

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

**IN RE: PLASMA ARC TECHNOLOGIES
INC., DUE DILIGENCE LITIGATION**

MDL No. 2336

ORDER DENYING TRANSFER

Before the Panel:* Pursuant to 28 U.S.C. § 1407, defendants move to centralize this litigation in the Southern District of New York. This litigation currently consists of four actions listed on Schedule A and pending in two districts: two actions in the Central District of California and two actions in the Southern District of Florida.¹ Plaintiffs in all actions oppose centralization. Plaintiffs in the Southern District of Florida actions alternatively suggest centralization in the Southern District of Florida.

After considering the argument of counsel, the Panel is not persuaded that Section 1407 centralization would serve the convenience of the parties and witnesses or further the just and efficient conduct of this litigation. While plaintiffs in the various actions allege disparate causes of action against defendants based on different alleged wrongful conduct, defendants claim that the alleged conduct is part of a larger alleged scheme, and that the plaintiffs' claims are related. Given that at most, only five actions are pending in three districts, however, the proponents of centralization have failed to convince us that any factual questions shared by these actions are sufficiently complex or numerous to justify Section 1407 transfer at this time. Alternatives to transfer exist that may minimize whatever possibilities there are of duplicative discovery and inconsistent pretrial rulings. *See, e.g., In re Eli Lilly and Co. (Cephalexin Monohydrate) Patent Litig.*, 446 F. Supp. 242, 244 (J.P.M.L. 1978); *see also Manual for Complex Litigation, Fourth*, § 20.14 (2004).

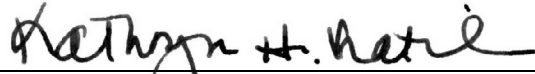
IT IS THEREFORE ORDERED that the motion, pursuant to 28 U.S.C. § 1407, for centralization of these actions is denied.

* Judge John G. Heyburn II took no part in the decision of this matter.

¹ A fifth action was pending in the Central District of California, but that action was dismissed without prejudice.

Additionally, defendants have notified the Panel that they have filed an additional action in the Southern District of New York against certain plaintiffs and other individuals and entities.

PANEL ON MULTIDISTRICT LITIGATION



Kathryn H. Vratil
Acting Chairman

W. Royal Furgeson, Jr.
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Charles R. Breyer

Barbara S. Jones
Marjorie O. Rendell

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SCHEDULE A

Central District of California

John Leufroy v. Geoffrey Byruch, C.A. No. 5:11-01700

John Leufroy v. Geoffrey Byruch, C.A. No. 5:11-02053

Southern District of Florida

Canadian Steel, Inc. v. HFP Capital Markets, LLC, et al., C.A. No. 1:11-cv-23650

Plasma Arc Technologies, Inc. v. HFP Capital Markets, LLC, et al., C.A. No. 1:11-cv-24232