

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

**IN RE: DIVIDEND SOLAR FINANCE, LLC, AND FIFTH  
THIRD BANK SALES AND LENDING PRACTICES LITIGATION** MDL No. 3128

**TRANSFER ORDER**

**Before the Panel:**\* We are presented with two motions in this docket. Plaintiffs in the Central District of Illinois *McCune* action, the Northern District of Illinois *Kean* action, and the Southern District of Illinois *Parr* action listed on Schedule A move under Panel Rule 7.1 to vacate the order that conditionally transferred their actions to MDL No. 3128. Plaintiffs in the Eastern District of Texas *Smith* action listed on Schedule A also move to vacate the order that conditionally transferred their action to the MDL. The Dividend defendants<sup>1</sup> oppose both motions to vacate.

After considering the argument of counsel, we find that these actions involve common questions of fact with the actions previously transferred to MDL No. 3128, 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. Transfer is warranted for the reasons set out in our order directing centralization. In that order, we held that the District of Minnesota was an appropriate Section 1407 forum for actions sharing factual questions arising from allegations that plaintiffs were induced to finance the purchase of residential solar systems with Dividend through the deceptive sales tactics of solar sales and installation companies with which Dividend partnered. *In re Dividend Solar Fin., LLC, and Fifth Third Bank Sales and Lending Pracs. Litig.*, MDL No. 3128, \_\_\_ F. Supp. 3d \_\_\_, 2024 U.S. Dist. LEXIS 182256 (J.P.M.L. Oct. 3, 2024). MDL plaintiffs contend that the solar companies made false representations regarding both the solar systems to be installed and the terms of Dividend's financing, and that the amounts of the loans improperly included undisclosed finance fees. *Id.* at \*2-3. Plaintiffs in the actions before us allege that they were induced to finance the purchase of residential solar systems with Dividend through the deceptive sales tactics of solar sales and installation companies serving as representatives of Dividend, and that the solar companies made false representations or failed to disclose material information regarding the solar systems to be installed and the terms of Dividend's financing. All actions thus fall squarely within the ambit of the MDL.

Plaintiffs in all four actions argue that centralization is inappropriate because their respective actions present case-specific issues of fact concerning, for example, the solar companies

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\* Judge Matthew F. Kennelly did not participate in the decision of this matter.

<sup>1</sup> Fifth Third Bank, National Association; Dividend Solar Finance LLC; Dividend Solar Finance, LLC; Dividend Finance, Inc; and Dividend Finance Inc. (together, Dividend).

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that sold them their systems and their specific experiences with the solar systems installed. Yet the Panel found that centralization was warranted despite such issues because “[t]he actions share common questions of fact concerning, *inter alia*, the relationship between Dividend and the solar companies, the tactics employed by the solar companies to sell solar systems and originate loans, whether Dividend and the solar installers worked together to develop and employ such tactics, the nature of the sale and loan agreements, and representations made by the solar companies and Dividend regarding the solar power systems and the terms of the agreements.” *In re Dividend Solar Fin.*, 2024 U.S. Dist. LEXIS 182256, at \*2-3. Nor are we persuaded by plaintiffs’ arguments that transfer will cause them inconvenience and delay. As we have explained, “in deciding issues of transfer under Section 1407, we look to the overall convenience of the parties and witnesses, not just those of a single plaintiff or defendant in isolation.” *In re Watson Fentanyl Patch Prods. Liab. Litig.*, 883 F. Supp. 2d 1350, 1351–52 (J.P.M.L. 2012). Similarly, the *Smith* plaintiffs’ concerns about the burden of traveling to the District of Minnesota are not an obstacle to transfer, because “Section 1407 transfer is for pretrial proceedings only, [and] there is usually no need for the parties and witnesses to travel to the transferee district for depositions or otherwise.” *In re Cygnus Telecomms. Tech., LLC, Patent Litig.*, 177 F. Supp. 2d 1375, 1376 (J.P.M.L. 2001).

IT IS THEREFORE ORDERED that the actions listed on Schedule A are transferred to the District of Minnesota and, with the consent of that court, assigned to the Honorable Katherine M. Menendez 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

David C. Norton  
Dale A. Kimball

**IN RE: DIVIDEND SOLAR FINANCE, LLC, AND FIFTH  
THIRD BANK SALES AND LENDING PRACTICES LITIGATION**

MDL No. 3128

**SCHEDULE A**

Central District of Illinois

MCCUNE v. DIVIDEND SOLAR FINANCE LLC, C.A. No. 4:23-04075

Northern District of Illinois

KEAN, ET AL. v. CARBON SOLUTIONS SREC LLC, ET AL.,  
C.A. No. 1:23-03767

Southern District of Illinois

PARR, ET AL. v. DIVIDEND SOLAR FINANCE LLC, C.A. No. 3:23-03870

Eastern District of Texas

SMITH, ET AL. v. DIVIDEND SOLAR FINANCE, LLC, C.A. No. 1:24-00401