

UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION

IN RE: PARAQUAT PRODUCTS LIABILITY LITIGATION

MDL No. 3004

TRANSFER ORDER

**Before the Panel:**\* Plaintiffs in the Southern District of Florida action (*Parker*) listed on the attached Schedule A move under Panel Rule 7.1 to vacate the Panel’s order conditionally transferring their action to MDL No. 3004. Defendants Chevron U.S.A. Inc., and Syngenta Crop Protection, LLC, oppose the motion.

After considering the arguments of counsel, we find that this action involves common questions of fact with the actions previously transferred to MDL No. 3004, 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. Moreover, transfer is warranted for the reasons set out in our order directing centralization. In that order, we held that the Southern District of Illinois was an appropriate Section 1407 forum for actions sharing factual questions arising from allegations that exposure to the herbicide paraquat caused plaintiffs to suffer Parkinson’s Disease. *See In re: Paraquat Prods. Liab. Litig.*, \_\_\_ F.3d \_\_\_, 2021 WL 2369295 (J.P.M.L. April 7, 2021). Plaintiff husband in *Parker* alleges that his use of paraquat caused him to develop Parkinson’s Disease, and the action thus falls within the MDL’s ambit.

Plaintiffs move to vacate the conditional transfer order by arguing principally that federal jurisdiction is lacking over their case.<sup>1</sup> We are not persuaded by this argument. Such jurisdictional objections generally do not present an impediment to transfer and can be presented to the transferee judge.<sup>2</sup> *See, e.g., In re: Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346,

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\* Judge David C. Norton took no part in the decision of this matter.

<sup>1</sup> Plaintiffs argue at length that their motion to remand their action to state court is likely to be granted. However, “Section 1407 does not empower the MDL Panel to decide questions going to the jurisdiction or the merits of a case, including issues relating to a motion to remand.” *See In re Ivy*, 901 F.2d 7, 9 (2d Cir. 1990).

<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. Here, the transferor

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1347 (J.P.M.L. 2001) (“[R]emand motions can be presented to and decided by the transferee judge.”).

Plaintiffs also argue that their claims must receive prompt attention due to the advanced condition of plaintiff husband’s Parkinson’s Disease. While we are sympathetic to those arguments, they are best addressed by the transferee judge, who can structure pretrial proceedings to accommodate the needs of all parties to this litigation. Of course, if the transferee judge considers continued inclusion of a claim or action no longer advisable, she can accomplish Section 1407 remand with minimal delay by suggesting remand to the Panel. *See* Panel Rule 10.2.

IT IS THEREFORE ORDERED that this action is transferred to the Southern District of Illinois and, with the consent of that court, assigned to the Honorable Nancy J. Rosenstengel for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



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Karen K. Caldwell  
Chair

Nathaniel M. Gorton  
Roger T. Benitez  
Madeline Cox Arleo

Matthew F. Kennelly  
Dale A. Kimball

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court administratively closed *Parker* pending our decision on plaintiffs’ motion to vacate the conditional transfer order.

**IN RE: PARAQUAT PRODUCTS LIABILITY LITIGATION**

MDL No. 3004

**SCHEDULE A**

Southern District of Florida

PARKER, ET AL. V. SYNGENTA CROP PROTECTION LLC, ET AL., 9:21-cv-81791