

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: CHRYSLER-DODGE-JEEP ECODIESEL
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION**

MDL No. 2777

ORDER DENYING TRANSFER

Before the Panel:* FCA defendants¹ move under 28 U.S.C. 1407 to transfer a securities action (*Pirnik*) pending in the Southern District of New York to the Northern District of California for inclusion in MDL No. 2777. Plaintiffs in the action, which is listed on Schedule A, oppose the motion.

After considering the argument of counsel, we deny defendants' motion to transfer. We ordered centralization in this docket in April 2017. *See In re: Chrysler-Dodge-Jeep Ecodiesel Mktg., Sales Practices & Prods. Liab. Litig.*, 273 F. Supp. 3d 1377 (J.P.M.L. 2017). MDL plaintiffs are consumers (vehicle owners and lessees) that contend that FCA improperly marketed the approximately 104,000 vehicles at issue as environmentally friendly, and achieving better fuel efficiency and performance and lower emissions than typical diesel engines. MDL plaintiffs' complaints share allegations that defendants employed software designed to make the vehicles EPA emission-compliant only during emissions testing, while under normal conditions, the vehicles produce nitrogen oxide at levels that greatly exceed applicable standards. The *Pirnik* action, filed in September 2015, undoubtedly contains factual allegations concerning the main controversy in the MDL: whether defendants equipped certain EcoDiesel vehicles with undisclosed and hidden software to allow excess diesel emissions to go undetected and evade emissions tests. But plaintiffs also bring securities claims regarding nearly two dozen recalls that have nothing to do with the emissions-cheating allegations.

Several considerations lead us to conclude that transfer of *Pirnik* is not necessary. Above all, there are no similar securities claims in the MDL. *Pirnik* was pending a year and a half before the MDL was centralized, though plaintiffs added emissions-cheating allegations around that time. Plaintiffs also make additional, significant allegations concerning numerous vehicle safety recalls,

* Judge Lewis A. Kaplan did not participate in the decision of this matter.

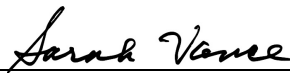
¹ FCA US LLC, Fiat Chrysler Automobiles N.V., Michael Dahl, Scott Kunselman, Robert E. Lee, Sergio Marchionne and Steve Mazure.

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and discovery concerning those allegations appears to be well underway.² Finally, the judge presiding over *Pirnik* has expressed his willingness to cooperate with the transferee judge on scheduling and discovery matters that may overlap with the MDL. We applaud and encourage this cooperation.

IT IS THEREFORE ORDERED that the motion for transfer of the action listed on Schedule A is DENIED.

PANEL ON MULTIDISTRICT LITIGATION



Sarah S. Vance
Chair

Marjorie O. Rendell
Ellen Segal Huvelle
Catherine D. Perry

Charles R. Breyer
R. David Proctor

² Plaintiffs note that defendants have produced (and plaintiffs have reviewed) over 1 million pages of documents concerning the vehicle safety allegations, and plaintiffs have completed two and noticed six depositions of defendants. Defendants also have deposed all three proposed class representatives.

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SCHEDULE A

Southern District of New York

PIRNIK, ET AL. v. FIAT CHRYSLER AUTOMOBILES N.V., ET AL., Case No. 15- 7199