

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: SYNGENTA AG MIR162
CORN LITIGATION**

MDL No. 2591

TRANSFER ORDER

Before the Panel: Two law firm plaintiffs in a Southern District of Illinois action (*Crumley Roberts*) against a law firm that allegedly owes plaintiffs fees in connection with work in cases against Syngenta move under Panel Rule 7.1 to vacate the order conditionally transferring the action, which is listed on Schedule A, to MDL No. 2591. Defendant Heninger Garrison Davis, LLC (HGD) opposes the motion.

After considering the arguments of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2591, 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 forth in our order directing centralization. In that order, we held that the District of Kansas was an appropriate Section 1407 forum for actions sharing allegations regarding Syngenta's decision to commercialize the MIR162 genetically modified corn trait in the absence of Chinese approval to import corn with that trait. *See In re Syngenta AG MIR162 Corn Litig.*, 65 F. Supp. 3d. 1401 (J.P.M.L. 2014). This action falls within the MDL's ambit. It concerns work performed by attorneys in the multidistrict litigation against Syngenta, and will require interpretation of various orders of the MDL Court and the MDL settlement agreement.

Plaintiffs are two law firms that contend that they are each entitled to approximately \$10 million of the \$30 million in attorney fees awarded to defendant HGD, pursuant to an alleged oral agreement reached among the parties at some point before late-2014. Plaintiffs oppose transfer and argue that their case involves an agreement among the firms that is separate and distinct from any issues in the MDL. Plaintiffs contend that nothing in the transferee judge's fee award abrogates their claims against HGD. But HGD argues otherwise, citing several rulings by the transferee court. *See, e.g., In re: Syngenta*, D. Kansas, C.A. No. 14-2591, doc. 3882 at 14 (fee award ruling noting that the Court is not bound by attorneys' private agreements, that joint prosecution agreements "do not apply to the present situation involving a nationwide settlement class" and that the MDL settlement agreement expressly supersedes all other agreements). We view the best route to efficiently resolving this dispute is to give the transferee judge the first chance to rule on the effect of his prior orders. *See, e.g., MDL No. 1203 – In re: Diet Drugs Prods. Liab. Litig.*, J.P.M.L. CM/ECF, doc. 3159 at 2 (J.P.M.L., Oct. 13, 2015) (transferring action, the resolution of which "likely will require the interpretation and possibly enforcement of pretrial

orders entered in MDL No. 1203—tasks that can be most efficiently conducted by the transferee court, which issued those orders.); *cf. In re: Rezulin Prods. Liab. Litig.*, J.P.M.L. CM/ECF doc. 1143 (J.P.M.L., Dec. 12, 2007) (transferring attorney fee dispute among law firms that entered into joint venture to prosecute Rezulin-related claims, noting that transferee judge “is best-suited to rule on claims related to the management of this MDL docket, including questions concerning attorneys’ fees.”).

Plaintiffs also argue that transfer is inappropriate because federal jurisdiction is lacking over their case. We are not persuaded by this argument. The Panel has held that such jurisdictional objections generally do not present an impediment to transfer.¹ *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.”).

IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the District of Kansas and, with the consent of that court, assigned to the Honorable John W. Lungstrum for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION



Karen K. Caldwell

Chair

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

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

¹ 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.

**IN RE: SYNGENTA AG MIR162
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SCHEDULE A

Southern District of Illinois

CRUMLEY ROBERTS, LLP, ET AL. v. HENINGER GARRISON DAVIS, LLC,
C.A. No. 3:21-00315