent and addictive than cigarettes, that JUUL products are defective and unreasonably dangerous due to their attractiveness to minors, and that JLI promotes nicotine addiction.” See *In re Juul Labs, Inc., Mktg., Sales Practices & Prods. Liab. Litig.*, 396 F. Supp. 3d 1366, 1367 (J.P.M.L. 2019). This action implicates the same questions.

Plaintiff moves to vacate the conditional transfer order by arguing principally that federal jurisdiction is lacking over her case. We are not persuaded by this argument. The Panel has held that such jurisdictional objections generally do not present an impediment to transfer.<sup>2</sup> See, e.g., *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347 (J.P.M.L. 2001) (“[R]emand motions can be presented to and decided by the transferee judge.”).

Plaintiff also argues that her claims under New York common law against a New York retailer defendant are not shared by other actions in the MDL and thus should preclude transfer. Similar claims have been asserted in other actions that have been transferred, however, and are not

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<sup>1</sup> Juul Labs, Inc. (JLI); Altria Group Distribution Co.; and Philip Morris USA Inc.

<sup>2</sup> Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on a remand motion if it chooses to do so.

unique to the *Browne* action. In any event, any novel issues in the action are not sufficient to preclude transfer in view of the extensive factual overlap between plaintiff's claims and those in the MDL litigation. *See, e.g., In re 100% Grated Parmesan Cheese Mktg. & Sales Practices Litig.*, 201 F. Supp. 3d 1375, 1378 (J.P.M.L. 2016) ("Section 1407 does not require a complete identity of factual issues or parties as a prerequisite to transfer, and the presence of additional facts is not significant when the actions arise from a common factual core.").

IT IS THEREFORE ORDERED that this action is transferred to the Northern District of California and, with the consent of that court, assigned to the Honorable William H. Orrick III for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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Karen K. Caldwell  
Chair

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

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

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**SCHEDULE A**

Northern District of New York

BROWNE v. JUUL LABS, INC., ET AL., C.A. No. 3:21-00468